



Texas Department of Housing and Community Affairs
Housing Tax Credit Program
2006 Application Cycle
Frequently Asked Questions & Answers

The following represent frequently asked questions that have been received relating to non-application specific issues for the Application Cycle and Department responses to those questions. Questions and answers are in order by 2006 Qualified Allocation Plan (QAP) section.

§50.3(22) Community Revitalization Plan

Q1: Regarding the Community Revitalization Plan, now defined in the QAP, will a plan meet this definition and qualify for points if it refers to low income housing, but does not specifically address a given income level, in particular 60%, as noted in the definition?

A1: Yes. The Department will accept a plan that does not specifically address a 60% income level, only if the applicant demonstrates that the reference to low income housing in the plan can be clearly tied to the local governing body's provision of low-income housing which must include residents at the 60% AMGI level.

Q2: Regarding the Community Revitalization Plan, now defined in the QAP, will a plan meet this definition if it refers to low income residential development in general across the city or county which in its entirety is a specific geographic area, or does it need to be smaller areas within the community?

A2: The QAP does not specify the size of the specific geographic area. Therefore, citywide redevelopment of low income housing will meet this definition as long as it satisfies the other parts of the definition as well.

Q3: Regarding the Community Revitalization Plan, now defined in the QAP: If there is a city plan, a county plan and a multiple area plan and the Development is located in a city, can the applicant choose to use the county plan or multiple area plan when the city plan is available?

A3: The plan needs to be the plan of the local governing body, therefore the plan must be from the entity that has jurisdiction over planning and zoning for the development property.

§50.3(49) Ineligible Building Types

Q1: Do maximum unit limitations apply to a Rehabilitation/ New Construction combination?

A1: Yes, consistent with §50.6(e)(3) of the QAP: "These maximum Unit limitations [252 Total Units] also apply to those Developments which involve a combination of Rehabilitation and New Construction."

§50.3(73) Rehabilitation

Q1: Does total demolition and reconstruction down to the footprint count as New Construction or Rehabilitation? If demolition/reconstruction increases the original number of units does that change this determination? If demolition/construction decreases from the original number of units does that change this determination?

A1: 100% demolition down to the foundation (footprint) is considered Rehabilitation as defined by §50.2(56) and (73). This applies if the amount of units being built is equal to, greater than or less than amount of units that were demolished.

Q2: Does an adaptive reuse count as New Construction or Rehabilitation, particularly in light of the fact that there are no previously existing units by which to consider change?

A2: Adaptive reuse would be considered Rehabilitation under this section, including if it is 100% demolition down to the foundation (footprint).

§50.5(a)(7) 2 Times Per Capita

Q1: If a proposed site is outside of city limits, but inside the Extra Territorial Jurisdiction (ETJ), would I use the city or county to determine if my Application is an area ineligible under this section?

A1: This would be a site specific determination based on the municipality where the property is located. If the municipality has exercised its options under Texas Local Government §§212.043 et.seq. you would use the closest governing board. In other words, wherever you would need to submit a plat, request zoning, or get permits would be the public entity for determination.

§50.5(a)(8) One-Mile-Three-Year Rule

Q1: Does the 1 mile - 3 year rule apply to a second phase of an existing tax credit development that was awarded tax credits last year?

A1: Yes, it does apply. There are no statutory exceptions to the rule for second phases of developments. Therefore, the application is ineligible unless it meets one of the exceptions to this section of the QAP.

Q2: The QAP, in part, says that an application is ineligible if it is located within one mile of an existing Development that has been awarded tax credits in the last three years and it “serves the same type of household as the new Development, regardless of whether the Developments serve families, elderly individuals, or another type of household;” Is a proposed development that is Intergenerational Housing and is located less than one mile from a Qualified Elderly Development eligible because I am serving a different type of household?

A2: No, the application is not eligible unless it has one of the exceptions noted in this section of the QAP. The proposed application has both elderly and general/family populations, so the test would be applied to both existing elderly and existing general/family population developments. Selecting Intergenerational as a category does not preclude the enforcement of this statutory restriction. Your application could not be within one mile of any elderly or family development from the past 3 years without documentation to support one of the exceptions.

§50.6(d) Credit Amount Limitation

Q1: There is a provision in this section of the QAP that addresses the \$2 Million credit “cap” that says, “In order to encourage the capacity enhancement of developers in rural areas, the Department will prorate the credit amount allocated in situations where an Application is submitted in the Rural Regional Allocation and the Development has 76 Units or less.” How will the Department prorate under this section?

A1: The Department will prorate the credits based on the percentage ownership, if there is an ownership interest, or the proportional percentage of the developer fee received, if this applies to a Developer without an ownership interest.

§50.6(g) Rehabilitation Costs

Q1: Is site work included in the \$12,000 minimum rehabilitation costs per unit?

A1: Direct hard costs include site work and direct construction costs regardless of the line item cost's characterization as eligible or ineligible. The costs must be supported by the conclusions of the Property Condition Assessment (PCA). If the PCA suggests total site work and direct construction costs that are less than \$12,000 per unit, the Development may not qualify for tax credits. Demolition costs, although ineligible, are considered site work costs and would be included in direct hard costs used to meet the \$12,000 per unit minimum requirement.

§50.8(d)(2) Pre-Application Site Control

Q1: The QAP seems to indicate that if there is an identity of interest identified in the Application, that all of that required documentation listed in §50.9(h)(7)(A) is due at the time that the pre-application is required to be submitted, and again at full application. Please clarify if this is required.

A1: Evidence of property control pursuant to §50.9(h)(7)(A) of the QAP through March 1, 2006 is required at pre-application. "Property control" does not include all documentation required under §50.9(h)(7)(A) relating to an identity of interest transaction; it includes only evidence of control of the site for all applications. All documentation, excepting site control which is due at Pre-Application, relating to an identity of interest transaction would not be required until full application. It should be noted that, if required, the appraisal required under this section is not due until April 1, 2006 for competitive applications.

§50.8(d)(3)(B) and §50.9(h)(8)(A)(ii) Notifications at Pre-Application and Application

Q1: Since the QAP is silent on this, can applicants send their required notification via fax this year?

A1: Yes, it is acceptable to fax all required notifications to the required entities identified in this section of the QAP. It should be noted that while "proof of delivery" is only evidenced in the form of a certification in the applications, it would be prudent for all applicants to keep a record of proof of delivery of all notifications made pursuant to these sections of the QAP, as well as proof of receipt in case the proof is ever requested by the Department.

Q2: If a proposed site is outside of city limits, but inside the Extra Territorial Jurisdiction (ETJ), who should I request neighborhood organizations from? Also, would notifications to the mayor and city council members be required under this section?

A2: This would also be site specific based on specific site information. If the municipality has exercised its options under Texas Local Government §§212.043 et.seq. then you would notify at a minimum the mayor of the city as it would impact development. Other council members would need to be reviewed individually based on districts.

§50.9(h)(4)(13) Financials

Q1: Are the required financials submitted under this section confidential?

A1: All items used by the Board in the decision-making process are required to be published 7 days before Board meetings. If the financials are needed to make a decision, they would come before the Board; if not, they would be considered confidential.

§50.9(h)(5)(B) – Boundary Survey

Q1: In this scenario an applicant currently has an electronic drawing provided to their civil engineer by the county. This drawing consists of the various plats filed in the area including the proposed development site. The proposed development site drawing includes all the dimensions of the site boundaries including the amount of acreage included within those boundaries. It also includes various other information including roadways, topography and improvements such as fence lines. Does this serve as a Boundary Survey for application purposes? Generally a new survey is only required for recording purposes when a site is sold or a financing lien is filed. A new "on the ground certified survey" would not provide any additional information for application purposes.

A1: The boundary survey requirement at the application stage does not specify the origin of the information but does call for it to be in the form of a survey rather than a simple electronic drawing. The survey does not have to be new and can be a reproduction of an older survey or plat map with the new additional information compiled by an architect, engineer or surveyor. A new survey is required only at carryover.

§50.9(i)(2) Quantifiable Community Participation

Q1: For Quantifiable Community Participation (QCP), can an applicant provide TDHCA's *QCP Information Packet for Neighborhood Organizations* electronically (on a diskette or via email) to a neighborhood organization?

A1: Yes, applicants are permitted to provide the QCP packet to neighborhood contacts either as a handout or in electronic format. These items may be distributed in large numbers in a meeting with the neighborhood organization with the applicant. Applicants should note that they will be required to certify that they did not provide assistance in actually completing the letter, so they should ensure that the version they provide a neighborhood is not filled out for the neighborhood. The Department would also like to caution that applicant's should be aware of perceptions that may arise and encourages transparency and strict adherence to program guidelines in fulfilling the QCP process.

Q2: I am proposing to build a Development in an area where there is a neighborhood organization on record with the State. How is this unsophisticated neighborhood organization going to put together an eligible letter of QCP without my help or use of my legal counsel? Who is going to answer their questions? Can the neighborhood organization ask the Department to approve their letter before submitting it?

A2: Neighborhood Organizations may obtain technical assistance from TDHCA staff by contacting the Multifamily Division at 512.475.3340, by calling TDHCA's toll free number at: 1-800-525-0657, by e-mail at brooke.boston@tdhca.state.tx.us, or by fax toll free at 1-800-733-5120 (to the attention of Brooke Boston.) The Department will not pre-approve a QCP letter. If a Neighborhood Organization provides a letter which was completed using the template provided in the *QCP Information Packet for Neighborhoods* and then provides all of the appropriate documentation required by the QAP (and that correctly substantiates the letter's statements) as outlined in the *QCP Information Packet for Neighborhoods*, the letter will generally meet the requirements. Deficiencies will be issued to the neighborhood organizations which will provide the opportunity for the neighborhood organizations to resolve all issues identified in the review of these letters.

Q3: Will the Department provide the *QCP Information Packet for Neighborhoods* in Spanish?

A3: At this time, the Department will not be providing the packet in Spanish, but will have a paragraph at the front of the packet asking that Spanish speaking persons contact the Department if they need assistance. The Department does have bilingual staff who will be available to assist Spanish speaking persons interested in submitting a QCP letter.

§50.9(i)(General Selection) and §50.9(i)(7) The Rent Levels of the Units

Q1: Under §50.9(i), the QAP says that all scoring items should use normal rounding when applicable. Does the requirement to us normal rounding apply to this section as it relates to §50.9(1)(7), the Rent Levels of the Units?

A1: Yes, you must use normal rounding throughout the selection criteria, and it does apply specifically to the section under §50.9(i)(7) of the QAP. Therefore, 90.5% would equal 91%. 90.49% would equal 90% for the purposes of scoring this section.

As an example, if an application proposes to build a 150 unit Development, and 143 of the units are proposed low-income units, then 95.33% of the Development would be rent restricted, or low-income. Pursuant to this section of the QAP, the Development is eligible for 10 points if between 91% and 95% of the units are low-

income using normal rounding. When normal rounding procedure is applied to this example, 95.33% rounds down to 95% of the proposed Development.

Considering that an application is eligible for 12 points if the proposed Development proposes to build greater than 95% of the Development for low-income units (using normal rounding), the applicant would need to build 144 low-income units, which equals 96% of the Development, to qualify for the full 12 points under this section.

§50.9(i)(5) – Commitment of Funding from a Local Political Subdivision

Q1: Please clarify what repercussions there would be, if any, if an applicant was awarded points under this section of the QAP and provided a commitment of funds when the commitment fee was required to be paid, but chose not to use the money in the long term?

A1: Applicants are required to adhere to all representations made in the application including the use of funds for leveraging.

§50.9(i)(11) – Development Includes the Use of Existing Housing as Part of a Community Revitalization Plan

Q1: What is a “Residential Development”, which is capitalized in the QAP under this section? For example, can it be a building that is currently being used as a nursing home and is being rehabilitated for multifamily use and count for points under this section?

A1: While there is no definition in the QAP for “Residential Development”, the Department considers Residential Development to be an existing building that at the time of application has, or has had, persons using the building as their place of residence. Using this as a guide, the Department would consider a nursing home that meets the other requirements of this section to be eligible for points. The Department encourages all applicants to obtain prior approval from staff of any other examples of “Residential Developments” that will be applied for under these points prior to application submission.

§50.9(i)(12) – Pre-Application Participation Incentive Points

Q1: Last year the pre-application “Self Score” form did not detail what specific points were applied for and only included a space for the total pre-application self score. This year the self-score form actually breaks down the points applied for by each section of the QAP [§§50.9(i)(1) through (24)]. While an applicant clearly can not vary their score by more than 5% from pre-application to application without possible point loss repercussions, can they vary the specific point categories requested from pre-application to application, essentially changing “how” they are reaching their total points?

A1: Yes, applicants may change the separate point requests under each subsection of the QAP under §50.9(i) from pre-application to application without penalty. TDHCA staff will not evaluate any pre-application under their separate point requests under §50.9(i)(1) through (24), but only the “Self Score Total” in determining the Final Pre-Application Score.

It should be noted that an applicant can not change a self-score point request unless specifically requested by TDHCA staff. Therefore, it is especially important that all applicants provide special attention to the pre-application request for points because once it is submitted in the pre-application, the applicant will be held to their point request, albeit not the combination of points requested.

§50.9(i)(20) – Sponsor Characteristics

Q1: Under this section of the QAP, an experienced developer may have a joint venture with an inexperienced HUB for points under this section, and the \$2 Million cap on total tax credits does not apply to the experienced developer. Under this section, is the developer required to have an ownership interest in the Development? What if the experienced developer has 0% ownership interest?

A1: The QAP does not require an ownership interest in the Applicant under this section. Therefore, a developer without an ownership interest would qualify as the “experienced developer” under this section.

§50.9(i)(22) – Funding From Private, State or Federal Resources

Q1: Would a loan from a bank count as points from private source for these points?

A1: Yes, a loan from a private, non-related party would count as a “Private” source under this section.

§50.9(i)(24)(A) – Scoring Criteria Imposing Penalties

Q1: Do extensions requested on Carryovers due to delays associated with Hurricane Rita cause a 5 point loss under this section or will the Department waive applicability of this section in the case of extensions which were given because of the extenuating circumstances caused by Hurricane Katrina or Rita?

A1: No penalty points will be applied to those applications whose carryover extensions in 2005 were related to Hurricanes Katrina or Rita. That would have to have been a stated reason at the time of the extension request.

Procedural Questions

Q1: If an existing property is already tax exempt, does it still need to submit the tax assessment documentation in Volume 3, Tab 2?

A1: Yes. It is required to both substantiate the existing property tax exemption and to provide an assessed value if such a value is maintained by the tax appraisal district.

Q2: This year, rather than requiring a second hard-copy of the pre-application and all volumes of the full application, the Department is requiring an electronic copy of these items. Is the Department considering waiving this requirement this year?

A2: The requirement will not be waived. If an electronic copy of the application is not provided by the applicable due dates by 5:00 pm, the applications will not be accepted and will not be eligible to compete in the application cycle.

Q3: Help! I’m having problems scanning my documents, particularly because I can not make the scanned version searchable per your requirements outlined in the Application Submission Procedures Manual (ASPM).

A3: If an applicant is having difficulty making the scanned documents “searchable”, a non-searchable electronic copy will be accepted. The following page includes specific guidance on this feature. However, strong attempts should be made to make the electronic version searchable if at all possible. It should be noted that if an OCR (Optical Character Recognition) is used, then a scanned document will be searchable. There are many companies that will scan your application for you that do have the capacity to scan using this method. The full version of Acrobat 7.0 has a feature to "Recognize Text Using OCR" for scanned documents. This would make the documents searchable as well, if that command were applied.

If you require any technical assistance in meeting the requirements for scanned documents, you should try asking for assistance from the Technical Assistance Provider for whatever company produces your scanner. You may also contact Jason Burr, the TDHCA contact for all technical questions relating to the application materials and to the TDHCA requirements. His e-mail address is Jason.burr@tdhca.state.tx.us.

From the 2006 Application Submission Procedures Manual:

A searchable electronic copy of the complete Pre-Application Volume must be submitted in one PDF file on a recordable compact disk (CD-R). This electronic copy must be submitted with the pre-application on January 9, 2006 in the following required format:

- *The volumes tabs must be correctly bookmarked.*
- *Files should average less than 100 Kilobytes per page.*
- *Files SHOULD be readable when possible with free PDF file viewers including Adobe Reader and be compatible with Adobe Reader 5.0 and above.*
- *Files should be saved so that "Fast Web View" (or page-at-a-time downloading) is enabled. Text within the PDF file should be searchable using the "Find" command in the PDF viewer.*
- *The PDF file should be named in the following format -- <file_number>.pdf (e.g., 05125.pdf).*

In an effort to eliminate any confusion on this new requirement, please refer to the guidelines below:

Searchable Electronic Copy – While no longer required, TDHCA asks that the PDF files be searchable whenever possible to allow searching for words or phrases within the document. PDF conversion from an electronic format will automatically create a searchable document, however if you scan the documents from hard copy, make sure that OCR (Optical Character Recognition) software is utilized so that searchable text is included in the document. If you are using Acrobat 7.0 software, you can use the ["Recognize Text Using OCR" feature](#) on the scanned document.

Volume tabs bookmarked – once the document is in PDF format, create a PDF bookmark for each volume tab for navigation.

Page size below 100KB – this may only be a concern for documents containing many detailed drawings or photographs. Convert the document to PDF using an appropriate resolution setting. Reduce the page resolution before conversion if needed. To calculate average page size divide the total file size by the total number of pages included (e.g., a 100-page PDF file must be less than 10MB).

Fast Web View – If using Acrobat software, performing a "save as" and writing to a new file, or overwriting the existing file, will automatically enable the fast web view feature in the PDF file. To check this in Acrobat or the Adobe Reader use Ctrl-D to view the Document Summary. Making changes to the PDF file, then using only the "save" command will disable this feature.

PDF file name – since file numbers are issued after intake, please name the file <development name>.pdf for the Pre-Application submission.

TDHCA strongly suggests that if you do not have Adobe Acrobat software, take the hard copies and any completed electronic files on a disk along with these instructions to your local print/copy business so they can complete the conversion process for you. Signature fields can be left blank ONLY on TDHCA forms. Imaged signatures are required for all third-party forms and documentation.

Please contact me if you have any questions concerning these requirements.

Thanks,

Jason Burr

Multifamily Data Specialist

Jason.Burr@tdhca.state.tx.us

Ph 512.475.3986