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August 21, 2025

Multifamily Finance Division

Texas Department of Housing and Community Affairs

Attn: Cody Campbell, Director of Multifamily Programs

221 East 11th Street

Austin, Texas 78701

Re: Public Comment, 2026 Staff Draft Qualified Allocation Plan

Dear Mr. Campbell:

Thank you for the opportunity to provide public comment related to the 2026 Staff Draft Qualified Allocation Plan ("QAP"). The Staff Draft and its proposed changes are responsive to the challenges of developing housing that is affordable and seeks to reduce barriers. This effort is recognized and appreciated. Below are the comments from the Texas Affiliation of Affordable Housing Providers ("TAAHP") on the Staff Draft of the QAP.

#### §11.6(6) Credit Returns Due to Short Term Delays (pg. 53)

TAAHP agrees with and supports TDHCA's creation of an administrative process to handle short term delays, diverting applicants away from the ill-fitting Force Majeure provision. TAAHP's single requested modification is to strike the requirement that developments be under construction. Applicants with good cause need the ability to apply in advance of closing and construction commencement. This single modification allows the new language to function as intended.

#### §11.7(2) Tie Breaker Factors (pg. 55)

TAAHP supports the clean-up on the park definition, and the provision expanding of the school proximity to include the nearest public school (K-12).

#### §11.9(b)(2) Sponsor Characteristics (pg. 62-64)

1. HUB - TAAHP recommends the removal of the provision in subsection A stating that a "HUB may not be more than 50% of the General Partner." Often the first few transactions a HUB can do on its own are helpful in establishing the full capability of the HUB to self-perform in future projects. The threshold for ten developments (A)(iii) that have received 8609 (Cost-Certification) creates a benchmark by which HUBs will have realized the benefit of capacity building.
2. Local Housing Finance Corporations (HFCs) - TAAHP suggests that if an option is now available for a partnership with a governmental entity such as an HFC, then housing authority (HA) and public facility corporation partnerships (PFCs), and their qualified non-profits should also be included in this scoring option (D). These additional housing-related entities provide a similar function to HFCs. They should be treated the same under this provision.

§11.9(b)(3) Quantity of Low-Income Units (pg. 65)

TAAHP supports and appreciates TDHCA's recognition that the Quantity of Low-Income Units scoring has slowed housing production and increased credit returns. Appropriately sizing developments to traditional financing will deliver affordable units to communities efficiently. Additionally, striking this language relieves financial pressure to source soft funds and property tax exemptions.

§11.9(b)(3) Section 811 (pg. 68)

TAAHP supports and appreciates the revision of Section 811, reducing the 12-month holding period for the 811 units to 6-months.

§11.101 (b)(1)(A)(viii-xi) Ineligible Developments (pg. 104)

1. (viii) Minimum Age for Rehabilitation – The 20-year minimum age requirement poses severe challenges for the financing structure of Tax-Credit developments. Often debt structures have a 15-year timeline before the balloon payment, that often requires refinance. When you couple this constraint with other soft financing requirements, deals can be backed into a corner from a capital stack perspective, that would drive the owner to sell the asset. This provision coupled with §11.302(e)(1)(A)(iii) Identity of Interest Transactions (addressed later in our public comment), could lead developments being sold to outside groups that might not want to continue to extend the affordability of the development inside the Housing Tax-Credit program.

TAAHP Recommends that the 20-year age limitation only be for 9% transactions, and that provisions to allow for earlier requests be allowed, such as showing a sufficient needs assessment for improvements required, or existing financing (Debt, Federal funds, or other gap financing) that needs to be paid down in advance of the 20-year timeline.

2. (ix) Force Majeure Clarification – TAAHP recommends clarifying language to add “...any single existing Housing Tax-Credit development.”
3. (x) Total Housing Development Cost – TAAHP agrees with the underlying premise but recommends that a provision be added to account for justifiable improvements being made to public infrastructure, or historic preservation that would justify the costs of the development.
4. (xi) Points under 10 TAC §11.9(c)(1) and (2) – This provision would typically apply to developments in areas where the applicant is the only deal for the cycle in this region, which indicates underlying challenges of developing in the given region. Implementing this provision would place a burden on the respective developments, which could challenge the deal from being developed in an already capital constrained environment.

§11.302(e)(1)(A)(iii) “Cash-Out” on Identity of Interest Transactions (pg. 172)

TAAHP opposes the proposed rule that prohibits “cash-out” transactions involving related party sellers. Realizing the appreciated value of a property is a key to profit from real estate investments, which carry inherent risks. This profit potential is a critical incentive, especially when significant portions of developer fees are deferred and properties generate limited cash flow. The proposed policy inadvertently discourages experienced affordable housing operators from extending Land Use Restriction Agreements (LURAs) through rehabilitation and syndication.

No prudent owner would sell a property for less than its appraised value. Consequently, this policy may push owners to either sell to unrelated buyers unfamiliar with the property on the open market or allow LURAs to expire, enabling the sale of the property without affordability restrictions. In Texas' tax credit program, many properties are in gentrified areas with significant property value increases where new tax credit developments are no longer financially feasible. These properties are valuable assets in the TDHCA portfolio. Preventing owners from benefiting from property appreciation could lead them to let LURAs lapse, resulting in the permanent loss of affordable housing in areas where replacement is impractical.

While TAAHP acknowledges TDHCA's intent to curb potential program abuses, acquiring a property at its appraised value in an identity-of-interest transaction is not abusive.

Should this provision remain in the subsequent iterations of the QAP, TAAHP recommends that this provision only apply to the 9% tax credit program. Owners should be allowed to recover all costs associated with improving and maintaining the property throughout ownership, along with a reasonable annual return to include “documented notes or capital advances from a related party including accrued interest at market rate.” The appraised value should be considered as the market value of the asset should it be sold in the open market.

§11.302(e)(6) General Contractor Fee (pg. 175)

TAAHP agrees that fees imposed for the advantage of a sales tax exemption be both reasonable and commensurate with the benefit/service provided. A sales tax-exempt General Contractor and performing Prime Subcontractor are unrelated entities. TAAHP respectfully requests striking the proposed rule, “Any fees paid to an organization to achieve a sales tax exemption will be included in the General Contractor Fee.” This provision cuts into the performing contractor’s overhead and profit margins, which are already stretched. Sharing of these fees will either 1. lead to qualified 3rd party contractors exiting the affordable housing market, or 2. developers funding the fees outside of basis eligibility. Prime subcontractor risk is substantial and not born by the General Contractor. The fee paid to obtain sales tax-exemption is akin to a soft cost/financing fee, than a performing Prime Subcontractor service. TAAHP believes that this addition should be stricken from the QAP.

§11.302(e)(10) Soft Costs (pg. 176)

TAAHP agrees that fees payable to HFC’s, PFC’s, and Housing Authorities should be called out in the application as an eligible soft cost. That said, TAAHP requests a provision be added that eligible basis cannot be reduced in TDHCA underwriting. Removal from eligible basis only harms the development and does not mitigate the actual fees imposed.

On behalf of our membership, TAAHP thanks you and staff for all your efforts on the QAP. If you have any questions or would like to discuss any of these items further, please do not hesitate to contact Karsten Lowe or Emily Abeln.

Sincerely,



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Joshua Goldberger, Administrator 9% Competitive HTC, TDHCA