



2017 Qualified Allocation Plan

Project Plan

February 24, 2016

Meeting Agenda

- 1) Project Plan updates
 - a) Changes from January 27, 2016 meeting
- 2) Update on any third party source materials, studies, etc. that might be relevant or useful in the development of the 2017 QAP.
- 3) Elderly Limitation and Elderly Preference
- 4) Limitations on Elderly Development in Statute
- 5) Current scoring for Elderly Development
- 6) Aging in Place
- 7) Possible items for Board meeting of March, 2016
- 8) Future meetings
 - a) Additional topics?
 - b) Location and Schedule

Comments received on 2016 QAP

Aging in Place Comments:

§11.9(c)(5) – Selection Criteria – Educational Excellence (excerpt)

Commenters (1), (23), (32), (49) all commented regarding Aging in Place points for Supportive Housing or single-room occupancy Developments. They implied a need for parity between developments choosing Aging in Place points and those electing Educational Excellence points and that selection of such points should be mutually exclusive. Commenter (45) also commented on the parity intent between Aging in Place points and Educational Excellence points in order to maintain scoring parity between Elderly and General Developments.

STAFF RESPONSE: In response to commenters (1), (23), (32), (45), and (49) regarding parity in points achievable for Aging in Place and Educational Excellence, staff has also considered recent legislation regarding parity between Elderly and general population Developments in recommending that Supportive Housing Developments be limited to two (2) points under Educational Excellence. This limitation would allow parity between a Supportive Housing general population Development and an Elderly Development. Staff will further be proposing an alternative two (2) points under Aging in Place for Supportive Housing Developments which are also HOPA Elderly Limitation restricted.

17. §11.9(c)(8) – Selection Criteria – Aging in Place (1), (3), (7), (9), (21), (23), (32), (36), (45), (49), (50), (51)

COMMENT SUMMARY: Commenter (1), (23) suggested an alternative for supportive housing, in line with the this scoring item and further stated that similar to that of Aging in Place developments, the quality of nearby schools has no bearing on the suitability of a site for single room occupancy supportive housing where no children live at the property. The requirement for high performing schools presents an unnecessary hurdle because those residing in SRO developments do not have school aged children; therefore, commenter (1), (23), (32) recommended the following:

“(8) Aging in Place. (§2306.6725(d)(2) An Application for an Elderly Development or a Supportive Housing Single Room Occupancy Development may qualify to receive up to three (3) points under this paragraph only if no points are elected under subsection (c)(5) of this section (related to Educational Excellence).”

Commenter (49) recommended similar changes so that such developments could be eligible for points under this scoring item in lieu of Educational Excellence on the premise that such households without children do not house school age children and schools are not a resource for this very vulnerable population.

“(8) Aging in Place. (§2306.6725(d)(2) An Application for an Elderly Development and Supportive Housing that serves households without children (100%) 1 bedroom

and/or studios) may qualify to receive up to three (3) points under this paragraph only if no points are elected under subsection (c)(5) of this section (related to Educational Excellence).”

Commenter (3), (50) requested this scoring item be modified to reflect the following, with commenter (50) further stated that the recommended language would better serve the target population considering that many senior residents are not in wheelchairs. Moreover, commenter (50) expressed concern that 100% accessible units would be cost prohibitive and difficult to market due to the institutional feel it would create.

~~“(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):-

_____ (i) “Walk-in” showers of at least 30” x 60” in at least 50% of all residential bathrooms;

_____ (ii) 100% of units include blocking in showers/tubs to allow for grab bars at a later date if requested as a reasonable accommodation;

_____ (iii) Chair height (17-19”) toilets in all bathrooms; and

_____ (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 full-time resident services coordinator on site for the duration of the Compliance Period ~~and Extended Use 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 is defined as follows (+2 points):

(i) a minimum of 16 hours per week for Developments of 80~~79~~ Units or less; and

(ii) a minimum of 24 hours per week for Developments of 81 to 120 units; and

(iii) a minimum of 32 hours for Developments in excess of 80~~121~~ Units ~~or more~~.”

Commenter (49) requested similar modifications, with the following slight variation regarding weekly hours for the resident services provision. Commenter (49) also noted that in order to comply with HB 3311 creating point parity, the maximum score under this item should be increased to 5 points to be equal with Educational Excellence.

“(i) a minimum of 16 hours per week for Developments of 8079 Units or less; and
(ii) a minimum of 32 hours for Developments of 8081 Units or more.”

Commenter (7) stated that it is not possible to adapt all existing units in a USDA 515, 514/516 property to full accessibility and further asserted that not all residents want an adapted unit, they are difficult to rent to residents that do not require such accommodations. Commenter (7) recommended the requirement for full accessibility be removed and should just continue to be made where reasonable. With respect to the full-time resident services coordinator requirement under this scoring item, commenter (7) recommended it be deleted as well on the basis that USDA does not allow rent proceeds to be used for such services. As an alternative, commenter (7) recommended the language be modified to allow the property to provide appropriate services for elderly residents with at least one event per month. Moreover, commenter (7) recommended that adding upgrades to the property, including accessibility, laundry room or community room, or upgrades to unit amenities be considered a replacement point category.

Commenter (51) expressed support for the inclusion of the onsite service coordinator but indicated concerns that the effectiveness of the service coordinator would be diminished if the person is part of the property management team; therefore, clarification was requested to help ensure the effectiveness of the service coordinator.

Commenter (9) expressed concern over the cost associated with converting 100% of the units in existing properties and stated the minimum to do so is approximately \$10,000 - \$15,000 for a full ADA conversion which would take funds away from other much needed rehab. Moreover, according to commenter (9) it is physically impossible to make the space in the bathrooms to meet the standards. As an alternative, commenter (9) recommended this item be modified to require an additional 5% of the total units be converted to the ADA standards. This would include lower cabinets, roll-in showers, etc. and would be in addition to the already required 5%. Moreover, commenter (9) suggested a requirement that 50% of the bathtubs be converted to roll-in showers. These changes, according to commenter (9) would be a financially better use of HTC funds and would better meet the needs and wants more accurately.

Commenter (21) recommended the following revision to this scoring item which would still achieve a policy that would allow individuals to age in place gracefully and with dignity:

“(A) ~~All~~ Fifty (50) percent of the Units are designed to be fully ~~accessible~~ adaptable (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).”

Commenter (36) recommended the following modifications to this scoring item based on concerns over the marketing and cost implications of developments designed to be 100% fully accessible:

“(A) In addition to meeting all of the accessibility and design standards under Section 504 of the Rehabilitation Act and ~~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”)~~ the Applicant will build 50% of the units with adaptable design features as specified in 24 CFR 100.205(c)(1)-(3). (2 points).”

Commenter (45) disagreed with the addition of this scoring item on the basis that, while it is meant to create parity with the educational excellence scoring criteria for elderly developments, considering the new definition for elderly development, it is quite possible that such tenants would have children therefore being in the attendance zones of high quality schools would definitely benefit them. Moreover, even if the tenants do not have children, high performing schools is one of many indicators of a high quality neighborhood in general. In terms of competing for sites, if the Department believes there should be a path by which elderly developments compete for credits, commenter (45) suggested that it be driven by location, similar to the Educational Excellence scoring item. While the location of a development is a known fact at the time of application, a commitment to develop accessible units and provide services is in reality an unknown. Commenter (45) further emphasized that it’s possible for an applicant to fail to meet these requirements which in this case would mean having denied credits to an applicant that was clearly already meeting the equivalent requirement. Commenter (45) recommended this scoring item be removed.

STAFF RESPONSE: The proposed rule allows an elderly development to choose to be in a location with Educational Excellence or provide for Aging in Place but not both. This allows Elderly Developments to have greater flexibility in location for developments that could exclude families. However, some elderly developments include or allow for families with children which would benefit from being in attendance zones of high quality schools. Similarly Supportive Housing Developments cannot exclude families with children (unless the development is qualified to do so under Housing for Older Persons Act “HOPA”) and some types of Supportive Housing, such as those targeting single parents would also benefit from being in attendance zones of high quality schools. Staff agrees that the maximum points for Educational Excellence and Aging in Place should be equivalent at five points. Staff agrees that a reduction in the intensity of accessibility of Aging in Place features would make this option more achievable. Staff also believes the provision for a service coordinator should be simplified and proposes the following changes. In addition, staff believes Supportive Housing Developments which serve Elderly Limitation restricted households should also be able to achieve scoring parity for Aging in Place points with Supportive Housing Developments serving the general population which receive Educational Excellence points.

In response to commenters (1), (23), (32), (45), and (49) regarding parity in points achievable for Aging in Place and Educational Excellence, staff has also considered recent legislation regarding parity between Elderly

and general population Developments in recommending that Supportive Housing Developments be limited to two (2) points under Educational Excellence. This limitation would allow parity between a Supportive Housing general population Development and an Elderly Development. Staff further proposes an alternative two (2) points under Aging in Place for Supportive Housing Developments which are also HOPA Elderly Limitation restricted.

Staff proposes the following change:

“(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 only if no points are elected under subsection (c)(5) of this section (related to Educational Excellence). 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):-

_____ (i) “Walk-in” (also known as roll-in) showers of at least 30” x 60” in at least one bathroom in each unit;

_____ (ii) 100% of units include blocking in showers/tubs to allow for grab bars at a later date if requested as a reasonable accommodation;

_____ (iii) Chair or seat height (17-19”) toilets in all bathrooms; and

_____ (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 ~~full-time~~ dedicated 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 ~~follows~~ an employee that is reasonably available exclusively for service coordination to work with residents during normal business hours at posted times (±2 points):

(i) ~~a minimum of 16 hours per week for Developments of 79 Units or less; and~~

(ii) ~~a minimum of 32 hours for Developments of 80 Units or more.”~~

Elderly Development Comments

§11.4(b) – Maximum Request Limit (3), (7), (45)

COMMENT SUMMARY: Commenter (3), (7) requested a new credit cap for USDA applications of \$750,000 based on the belief that most of these developments are small and therefore such cap is appropriate.

Commenter (45) requested clarification regarding request limits for elderly developments in those regions prescribed under HB 3311 and proposed that those requests should be treated the same as those requests that might exceed the overall limit. Commenter (45) recommended the following modification:

“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. 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 in the Site Demographic Characteristics Report after the release of the Internal Revenue Service (“IRS”) notice regarding the 2016 credit ceiling. For all Applications, ~~the~~ 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))”

STAFF RESPONSE: In response to commenter (3), (7) staff believes that the legislative requirements as set out in statute are more appropriately addressed by the proposed rule than by the changes suggested in this comment. In particular, the Maximum Request Limit has been established by statute and setting a cap for applications in the USDA set-aside is not consistent with statute. Moreover, staff believes the extent of the changes to the nature of the proposed rule suggested by the commenter would require renewing the rule-making process and re-publication prior to adoption. In further response to commenter (7) regarding the farm worker housing application submitted, if farm worker housing receives funds from USDA to be eligible for the USDA set-aside, staff does not recommend that the Board de-prioritize farm worker housing under this set-aside at this time. This may be discussed and considered in developing the next QAP.

In response to commenter (45) staff agrees and has changed the rule accordingly with a slight modification regarding where the information will be published:

“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. 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. For all Applications, ~~The~~ 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))”

§11.6(3) – Award Recommendation Methodology

COMMENT SUMMARY: Commenter (28), (35) asserted that the language in HB 3311 is clear in being directed at the sub-regions and further maintained that since the At-Risk set-aside does not differentiate between regions and sub-regions or rural and urban, it should be clear that the At-Risk set-aside should not be included in the formula that places a cap on the amount of credits attributed to elderly developments. Commenter (35), (49) similarly expressed that because the Department has traditionally disregarded subregions in allocating under the At-Risk set-aside, which has been stated in the QAP for a while, the legislative intent behind HB 3311 is that it should also not apply to the At-Risk set-aside. Commenter (49), (50) contended that the intent was not to apply the formula to the At-Risk set-aside which is funded before the regional allocation is funded and that the formula does not reflect the need of persons (senior or family) already housed in affordable units which may or may not be eligible for prepayment and in need of rehab. Commenter (50) advocated that the following revision be made to this section:

“(C) Initial Application Selection in Each Sub-Region (Step 3). The highest scoring Applications within each of the 26 sub-regions will then be selected provided there are sufficient funds within the sub-region to fully award the Application. Applications electing the At-Risk or USDA Set-Asides will not be eligible to receive an award from funds made generally available within each of the sub-regions. In Urban Uniform State Service Regions containing a county with a population that exceeds one million, the Board may not allocate more than the maximum percentage of credits available for Elderly Developments, unless there are no other qualified Applications in the subregion. ~~This includes any Applications awarded under subparagraph (B) of this paragraph.~~—The Department will, for each such Urban subregion, calculate the maximum percentage in accordance with Texas Government Code, §2306.6711(h). These calculations will be published by the Department in the Site Demographics Characteristics Report (§2306.6711(h)).”

Commenter (49) expressed that the intent of HB 3311 was not to be implemented in the preservation or At-Risk set-aside based on the following: the At-Risk set-aside is not subject to the sub-regional pool caps and thus is not subject to the elderly sub-regional cap; At-Risk developments do not increase the number of new low-income elderly units created; HB 3311 does not specify that the cap is to be applied to the At-Risk set-aside; At-Risk elderly and At-Risk general population developments have equal scoring so there is no extra incentive to preserve elderly over family; and by splitting the limited amount of funding under the formula, the State would be implementing the exact opposite of its intention of ensuring that seniors are provided access to affordable housing resources. Commenter (49) further contended that if the formula was to apply to the At-Risk set-aside it would have the exact opposite of the bill's intent by significantly reducing the dedicated senior tax credits and further asserted that "the bill would not have been passed if the intent was to stifle a community by blocking," such developments from accessing the resources needed to preserve these developments.

Commenter (32) requested the Department make public the details of its calculations to implement HB 3311; specifically, identifying the HISTA variable names and definitions used. Commenter (32) noted that data presented to the legislature during discussions relating to HB 3311 used the relative elderly vs. non-elderly renter populations in the calculations to determine the regional cap. Should alternative methodology be used, commenter (32) believed it to be misleading considering what the legislature relied upon when adopting the language contained in the bill.

Commenter (45) requested clarification regarding the maximum percentage of credits available for elderly development as it relates to returned credits. Assuming the calculation is based on awarded developments (not placed in service), commenter (45) believed that if credits are returned from a previous cycle, the amount of credits available to elderly applications should not be adjusted and that the credit returned should not be considered in subsequent calculations. The possibility of never-ending re-calculations based on returns, according to commenter (45), could create confusion and the potential for errors; therefore, a fixed maximum percentage at the beginning of cycle will ensure transparency and compliance with the statutory provision. Commenter (45) advocated for the following modification to the methodology under subparagraphs (C) and (E):

"...In urban Uniform State Service Regions containing a county with a population that exceeds one million, the Board may not allocate more than the maximum ~~percentage~~ amount of credits available for Elderly Developments, unless there are no other qualified Applications in the subregion. This includes any Applications awarded under subparagraph (B) of this paragraph. The Department will, for each such Urban subregion, calculate the maximum ~~percentage~~ amount available for Elderly Developments in accordance with Texas Government Code, §2306.6711(h). These ~~calculations~~ maximum amounts will be published by the Department in the Site Demographics Characteristics Report (§2306.6711(h)) and will be final, regardless of any returned credit from previous cycles, but may be exceeded only if necessary to comply with the nonprofit set-aside required by §42(h)(5) of the Code."

STAFF RESPONSE: In response to commenters (28), (35), (49) and (50), staff agrees and is recommending that the credits made available under the “at risk” set-aside not be included in the competitive tax credits subject to the cap on elderly developments. This is based on the fact that only tax credits treated under the subregional set asides are allocated solely to covered subregions, and the credits in the “at risk” set aside are available statewide. The proposed modification includes the following:

“(C) Initial Application Selection in Each Sub-Region (Step 3). The highest scoring Applications within each of the 26 sub-regions will then be selected provided there are sufficient funds within the sub-region to fully award the Application. Applications electing the At-Risk or USDA Set-Asides will not be eligible to receive an award from funds made generally available within each of the sub-regions. In Urban Uniform State Service Regions containing a county with a population that exceeds one million, the Board may not allocate more than the maximum percentage of credits available for Elderly Developments, unless there are no other qualified Applications in the subregion.—This includes any Applications awarded under subparagraph (B) of this paragraph. The Department will, for each such Urban subregion, calculate the maximum percentage in accordance with Texas Government Code, §2306.6711(h) and will publish such percentages on its website. —These calculations will be published by the Department in the Site Demographics Characteristics Report (§2306.6711(h))....”

(E) Statewide Collapse (Step 5). Any credits remaining after the Rural Collapse, including those in any sub-region in the State, will be combined into one "pool." The funds will be used to award the highest scoring Application (not selected in a prior step) in the most underserved sub-region in the State compared to the amount originally made available in each sub-region. In urban Uniform State Service Regions containing a county with a population that exceeds one million, the Board may not allocate more than the maximum percentage of credits available for Elderly Developments, unless there are no other qualified Applications in the subregion: This includes any Applications awarded under subparagraph (B) of this paragraph. The Department will, for each such Urban subregion, calculate the maximum percentage in accordance with Texas Government Code, §2306.6711(h) and will publish such percentages on its website. These calculations will be published by the Department in the Site Demographics Characteristics Report (§2306.6711(h)). This process will continue until the funds remaining are insufficient to award the next highest scoring Application in the next most underserved sub-region. In the event that more than one sub-region is underserved by the same percentage, the priorities described in clauses (i) and (ii) of this subparagraph will be used to select the next most underserved sub-region:...”

In response to commenter (32), staff has applied a plain language reading of the statute to determine that all elderly households will be used in the denominator of the formula to calculate the percentage of credits that

will be available for elderly developments in the impacted regions. When the percentages are published, staff can include the HISTA variable names and Place names.

Staff agrees with commenter (45) regarding how credit returns from a previous cycle should be treated. The return of credits in an affected subregion, associated with a large development, regardless of whether it was elderly or general, would have a de minimis (less than 0.1%) effect on the percentage. Staff does not believe a re-calculation of the maximum percentage would significantly change the amount of credits available and factored into the calculation.

Staff does not recommend any changes based on this comment.

§11.7 – Tie Breaker Factors (excerpt)

Commenter (4), (31), (36) expressed concern over the third tie breaker that only comprehends one population type when there is a potential to have two tied applications serving two different populations. Commenter (4) asserted that since elderly and supportive housing developments are impacted by schools with regard to the opportunity index and educational excellence then the tie breaker should be considered for all developments. Commenter (4), (31), (36) recommended the following modification for the third tie breaker:

~~“(3) For competing Applications for Developments that will serve the general population, the~~The Application with the highest average rating for the elementary, middle, and high school designated for attendance by the Development Site, or (for “choice” districts) the closest.”

§11.9(c)(4) – Selection Criteria – Opportunity Index

Commenter (45) disagreed with elderly developments having access to points for being in proximity to “services specific to a senior population” as well as being in proximity to a senior center and suggested deleting one or the other

Commenter (4) also stated the inconsistency with having two senior center-type scoring items worth various points – i.e. 3 points under clause (i) and 2 points under clause (v) of this subparagraph. Commenter (4) emphasized that an elderly application in a rural area that can achieve points for a day care center does not make sense considering they can at least use the school’s grounds for walking or exercise. To address these concerns, commenter (4) recommended the changes as reflected below. Commenter (21) expressed similar objections to substituting proximity to senior services for schools in rural regions for elderly developments and further elaborated that schools are a key community asset, providing volunteer opportunities for seniors, open space for recreation, fitness, social interaction and places to gather, hold community meetings and even vote. Commenter (21) proposed the same modifications to that of commenter (4):

~~“(i) Except for an Elderly Limitation Development, the~~ The Development Site is located within the attendance zone (or in the case of a choice district the closest) and within 1.5 miles of an elementary, middle, or high school with a Met Standard rating 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);”

Commenter (32) recommended paragraph (A) be consistent with paragraph (B) under this scoring item by substituting “the Development Site has access to services specific to a senior population within 1 mile” for the “school attendance zone” criteria. As proposed, commenter (32) maintained that it encourages developers to substitute elderly-only developments for family developments in high opportunity areas with access to good schools

STAFF RESPONSE: In response to commenter (32) staff agrees that an Elderly Development should be able to either score points for proximity to a high performing school or access to services specific to seniors, staff makes the following change:

(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);

In response to commenter (4), staff believes that "services specific to a senior population" may provide in-home support or other types of services senior centers do not provide, and is therefore worthy of the additional point. Further, because Elderly Preference developments are required to accept families with children, the inclusion of proximity to licensed child care is appropriate. However to make the language consistent with the proposed Urban Opportunity Area language which allows Elderly Developments to either score points for proximity to a high performing school or access to services specific to seniors, staff makes the following change:

~~“(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);”

SUPPLEMENT TO BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

NOVEMBER 12, 2015

Subsequent to the publication of the November 12, 2015, Board book on the Department’s web site it became apparent to staff that several items in the reasoned response were inadvertently left out of the draft QAP. In addition, staff recognized that the delineation of scoring criteria in two instances (Educational Excellence and Aging in Place) which were intended to offset each other were written such that the latter (Aging in Place) may not have comported with the plain language of HB 3311. Therefore staff prepared a supplemental Board book publication and revised recommendation. The following is a summary of changes to 10 TAC Chapter 11, Housing Tax Credit Program Qualified Allocation Plan as presented in the Supplement to the November 12, 2015, Board Book.

§11.9.Competitive HTC Selection Criteria.

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

(2) Rent Levels of Tenants.

(A) At least 20 percent of all low-income Units at 30 percent or less of AMGI for Supportive Housing Developments proposed by a Qualified Nonprofit or for Developments participating in the City of Houston's Permanent Supportive Housing ("HPSH") program. A Development participating in the HPSH program and electing points under this subparagraph 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 (relating to the Opportunity Index), 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 (relating to Tenant Populations with Special Housing Needs) (13 points);

Description of change: The change a minimum of five (5) ~~or seven (7)~~ corrects the scoring requirement in this item to reflect the addition of a six (6) point scoring option in (c)(4) Opportunity Index.

(6) Underserved Area. (§§2306.6725(b)(2); 2306.127, 42(m)(1)(C)(ii)) An Application may qualify to receive up to two (2) points if the Development Site is located in one of the areas described in subparagraphs (A) - (GE) of this paragraph, and the Application contains evidence substantiating qualification for the points. If an Application qualifies for points under paragraph (4) of this subsection then the Application is not eligible for points under subparagraphs (A) and (B) of this paragraph...

(F) Within 5 miles of a new business that in the past two years has constructed a new facility and undergone initial hiring of its workforce employing 50 or more persons at or above the average median income for the population in which the Development is located (1 point); or

(G) A census tract which has experienced growth increases in excess of 120% of the county population growth over the past 10 years provided the census tract does not comprise more than 50% of the county (1 point).

Description of change: Removal of items (F) and (G) was described in the Reasoned Response as the result of Public Comment, but the change was not included in the version of the Qualified Allocation Plan included in the initial November 12, 2015, Board Book.

(7) Tenant Populations with Special Housing Needs. (§42(m)(1)(C)(v)) An Application may qualify to receive up to ~~three (3)~~ two (2) points by serving Tenants with Special Housing Needs. Points will be awarded as described in subparagraphs (A) - (C) of this paragraph.

Description of change: The maximum points available for this item was reduced by a change to subparagraph (A) described in the Reasoned Response as the result of Public Comment, but the corresponding change to paragraph (7) was not included in the version of the Qualified Allocation Plan included in the initial November 12, 2015, Board Book.

(8) Aging in Place. (§2306.6725(d)(2) An Application ~~for an Elderly Development~~ may qualify to receive up to ~~three~~ five (35) points under this paragraph only if no points are elected under subsection (c)(5) of this section (related to Educational Excellence). 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).

Description of change: In order to comport with HB 3311, the limitation specific to an Elderly Development has been removed.

SECOND SUPPLEMENT TO BOARD ACTION REQUEST

MULTIFAMILY FINANCE DIVISION

NOVEMBER 12, 2015

As part of staff's efforts to evaluate the QAP draft with an eye toward correcting any deficiencies or errors, as well as reconciling the QAP to statute and policy, staff has identified the following needed corrections to 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, ~~F~~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, aAn 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.