

# Memorandum



CITY OF DALLAS

DATE September 7, 2018

TO Members of the Economic Development & Housing Committee: Tennell Atkins, Chair, Rickey D. Callahan, Vice-Chair, Lee M. Kleinman, Scott Griggs, Casey Thomas, II, B. Adam McGough, Mark Clayton, Kevin Felder, Omar Narvaez

SUBJECT **Additional Information Regarding Accelerating Issuance of RFAs for 4% Rehabilitation Projects**

On Tuesday, September 4, 2018, the Economic Development and Housing Committee (“Committee”) was briefed on a recommendation to amend the comprehensive housing policy to accelerate issuance of a Request for Applications (“RFA”) for 4% housing tax credit projects that need a Resolution of No Objection prior to the timeframe stated in the adopted comprehensive housing policy.

## Summary

The comprehensive housing policy (the “Policy”) includes a specific policy for developers requiring Resolutions of Support or No Objection (“Resolutions”) for multi-family rental housing development projects seeking Housing Tax Credits (“HTC”) through the Texas Department of Housing and Community Affairs (“TDHCA”). The Policy states that the City will issue an RFA for Resolutions in December of each year and bring forth recommendations to the Economic Development and Housing Subcommittee and City Council in February of each year. This once-per-year RFA process was designed to allow the City to review all HTC projects at the same time and take into account the three goals for the development of a comprehensive strategy for housing: 1) create and maintain available and affordable housing throughout Dallas, 2) promote greater fair housing choices, and 3) overcome patterns of segregation and concentrations of poverty through incentives and requirements.

However, since adoption of the policy, staff received feedback at Housing Taskforce meetings, at two large meetings held in August with prospective Notice of Funding Availability (NOFA) applicants, and via written comments, that the Policy (as it relates to Resolutions) will have the unintended result of preventing the development of certain 4% HTC projects that do not need city funding and need a Resolution of No Objection outside of the February timeframe.

## Background

The Committee raised questions regarding the difference between 4% and 9% tax credit programs. Below is an explanation of the two programs through which TDHCA awards tax credits:

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**9% tax credit program**—The 9% percent HTC program is referred to as the “**competitive**” housing tax credit program because projects seeking a 9% HTC allocation are scored, and thus compete against each other, based on criteria and procedures recommended each year by the TDHCA and approved by the Governor in December. The criteria and procedures are collectively referred to as the Qualified Allocation Plan (QAP). In general, the QAP’s scoring criteria results in the TDHCA favoring projects that are close to the urban core of the City, have a high Opportunity Index (i.e. are located in census tracts with low poverty and crime and are close to public parks, transit and child care, etc.), and are located in places that have the fewest HTC units per capita. Additionally, for an application to attain a total score that makes the application competitive, the project must obtain either a Resolution of Support or No Objection from the governing body of the municipality, if the project is located in a municipality. Because the allocation of 9% HTC provides a substantial amount of equity for a project, projects that receive such awards do not typically need to seek out substantial amounts of financing.

***Timeframe for 9% HTC projects***—TDHCA begins accepting pre-applications for 9% HTC projects in January of each year and requires full applications, including Resolutions of Support or No Objection, to be submitted in March. The State issues scoring notices in Mid-May that identify projects deemed “competitive” and issues final award notices in July.

**4% tax credit**—The 4% HTC program is referred to as the “**non-competitive**” housing tax credit program because projects, while subject to some of the policies and procedures outlined in the QAP, are not subject to the scoring criteria or once-per-year timeframe for awards. The State will not allocate 4% HTC unless the project receives a Resolution of No Objection from the applicable city council or other governing body.  
*(Note: 4% HTC projects only need a Resolution of No Objection, not a Resolution of Support.)*

***Timeframe for 4% HTC projects***—Nearly all projects seeking a 4% HTC allocation must partner with an issuer of Private Activity Bond (PABs) and obtain tax-exempt bond financing for the project to be financially feasible. After an applicant identifies a PAB issuer, the applicant must apply for and obtain a Certificate of Reservation (CAR) from the Texas Bond Review Board (TBRB) before applying for an award of HTC. Applications for a CAR must be submitted at least two weeks before a TBRB meeting. Once a project receives a CAR, it must submit its application for HTC at least 75 days prior to one of the monthly meetings of the TDHCA board and the project must close on bond financing within 150 days from the issuance of the CAR. For 2018, the last meeting of the TBRB is November 15, which means that any applications containing the required Resolution of No Objection must be submitted 2 weeks prior to the November meeting.

**Relationship between 9% and 4% HTC projects**—The Committee raised concerns with 4% and 9% HTC projects competing with one another. As stated above, only 9% HTC projects are scored and, thus, are only ranked against other 9% HTC projects in a

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“competitive” process. However, the *location* of a 4% HTC project may or may not impact whether a 9% HTC project is able to participate in the competitive process. Specifically, the Texas Administrative Code (the “Rules”) spells out specific rules intended to prevent an overconcentration of HTC projects in specific geographic areas, (called “Housing Deconcentration” factors). Such rules are the “Two Mile Same Year Rule” and the “One Mile Three Year Rule.” The “Two Mile Same Year Rule” prevents two 9% applications from being awarded in a county with a population that exceeds one million if the proposed project sites are located less than two linear miles from each other. The “One Mile Three Year Rule” prevents the state from awarding HTC (whether 9% or 4%) for a new construction or adaptive reuse project if the project is: 1) located within 1 linear mile of an existing project that serves the same type of household as the proposed project and 2) the existing project received HTC or PAB for new construction at any time during the previous 3 years. However, a city council or governing body can override this “housing deconcentration” rule by providing by vote a resolution specifically allowing the construction of a new project located within one linear mile or less of an existing project. Thus, the type and location of 9% and 4% projects must be reviewed carefully to determine whether the location of one project impacts another.

Issue

The Committee asked staff to share information related to any known HTC projects that may need a Resolution of No Objection prior to February. Staff pulled the most recent HTC and PAB status log from TDHCA’s website and consulted with TDHCA staff to identify all projects (as of today’s date) that need a City of Dallas Resolution of No Objection prior to February. Those projects are as follows:

Development Name	Development Address	ZIP Code	Construction Type	Total Units	Target Population	Requested HTC Amount	Bond Issuer	Bond Reservation Date	Bond Expiration Date	Bond Reservation Amount	Applicant	Applicant Contact
Beckley Townhomes	801 Beckleymeade Avenue	75232	Acq/Rehab	100	General	\$473,031	TSAHC	8/1/2018	12/29/2018	\$8,000,000	Dallas Leased Housing Associates V, LLLP	Jeff Spicer
Ridgecrest Terrace Apartments	526 South Walton Walker Boulevard	75211	Acq/Rehab	250	General	\$1,605,777	Housing Options, Inc.	8/15/2018	1/12/2019	\$32,000,000	DAL Steele Ridgecrest, LLC	Allan Izzo
Treymore Eastfield Apartments	2631 John West Road	75228	Acq/Rehab	196	General	\$698,116	TDHCA	8/15/2018	1/12/2019	\$12,000,000	JKLF Eastfield, LTD.	Kathi Yeager

It’s important to note that 4% Housing tax credit acquisition/rehabilitation projects cannot interfere with future allocations of housing tax credits under any state statute but the proposed projects may or may not align with the broad goals of the Policy. Thus, the City can deny these deals the opportunity to proceed as 4% HTC projects (by declining to issue a Resolution of No Objection). In such cases, a creative solution would need to be utilized so families do not lose out on opportunities that will increase the quality of their living conditions over the long term.

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The Committee expressed concern about the quality of a rehabilitation that is financed through an award of 4% HTC. While not a guarantee of quality of construction, the City’s scoring criteria for Resolutions prioritizes projects developed and managed by experienced professionals who have a track record of successfully developing and managing projects that include an affordable housing component. Additionally, TDHCA requires rehabilitation projects to address the long-term needs of the property and the project must meet the underwriting standards required by TDHCA. Furthermore, major expenditures need to be made to attract private debt and equity investment. “Paint and carpet” rehabilitations simply won’t attract the necessary private investment.

The Committee also asked why it was being asked to change the Policy on an expedited timeframe. While the expedited timeframe is not ideal, it resulted from several factors. First, while the Comprehensive Housing Policy was being drafted and considered by the City Council, staff was aware that developers were requesting Resolutions, but leadership wanted to wait until the Policy was adopted before providing recommendations regarding any requested Resolutions. Subsequently, in the intervening four months since the Policy was adopted, all actors—developers and other members of the public—have spent time becoming familiar with the Policy, Staff have received more specific feedback about the Policy’s impact on the affordable housing industry. Furthermore, as shown below, after further consultation, Staff believes that the timeframe outlined at Committee on September 4<sup>th</sup> can be extended so as to align with the existing NOFA process currently underway while also allowing City Council to issue Resolutions of No Objection prior to February, should they so choose.

Staff Recommendation

After listening to the Committee’s questions, comments and concerns; conducting additional research, and consulting with both the City’s financial advisors and staff from the Texas Department of Housing and Community Affairs (TDHCA), staff would implement the following process within the stated timeline. This public process is intended to engage as many HTC developers as possible; provide staff sufficient time to review, score and recommend projects in need of a Resolution prior to February; and allow City Council to evaluate the projects receiving staff recommendations at the same time it considers an amendment to the Policy. It is important to note that, even under this proposed expedited timeframe for reviewing HTC applications seeking Resolutions, the City will use the scoring criteria outlined in the Policy, which includes reviewing the projects for alignment with the broad goals of the Policy.

Date	Event
September 6 & 7	Hold NOFA pre-proposal conferences
September 10	City issues addendum to NOFA requesting all projects in need of a Resolution prior to February 2019 to apply under the NOFA and including the timeline for accelerated review and approval

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September 27	Deadline to submit proposals pursuant to the NOFA
September 28-October 19	Staff score and review projects seeking Resolutions of Support or No Objection
October 22	Special-called meeting of the Economic Development and Housing Committee; staff present recommendations to (1) amend the comprehensive housing policy to allow for an accelerated timeframe for issuing Resolutions of Support or No Objection and (2) recommend that the Council issue a Resolution(s) regarding specific projects (if any)
October 24	Council Agenda; to include any both action items, if forwarded by the Committee

Alternatives

The City Council could: 1) decide to amend the Policy but decline to follow staff's recommendations for projects seeking Resolutions or 2) decline to amend the policy.

Fiscal Impact

None.

Should you have any questions, please contact David Noguera, Director of Housing and Neighborhood Revitalization at (214) 670-3619.



T. G. Broadnax  
City Manager

- c: Christopher Caso, City Attorney (Interim)
- Craig D. Kinton, City Auditor
- Billerae Johnson, City Secretary
- Preston Robinson, Administrative Judge
- Kimberly Bizer Tolbert, Chief of Staff to the City Manager
- Majed A. Al-Ghafry, Assistant City Manager

- Jon Fortune, Assistant City Manager
- Joey Zapata, Assistant City Manager
- M. Elizabeth Reich, Chief Financial Officer
- Nadia Chandler Hardy, Assistant City Manager and Chief Resilience Officer
- Directors and Assistant Directors

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