How to Make the 2023 Tax Credit Housing QAP Work Better for Low-Income Tenants

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Summary

The Low-Income Housing Tax Credit (LIHTC) program is responsible for creating more affordable rental units than any other source of federal funding.\(^1\) LIHTC administrators, typically state housing finance agencies, outline the scoring criteria that determine which tax credit projects are awarded funding in a document called the Qualified Allocation Plan (QAP). The QAP lays out a rubric for eligibility and scoring of project proposals. By shaping the eligibility and scoring system, the QAP determines where tax credit properties are located, how affordable they are, and whether they decrease segregation or provide access to opportunity for low-income families. In 2022, the State of Texas facilitated an engagement process for making changes to the QAP that offered more opportunities for participation than is typical. However, developer voices severely outweighed tenant and tenant advocate voices throughout the process.

The following report outlines key topics of discussion in this year’s QAP round tables and work groups. We use research and data analysis to clarify the impact of major proposed changes. For each topic, we make data- and research-informed recommendations for Texas’ state housing agency, the Texas Department of Housing and Community Affairs (TDHCA), regarding their approach to QAP changes.

High level recommendations for the 2023 QAP:

- **Add a Tie Breaker for More Units and Deeper Affordability**: Tax credit applications frequently have the same score. Tie breakers should incentivize properties in high opportunity areas that target deep affordability to support the highest-quality housing options for low income tenants.

- **Build New Projects Close to Existing Ones Only in High-Opportunity Areas**: TDHCA needs to avoid concentrating tax credit housing in low-opportunity areas. The QAP should not allow multiple developments close to one another without setting a high standard for neighborhood opportunity.

- **Maintain Neighborhood Risk Factors**: Living in areas with high crime and high poverty harm residents, particularly women and children. The QAP should maintain factors that take these neighborhood characteristics into account and incentivize units in high opportunity areas.

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• **Improve Incentivization of Supportive Housing**: Providing supportive services in combination with affordable housing more effectively helps people to transition out of homelessness than either action alone. TDHCA should further incentivize the creation of Permanent Supportive Housing (PSH) units that provide supportive services in the QAP.

• **Include Transit in Proximity to Job Areas**: Distance from job centers alone is not a comprehensive measure of access to jobs; including greater considerations for transit access support more comprehensive evaluation. TDHCA should adjust the QAP Proximity to Jobs provision to take transit access into account.

• **Ask Tenants Directly About On-Site Amenities**: Tenants, decisionmakers, and developers do not always agree on what amenities should be present in housing developments. TDHCA should survey tenants before making any changes to amenities required or prioritized by the QAP.

At the time of writing, TDHCA has released the draft QAP for public comment.³ The Draft QAP and information about public comments and hearings is available through TDHCA’s Public Comment Center, under “Items Open for Public Comment.”³ You can get involved in improving the QAP by submitting your own written comments by email to Matthew Griego at matthew.griego@tdhca.state.tx.us by 5:00 PM on October 14th, 2022. The TDHCA board will meet and discuss the QAP on November 10th, 2022. Although these meetings are open to the public and anyone can sign up to speak, the vast majority of attendees and speakers are developers, who are there to represent their interests and not necessarily those of low-income tenants. Information about past and future TDHCA board meetings, including transcripts, agendas (Board Books), and links to streaming video of ongoing meetings, can be found on TDHCA’s Board Meeting Information Center.⁴

Reach out to Texas Housers’ Research Director Ben Martin at ben@texashousing.org to learn more about how you can get involved in making LIHTC properties in Texas as effective as possible at providing housing and serving the needs of low-income Texans.

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³ TDHCA. Public Comment Center. https://www.tdhca.state.tx.us/public-comment.htm
⁴ TDHCA, Board Meeting Information Center. https://www.tdhca.state.tx.us/board/meetings.htm
Tax Credit Housing and QAP Basics

What is tax credit housing and why is it important?

The Low-Income Housing Tax Credit (LIHTC) program is one of the most important tools for creating affordable rental housing in Texas. Since the mid-1990s, the Texas LIHTC program (sometimes referred to as housing tax credits, HTC, or even just tax credits) has supported the construction or rehabilitation of more affordable rental units than any other single program targeting affordable housing in the state. Close to 260,000 Texas families live in over 2,500 LIHTC properties across the state. There are two types of tax credits available through the LIHTC program: 9% and 4% credits. The 9% credits come with a larger subsidy, are allocated through a highly competitive process, and largely fund new construction of multifamily properties. The 4% credits are considered non-competitive, are layered with other federal subsidies like tax-exempt bonds, and make up the bulk of tax credit awards for rehabilitation of multifamily properties.

The Texas Department of Housing and Community Affairs (TDHCA) is the state agency that administers the Texas LIHTC program and allocates tax credits made available by the Internal Revenue Service (IRS). TDHCA awards tax credits to private developers of affordable rental housing projects through a competitive scoring process. Developers generally sell the credits to private investors to obtain funding for the development of affordable housing. Although the process is somewhat complicated, the result is that tax credits make low-income housing development and rehabilitation possible that would not be possible with private funds alone.

Many types of rental properties are built under LIHTC, including apartment buildings, single-family dwellings, townhouses, and duplexes. In order for a developer to qualify for the LIHTC program, they must agree to make the development affordable for low-income renters. There are 3 ways that a developer can make their development affordable:

1. At least 20% of the project’s units are occupied by tenants with an income of 50% or less of area median income adjusted for family size (AMI).
2. At least 40% of the units are occupied by tenants with an income of 60% or less of AMI.
3. At least 40% of the units are occupied by tenants with income averaging no more than 60% of AMI, and no units are occupied by tenants with income greater than 80% of AMI.

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5 Loney, Lauren, and Heather Way. (December 2018). The Low-Income Housing Tax Credit Program in Texas: Opportunities for State and Local Preservation Strategies. University of Texas School of Law, Entrepreneurship and Community Development Clinic.


7 Id. and 26 US Code §42(g)(1)
While federal statute sets basic requirements for LIHTC, the scoring and selection of specific LIHTC developments are left up to LIHTC administrators, which are typically state agencies. LIHTC administrators must draft a plan that describes the criteria and housing priorities used to determine how tax credits are allocated. This plan is called the Qualified Allocation Plan (QAP). In Texas, the QAP is shaped by state statute and describes LIHTC program rules as approved by the Governor and codified in Texas Administrative Code. \(^8\) TDHCA writes and updates the QAP within this legal framework with input opportunities from the public. In practice, most input is provided by developers, rather than low-income tenants.

What does the QAP do and why is it important?

Federal law requires each state agency that allocates tax credits to have a Qualified Allocation Plan, or QAP. The QAP sets the state’s eligibility priorities and criteria for awarding federal tax credits to developers, including the criteria by which tax credit housing proposals are scored. The tax credit program can be highly competitive, and the difference of even a point or two can mean success or failure in being awarded these competitive tax credits. For example, eight out of nine successful 2022 applications in urban region 3 (the Dallas–Fort Worth area) had a score of 172. The ninth had a score of 171, the same score as seven of the nine unsuccessful applications in urban region 3.\(^9\)

The QAP is extremely important because it determines which affordable housing developments are awarded. This competitive process incentivizes and shapes features such as the level of affordability within a development, how long the housing must remain affordable, and the on-site amenities provided by the development for tenants.\(^10\)

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\(^8\) Section 42 of the Internal Revenue Code (26 US Code §42) contains federal-level QAP requirements: [https://www.law.cornell.edu/uscode/text/26/42](https://www.law.cornell.edu/uscode/text/26/42)

Tex. Gov’t Code §2306 is TDHCA’s enabling statute and contains state-level QAP requirements: [https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2306.htm](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2306.htm)

Governor-approved 2022 QAP as published on the TDHCA website: [https://www.tdhca.state.tx.us/multifamily/docs/22-QAP-10TAC-Ch11.pdf](https://www.tdhca.state.tx.us/multifamily/docs/22-QAP-10TAC-Ch11.pdf)


\(^9\) TDHCA. (4 August 2022). 2022 9% HTC Award and Waiting List. [https://www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/](https://www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/)

\(^10\) Developments can receive up to 13 points for providing units affordable to households with incomes at or below 30% AMI under the Rent Levels of Tenants provision, 10 TAC §11.9(c)(2). Under the Extended Affordability provision, 10 TAC §11.9(f)(5), developments can receive from 2 points for a 35-year affordability period to 4 points for a 45-year period. Common Amenities, 10 TAC §11.101(b)(5), describes the amenities developments can include for points and the point thresholds for different size developments.
It also includes provisions to encourage the participation of non-profit developers and to encourage the development of units with additional supportive services for tenants with specific needs (e.g., persons experiencing homelessness, persons with disabilities, youth aging out of foster care, etc.).

Additionally, the QAP guides the location of new development, a crucial consideration to ensure that Texas is not creating or reinforcing segregated areas of poverty by only selecting developments in certain areas. LIHTC developments have historically trended toward lower-income areas, and an effective QAP can push back on this by incentivizing development in higher-income, high opportunity areas that are close to desirable amenities. Under the 2022 QAP, a development can be found ineligible if it is in a high poverty, high crime, low quality school area or in an area that already has HTC units. These eligibility rules affect both the 9% and 4% programs. The QAP also includes provisions for the 9% program that award points based on development location.

Location is particularly important for the competitive 9% program. Sections of the QAP where developers can score points heavily influence which places and development opportunities attract the attention of LIHTC applicants. The QAP provides points for developments in “high opportunity” areas (near grocery stores, parks, quality schools, healthcare facilities, public transit, child care facilities, libraries, etc.), in areas that don’t have HTC developments, and areas close to jobs. Of the 110 new 9% applications in 2022, 91 (83%) had a “Best Possible Score” between 164 and 174. Half of those (47 applications) had a best possible score of either 171 or 172. The Opportunity Index, Underserved Areas, and Proximity to Jobs alone account for 18 points in the 2022 QAP. Location characteristics are a significant factor given such tight competition.

Location of housing has significant links to health, education, and income. Excessive noise can cause anxiety, headaches, or hypertension, while lack of green space can result in poor physical fitness.

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12 The Opportunity Index (10 TAC §11.9(c)(4)), Underserved Areas (10 TAC §11.9(c)(5)), and Proximity to Jobs (10 TAC §11.9(c)(7)) provisions of the QAP respectively.
13 Figures listed do not include supplemental credit awards. The “Best Possible Score” reflects the maximum number of points TDHCA staff believes an application could achieve. An appeal or staff review may ultimately increase or decrease this score.
Air pollution increases the number of emergency room admissions, particularly for respiratory issues, and asthma rates.\textsuperscript{15}

The geography of where this housing is built matters, and the QAP drives the location of LIHTC units. Prioritization of opportunity and deconcentration of subsidized affordable housing, as well as the use of multiple policy changes (e.g., changing points or set-asides), increase the share of tax credit housing in low-poverty neighborhoods.\textsuperscript{16} Including explicit points for transit accessibility have been shown to significantly increase the probability of a property being located near a transit stop.\textsuperscript{17} The QAP has a significant impact on the lives of tenants and deserves public attention.

**How QAP Changes are Made and the Need for Tenant Perspectives**

TDHCA typically hosts annual roundtables to discuss possible changes to the QAP and new ideas TDHCA may be exploring. The main participants at these roundtables are developers; there is very little tenant or advocate representation. TDHCA monthly board meetings are another opportunity for community members, including tax credit property tenants, to have their voices heard. However, these events usually happen in the middle of the day during the week when many tenants are working. They occur mostly in-person in Austin and don’t offer an opportunity for virtual participation.

The Texas LIHTC program is one of the most important tools for creating affordable rental housing in Texas. The primary purpose of this program is to provide low-income Texans with affordable housing that is safe and sanitary, close to good schools, and in good neighborhoods. Unfortunately, there are too few low-income Texans who actually have a say in the decisions that this important program chooses to focus on. It is critical to provide more opportunities and reduce barriers for advocacy from low-income tenants so that their valued input is used in helping navigate this program in future. We want to see TDHCA ensure that these tax credits are being used for the public benefit and that all Texans no matter their income have a chance to live in safe housing, close to good schools and good neighborhoods.


\textsuperscript{17}National Housing Trust. (July 2014). How Can the Low Income Housing Tax Credit Program Most Effectively be Used to Provide Affordable Rental Housing near Transit?
Major Proposed Changes to This Year’s QAP: What the Research Shows and What TDHCA Should Do

This section outlines major changes proposed and/or discussed during the 2023 QAP development process. These changes would apply to HTC applications in 2023. The topics discussed in this brief have been the focus of considerable attention from TDHCA staff, developers, and public officials. The following discussion provides context and background for 2023 QAP proposed changes, but may also be a useful reference for QAP updates and reforms in future years.

Add a Tie Breaker for More Units and Deeper Affordability

What’s been proposed
With the competitive process of the Texas LIHTC program, it is not uncommon that multiple proposals have the same score. TDHCA uses tie breakers to determine which project is awarded in these scenarios. There have been robust conversations during the QAP Roundtable about adding new tie breakers. TDHCA staff signaled during the QAP Roundtable that they were considering “quality of life” tie breakers, including: distance from an elementary school, linear distance to a grocery store, and distance to a hospital (specifically for senior developments). There was broad support for a “linear distance to a grocery store” tie breaker, and maybe for proximity to other amenities. Texas Housers and other advocates broached the idea of a “lower income average” tie breaker or “number of units” tie breaker. TDHCA did not make substantial changes to the tiebreaker provisions in the 2023 Preliminary Draft QAP. For the 2023 Draft, TDHCA simplified the tie breaker provision related to poverty, changing the threshold from a three-year average to a set value.

A tie breaker that awards developments with more affordable units is tied to a second QAP issue: increased eligible building costs. The increasing cost of development was a major concern for developers at TDHCA roundtables. TDHCA has included increases in eligible building costs and an annual adjustment factor in the Preliminary Draft and Draft QAPs to reflect increased building costs. TDHCA distributed a Cost Containment Survey in spring 2022 to gauge developers’ thoughts on policies in other states and potential cost containment policies for TDHCA (e.g., considering credits per affordable unit, awarding points for lower costs, capping credits per unit). In addition to this cost-focused issue, TDHCA, advocates, and developers have expressed concern that increasing eligible costs without an appropriate policy guardrail could lead to properties receiving additional credits without providing additional affordable units.
This would reduce the efficiency or productivity of the program. In the Cost Containment Survey, TDHCA proposed three policies as potential guardrails:

- Per development limit of $1.5 million in tax credits, up to $2 million with additional 30% AMI units
- Per development limit of $1.5 million, up to $2 million with reduced leasing criteria
- Tie breaker that goes to the development with the most low income units

Foundation Communities expressed a similar concern in comments on the Preliminary Draft and proposed a tax credit per unit tiebreaker as a guardrail. The QAP tiebreaker has been identified as an appropriate policy lever to address unwanted outcomes from cost per square foot changes.

**What the research says**

The National Low Income Housing Coalition’s annual Gap Report breaks down the need for housing units across the country at different levels of affordability. The 2022 Gap Report, like prior reports, shows that the shortage of housing is most severe at the lowest household income levels. In Texas, there are just 29 affordable and available homes per 100 renter households at or below 30% AMFI and 51 homes per 100 households at or below 50% AMFI.\(^\text{18}\)

<table>
<thead>
<tr>
<th>Household Income</th>
<th>Texas</th>
<th>Austin MSA</th>
<th>Dallas MSA</th>
<th>Houston MSA</th>
<th>San Antonio MSA</th>
</tr>
</thead>
<tbody>
<tr>
<td>At or below 30% AMFI</td>
<td>29</td>
<td>22</td>
<td>20</td>
<td>19</td>
<td>31</td>
</tr>
<tr>
<td>At or below 50% AMFI</td>
<td>51</td>
<td>49</td>
<td>49</td>
<td>47</td>
<td>46</td>
</tr>
<tr>
<td>At or below 80% AMFI</td>
<td>100</td>
<td>102</td>
<td>99</td>
<td>101</td>
<td>98</td>
</tr>
<tr>
<td>At or below 100% AMFI</td>
<td>107</td>
<td>106</td>
<td>107</td>
<td>108</td>
<td>106</td>
</tr>
</tbody>
</table>

*Source: NLIHC, The GAP: Texas.*

A tie breaker formula that scores each applicant on the number of units provided at various levels of affordability, weighting more affordable units more heavily, would be an effective tie breaker that addresses the shortage of deeply affordable units. This method balances the incentivization of maximum total units with the incentivization of deep affordability. Such a formula is in line with the tiebreaker TDHCA proposed in the Cost Containment Survey and could address concerns around productivity and increased eligible cost per square foot.

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Including a tiebreaker that weighs more affordable units more heavily supports the goals of the LIHTC program. The purpose of the LIHTC program is to build low-income housing units for households at or below 50% or 60% AMFI. A QAP is defined in Internal Revenue Code as a plan that sets forth selection criteria and “gives preference in allocating housing credit dollar amounts among selected projects to...projects serving the lowest income tenants.”

What should TDHCA do?
TDHCA should view the tie breakers as trying to advance a policy goal. Given the greatest need for affordable housing for 30-60% AMI populations, lower income average should be a policy priority for TDHCA. TDHCA could utilize a tie breaker formula that awards one point per unit at 60% AMI, with the points increasing as the affordability deepens and partial points awarded for units at 80% AMI. This formula balances between the needs for more units and deeper affordability, and can award smaller developments if they have deep affordability.

Table 2 below provides examples for the proposed tiebreaker model. The weights reflect the need for deeper affordability.

<table>
<thead>
<tr>
<th>Total Units</th>
<th>Total Aff. Units</th>
<th>Market Rate</th>
<th>30% Units</th>
<th>50% Units</th>
<th>60% Units</th>
<th>80% Units</th>
<th>Tiebreaker Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>80</td>
<td>70</td>
<td>10</td>
<td>10</td>
<td>40</td>
<td>20</td>
<td>0</td>
<td>130</td>
</tr>
<tr>
<td>150</td>
<td>120</td>
<td>30</td>
<td>10</td>
<td>55</td>
<td>40</td>
<td>15</td>
<td>187.5</td>
</tr>
<tr>
<td>100</td>
<td>80</td>
<td>20</td>
<td>40</td>
<td>30</td>
<td>10</td>
<td>0</td>
<td>190</td>
</tr>
<tr>
<td>135</td>
<td>135</td>
<td>0</td>
<td>15</td>
<td>65</td>
<td>55</td>
<td>0</td>
<td>230</td>
</tr>
</tbody>
</table>

Table 2: Tiebreaker Formula (Hypothetical Properties)

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19 26 US Code §42(g)(1)
20 Also includes giving preference to projects with longer affordability periods, in Qualified Census Tracts, and in areas with concerted revitalization plans. 26 US Code §42(m)(1)(B) and (C)
Build New Projects Close to Existing Ones Only in High-Opportunity Areas

What’s been proposed
This year’s QAP roundtable discussions included suggestions for reforming the rules that limit development either near existing HTC properties or in too close of proximity to other proposed developments in the same year. Before getting into this year’s reform debate, it is necessary to review the complex provisions that guide HTC property proximity.

There are several provisions in both TDHCA’s governing statute and the current QAP that govern how close HTC developments can be to one another. The two major, relevant sections in the QAP are the HTC De-Concentration Factors and points available for Underserved areas. HTC De-Concentration Factors affect whether or not a proposed development is eligible. Some of these eligibility rules have exceptions, including allowing awards when developments receive local government approval.

Table 3: HTC De-Concentration Factors in the 2022 QAP

<table>
<thead>
<tr>
<th>Name</th>
<th>Description</th>
<th>Applies To</th>
<th>TAC/Gov’t Code</th>
</tr>
</thead>
</table>
| Two Mile Same Year Rule           | Cannot award two developments in the same year and county that are within two miles of one another. | 9% in large counties (population > 1 million) | TAC §11.3(b)  
Tex Gov’t Code §2306.6711(f) |
| Proximity to Development Sites    | Cannot award two developments in the same year and county that are within 1,000 feet of each other that serve the same target population. | 9% in small counties (population < 1 million) | TAC §11.3(f) |
| One Award per Census Tract Limitation | Cannot award two developments in the same year and census tract. | 9% in urban subregions | TAC §11.3(g) |
| One Mile Three Year Rule          | Cannot award a development that is a mile or less from another development that was successfully awarded within the last three years that serves the same target population. | New Construction or Adaptive Reuse 9% and 4% | TAC §11.3(d)  
Tex Gov’t Code §2306.6703(a)(3) |
| Twice the State Average Per Capita | Cannot award a development in a municipality or county that has more than twice the state average of HTC units per capita. | 9% and 4% | TAC §11.3(c)  
Tex Gov’t Code §2306.6703(a)(4) |
| Limitations on Developments in Certain Census Tracts | Cannot award a development in a tract that has more than 20% HTC units per total households. | New Construction or Adaptive Reuse 9% and 4% | TAC §11.3(e) |
While De-Concentration Factors affect eligibility, Underserved affects the number of points a development receives. Underserved provisions are required by statute and only apply to 9% developments. The provisions included in the table below fulfill Tex Gov’t Code §2306.6725(b)(2), which requires TDHCA to provide scoring incentives to applicants who agree to locate their developments “in a census tract in which there are no other existing developments supported by housing tax credits.”

### Table 4: Underserved Provisions in the 2022 QAP Relating to HTC Concentration

<table>
<thead>
<tr>
<th>Description</th>
<th>Points</th>
<th>TAC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development is within a tract that is wholly within a place with a population of at least 100,000 and the tract and all contiguous tracts do not have another development awarded less than 15 years ago.</td>
<td>5</td>
<td>§11.9(c)(5)(F)</td>
</tr>
<tr>
<td>Development is within a tract that does not have another development awarded less than 30 years ago.</td>
<td>4</td>
<td>§11.9(c)(5)(C)</td>
</tr>
<tr>
<td>Development is within a tract that does not have another development awarded less than 20 years ago.</td>
<td>3</td>
<td>§11.9(c)(5)(D)</td>
</tr>
<tr>
<td>Development is within a tract that does not have another development awarded less than 15 years ago.</td>
<td>2</td>
<td>§11.9(c)(5)(E)</td>
</tr>
</tbody>
</table>

Finally, the QAP includes a tiebreaker element that awards the development that is furthest from the closest existing development if two applications have the same score.

During the QAP roundtable, developers suggested that TDHCA should get rid of the rule that allows for only one tax credit property per census tract per year. Many developers said this would help solve problems with the development not getting enough points due to the State Representative letter requirements in the QAP. Developers felt that removing the same census tract rule would allow TDHCA to award more projects in areas where representatives and the community are willing to approve affordable housing, meaning developers did not have to try to make deals work in areas where representatives might object to affordable housing. Advocacy groups pushed back, recalling that multiple developments in a single tract should only be allowed in high opportunity areas, as defined by the QAP. If the proposed policy was not exclusive to high opportunity areas, bundling multiple properties in one tract could create or reinforce a segregated area of poverty.
Comments on the Preliminary Draft indicate that while recent QAP changes have encouraged development in high-opportunity areas, Underserved provisions can result in those high-opportunity areas becoming uncompetitive after a project is awarded.

Foundation Communities proposed introducing an “HTC Density” provision to allow new awards in areas with past awards that could support additional HTC units. At a recent Texas Senate Committee on Local Government Hearing, a developer representative spoke about the Underserved provision in favor of removing the backing language from statute. The representative suggested that the rule was outdated and that new awards were no longer concentrated in certain tracts. In addition, they stated that heightened competition for tracts that are eligible for Underserved points drives up the cost of land. When asked about the effect of the Two Mile Same Year rule, the representative stated that Underserved was “more important,” but also supported the elimination of the Two Mile rule. The representative stated that eliminating the Two Mile rule would give developers more options when deciding where to place HTC developments and reduce land costs.

The 2023 Preliminary Draft and Draft QAPs do not significantly change De-Concentration Factors or Underserved points. The Draft QAP removes the requirement that a development can only be awarded in the same census tract as an existing development if a local government passes a resolution that the award “is consistent with the jurisdiction’s obligation to affirmatively further fair housing.” The new language only requires a resolution of no objection. The QAP also reduces the number of years outlined under the Underserved provision, changing the thresholds from 30, 20, and 15 years to 30, 15, and 10 years.

**What the research says**

Changes to the QAP allowing multiple developments in the same census tract would not significantly change outcomes in Texas’ largest cities. Applications in the same census tracts face more permanent barriers than TDHCA’s One Award Per Census Tract Limitation, like the Two Mile rule in State statute. Because census tracts are relatively small in urban areas, this two-mile TDHCA rule often excludes properties that would be excluded by the same census tract rule.22

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21 Texas Senate Committee on Local Government (September 13, 2022).
https://tlcsenate.granicus.com/MediaPlayer.php?clip_id=17049
Jean Latsha on Underserved, 28:00; Jean Latsha in response to Senator Zaffrini on Two Mile rule, 45:50. Senator Zaffrini also asked TDHCA Executive Director Wilkinson for his opinion on the Two Mile rule, 14:10.

22 Talavera Lofts and Pathways at Chalmers East in Austin were both in the same census tract and within two miles of one another - Talavera Lofts scored lower and was deemed ineligible in the 2018 cycle. Same with Gala at Central Park and Provision at Patriot Place in Hurst, Tarrant County in 2019; Blue Oaks and Residences at Thousand Oaks in San Antonio in 2019; The Magenta and Villas at Western Heights in Dallas in 2020; Retta Street Lofts and Clifton Riverside in Fort Worth in 2021; Oaklawn Place and Metro Lofts in Dallas in 2021; and Village at Medical Senior and Snowden Apartments in San Antonio in 2021.
The year prior to the addition of the census tract rule (2019), two census tracts in the state had more than one awarded property, and both were in less populous counties (the part of Houston in Fort Bend County and McAllen in Hidalgo County).

Rolling back the census tract rule would have less of an impact on population centers and more of an effect on smaller cities or parts of larger cities in less populous counties.

Census tracts that attract multiple applications through TDHCA’s HTC program tend to be lower-opportunity tracts. Allowing multiple eligible applications in a single tract without some goal-oriented parameters could result in concentration of affordable housing in lower opportunity areas. Tracts that had multiple 2022 LIHTC applications had worse park access and lower population growth than tracts containing one proposed property. These multi-applicant tracts have higher rates of cost burden and a larger shortage of housing affordable to households at or below 50% AMI, but an even larger surplus share of units affordable to households at or below 80% AMI than tracts containing a single proposed property. This suggests that any proposal to allow multiple applications in a single tract should target deeply affordable units in high opportunity, low-poverty areas.

The De-Concentration Factors discussed during the 2023 QAP development process focus on direct competition within a small area in the same year. Underserved provisions instead focus on long-term competitiveness and concentration over time. More recent HTC cycles have improved in awarding developments in lower-poverty areas, but long-term, ongoing concentration is still a concern. There are high-opportunity tracts that have not received HTC awards in the past 30 years. As an example, the following maps show that there are still high income, majority white tracts that have not received recent HTC awards in Houston, TX.

23TDHCA. (2 January 2020). 2019 9% Housing Tax Credit Award and Waiting List. https://www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/archive.htm
Figure 1: HTC Properties Awarded In the Last 30 Years and Tract Income

Source: TDHCA Property Inventory (as of May 2022) and 2020 ACS 5-year Estimates.

Figure 2: HTC Properties Awarded In the Last 30 Years and Tract Race/Ethnicity

Source: TDHCA Property Inventory (as of May 2022) and 2020 ACS 5-year Estimates.
Avoiding concentrations of affordable housing in QAPs has been found to be associated with HTC awards in low-poverty neighborhoods. Removal of De-Concentration factors or Underserved provisions, whether through legislative action or QAP updates, should be careful to not go too far and eliminate too many factors.

**What should TDHCA do?**

Good schools, low poverty, and other indicators of high opportunity areas should be the major sources of points for selecting 9% projects. Any change to De-Concentration Factors that allows multiple developments in a single census tract should only apply to high opportunity areas as defined by the QAP. Without this carveout, allowing multiple awards in a single tract could lead to segregated areas of poverty.
**Maintain Neighborhood Risk Factors**

**What’s been proposed**

Neighborhood Risk Factors are neighborhood characteristics that the QAP identifies as undesirable. Factors identified in the 2022 QAP include high poverty rates, high rates of violent crime, nearby vacant structures, and poor quality schools. These factors could potentially lead to a development site being found ineligible for tax credit funding. During this year’s QAP Roundtable discussion there was a robust debate over whether there should be any Neighborhood Risk Factors for rehabilitation developments, which are largely 4% properties. Advocates argued that risk factors are needed to avoid tax credits being awarded for the rehabilitation of properties in areas with high crime, poverty or blight; no investment in the community; and poor school quality. If risk factors were removed, more 4% tax credit deals could occur in low-opportunity areas. Developers who opposed the idea of having any risk factors stated that 4% tax credits should be reserved for underserved neighborhoods. In the roundtables, developers proposed a compromise to mirror factors used for Section 8 Project-Based Rental Assistance. Some other developers said that there should be broader mitigation requirements for 4% tax credit properties so that they can still serve underserved neighborhoods, but have partnerships put in place to mitigate the risk. The Preliminary Draft and Draft QAPs eliminated blight as a neighborhood risk factor entirely and restricted poverty and crime to New Construction applications only, which are mostly 9% tax credit applications.

**What the research says**

Demand for the 4% tax credit program has increased in recent years, leading to more states utilizing or implementing a competitive process, though TDHCA has not yet taken steps to make 4% tax credits competitive in Texas. Eliminating thresholds and requirements when funding is increasingly oversubscribed is counterproductive and does not align with national QAP trends.

HUD’s Project-Based Voucher program’s site selection standards place a strong emphasis on deconcentration of poverty and expanding economic opportunity, including factors such as loss of affordable units, revitalization efforts, and educational advancement. The site standards even use a poverty rate cutoff of 20%, while the QAP Neighborhood Risk Factor cutoff is a poverty rate greater than 40%.

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26 CFR §983.57 Site selection standards
Residents of high-poverty neighborhoods have poorer health outcomes and self-rated health than those in low-poverty neighborhoods.\textsuperscript{27} Neighborhood poverty during childhood also negatively impacts high school graduation rates and annual earnings.\textsuperscript{28} Children who moved to lower-poverty neighborhoods when they were young experienced improved college attendance rates and earnings, were more likely to live in better neighborhoods as adults, and were less likely to become single parents.\textsuperscript{29} Growing up in a high-poverty neighborhood can even inhibit self-control.\textsuperscript{30}

Awards for 4\% rehabilitation projects are more likely to be in high-poverty tracts than those for 4\% new construction projects. A larger share of 4\% rehabilitation awards between 2018 and 2022 went to high-poverty tracts (13.8\%) compared to new construction awards (6.5\%).\textsuperscript{31} The share of 9\% awards in tracts with a current poverty rate of at least 40\% has decreased, but the share of 4\% awards in these tracts has remained relatively stable.

<table>
<thead>
<tr>
<th>Table 5: Share of Awards* in Tracts with At Least 40% Poverty</th>
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<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>9% HTC</td>
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<tr>
<td>Awards prior to 2017</td>
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<tr>
<td>Awards 2017 through 2022</td>
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<tr>
<td>4% HTC</td>
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<tr>
<td>11.9%</td>
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Source: Analysis of TDHCA Property Inventory and 2020 ACS 5-year Estimates.
* Awards, not developments. Double counts properties that have received multiple awards.

Residents in neighborhoods with high levels of violent crime are more likely to experience violence themselves, which affects resident mental health.\textsuperscript{32} Studies have shown a positive association between local crime and depression, psychological distress, anxiety, and psychosis.\textsuperscript{33} Residents of high-crime neighborhoods experience increased chronic stress and higher odds of preterm birth, low birth weight, and hypertension during pregnancy.\textsuperscript{34}

\textsuperscript{31} Analysis of TDHCA Award and Waiting List spreadsheets for the 2018 through 2022 cycles.
Black/African American children that experience gestational exposure to violent crime have been shown to have high blood pressure between 6 and 48 months. Children who spend their early life in high crime neighborhoods experience more emotional and behavioral problems before preschool. Women that feel unsafe in their neighborhoods are less likely to walk for transport or leisure. High-crime neighborhoods are associated with extreme obesity and high BMI. Neighborhood crime is associated with barriers to accessing health resources, including large grocery stores, pharmacies, and fitness resources.

There is still a need for the poverty and crime Neighborhood Risk Factors, especially given the increasing competition for 4% credits, and consideration for such factors is backed by research.

**What TDHCA should do**

TDHCA should keep the Neighborhood Risk Factors for rehabilitation tax credit properties. If exemptions are included in the QAP, they should be limited to ensure that problematic developments in unsuitable areas are not awarded rehabilitation funds.

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

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Improve Incentivization of Supportive Housing

What’s been proposed
TDHCA defines supportive housing, also known as Permanent Supportive Housing (PSH), as a residential development that targets households that need specialized housing and non-medical services to transition to independent living. Supportive housing developments provide regular, frequent, and accessible coordinated services tailored to specific household needs. Although the QAP refers to “supportive housing” as opposed to “permanent supportive housing,” there is no official definition of PSH, and the terms are generally used interchangeably. In practice, PSH is often used to help people transitioning from homelessness.

There was a broad roundtable discussion as to whether TDHCA should treat PSH like they do Concerted Revitalization Plans (CRP), where the highest scoring project in a region automatically gets funding every round, in order to produce more PSH in the state. There was support from TDHCA staff, advocates, and limited support from developers at the roundtables, though some developers did not want preference given to PSH developers. This was reflected in the survey of the QAP changes that TDHCA staff put out. TDHCA added a new section to the 2023 Preliminary Draft QAP which would allow for the highest scoring supportive housing application to be awarded in each region. Developers (including supportive housing developers) pushed back against Preliminary Draft provision, commenting that the current three point incentive was enough and that an automatic award policy could award inadequately qualified developers and projects. This provision was removed from the 2023 Draft.

What the research says
Research on how the LIHTC program complements homelessness services shows that local governments need to implement both services for the unhoused and affordable housing simultaneously for maximum effectiveness. A 2020 study of US Continuums of Care (CoC) found that “LIHTC units and PSH conducted together within a CoC decrease homeless persons relative to CoCs only using PSH or LIHTC,” and that LIHTC combined with PSH is particularly effective for reducing sheltered and family homelessness. Increasing the number of LIHTC PSH units is an important tool for addressing homelessness in Texas.

There are not a large number of awarded PSH developments. Excluding supplemental credits and force majeure awards, just one supportive housing development was awarded in 2022 and 2021 each, in Austin and Waco respectively.

Three were awarded in 2020 (two in Houston, one in Austin), one in 2019 (Austin), and two in 2018 (Houston and Austin). There are not a large number of supportive housing applications to begin with. There were two unsuccessful applications in 2022, one of which was withdrawn, and another two in 2021. An automatic policy like the one included in the Preliminary Draft could have increased the number of awards, particularly in Dallas/Fort Worth where recent supportive housing applications have not been as successful, and could incentivize more PSH applications in the future.

**What should TDHCA do?**

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

What’s been proposed
During the 2023 QAP roundtables TDHCA staff indicated that Proximity to Jobs would be a likely place for major change in the QAP. This was reflected in the survey that TDHCA released and the 2023 Preliminary Draft QAP. Many developers wanted TDHCA to reduce the radius for urban developments and rural developments and a consideration of transportation. Instead of calling the section “proximity to jobs” developers wanted the name changed to “accessibility to jobs.” This would help developments close to buses and transit stations but not considered in a “job area” to qualify for points, but still allow developments that are in heavy “job areas” to get points for being close to jobs.

The 2023 Preliminary Draft QAP included a new section reflecting the discussed changes. The new provisions would reduce the number of points available for proximity to jobs and add new points for access to transit that can be received in addition to proximity to jobs points. The same total number of points (six points) would be available under the new combined access and proximity provision compared to the previous proximity provision. In the new proposal, the applicant can receive up to four points for being within a certain distance of a certain number of jobs under Proximity to Jobs, a reduction from the previous total of six points available. As long as the applicant qualifies for at least two points under Proximity to Jobs, the applicant can receive up to two points under the new Access to Jobs provision. To receive the two points under Access to Jobs, the development site must be within ½ mile from a bus or train station. The number of points depends on the frequency of service. The 2023 Draft tweaked Proximity to Jobs by reducing the number of jobs and the distance from jobs for urban areas and reducing the number of jobs for rural areas. The Draft also removed the frequency of service requirement under Access to Jobs.

What the research says
A 2017 study found that while the inclusion of “opportunity areas” in the Texas QAP in 2009 resulted in awards in lower poverty, more diverse neighborhoods, maximum scoring neighborhoods had below average accessibility. A 2020 study on LIHTC resident access to public transportation and employment in Harris County found that it was likely that LIHTC tenants had difficulty accessing and commuting via transit because transportation facilities were located in the core area of the county, where affordable housing program units were limited. The study recommended adding points to the QAP for properties with high transit accessibility and a safe pedestrian environment.

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Transportation is the second largest spending category for the typical American household, and over 90% of transportation costs are driving-related expenses. Creating rent-restricted units in areas with access to transit helps reduce costs for low-income households, particularly in communities with auto-oriented sprawl. Adding points to the QAP that directly considers accessibility to jobs via transit addresses the issues and recommendations found in both studies and helps address household transportation costs by incentivizing applications in areas with existing transit infrastructure.

**What should TDHCA do?**

The new section on Accessibility to Jobs should help developers who want to put more affordable housing next to transit connection points throughout the state. TDHCA should compile and analyze applicant submissions under Access to Jobs to determine if frequency of service provisions are necessary to ensure meaningful mobility. Analysis should be made available to the public for review, and frequency of service provisions should be added back in if analysis indicates that this is an important factor impacting the benefit that tenants receive.

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Ask Tenants Directly About On-Site Amenities

What’s been proposed
Due to skyrocketing development costs, some developers have asked for a reduction in points for the amenities section of the QAP or a removal of some of the amenities from the list in the QAP. The QAP has a list of on-site amenities that developers are encouraged to offer in their developments, such as pools, walking paths, playgrounds, community centers, and others. This year’s conversation has centered on removing or lowering the points for business centers, community centers, and walking paths. Some developers thought that adding new amenities like Amazon lockers or other new technology should be included in the amenities list in the QAP.

The 2023 Draft QAP has reduced the minimum number of amenities proposed developments must have to qualify for points, removed one and added one amenity (gazebo and bike sharing services, respectively), and increased the points for some amenities (pool, splash pad, and dog park).

What the research says
Any discussion of amenities for LIHTC residents needs to include those residents. A study of California LIHTC properties found that state opportunity metrics are “...not always aligned with residents’ perceptions of what makes a positive environment for themselves or their children.” This disconnect in definitions of opportunity raises concerns about potential disconnects in property amenity priorities. TDHCA worked with the UT Austin Ray Marshall Center to conduct a survey of LIHTC residents in late 2017. This survey showed that the majority of residents see amenities such as club houses, pools, and workout rooms as important to them, but the survey did not go into detail about specific amenities.

As noted in TDHCA’s executive summary, staff felt that a future survey with better preparation would be a valuable tool for seeking resident input “on more targeted issues.” A targeted resident survey to explore amenity priorities among residents would be the first step in any changes to QAP amenities.

What should TDHCA do?
Although a tenant survey cannot be completed for the 2023 QAP cycle, TDHCA should begin planning for a new tenant survey. TDHCA should conduct a well-prepared tenant survey to ask tenants about on-site amenities that are and are not important to them.

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