BALTIMORE METROPOLITAN COUNCIL

# Draft 2023 Qualified Allocation Plan (QAP) & Fair Housing Group Comments

## Joint Housing Committee & Preservation Task Force Meeting

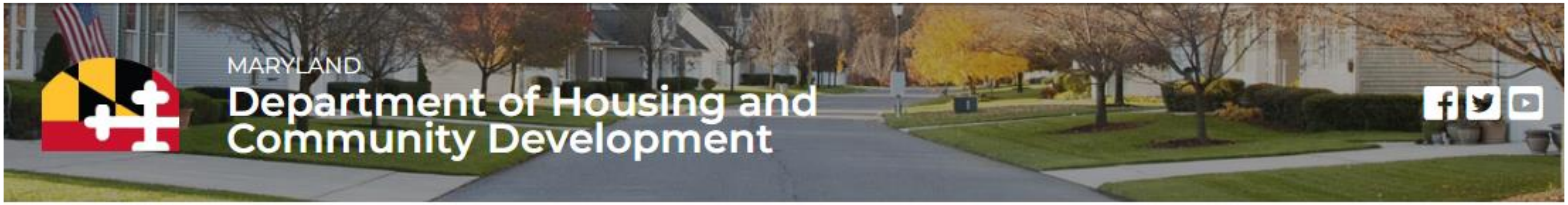
*July 6, 2023*

# Fair Housing Group Recommendations For Qualified Allocation Plan (QAP)
## March 2023

1. Keep 5-point Choice Neighborhoods incentive.
2. Increase Communities of Opportunity family points to four and apply to more applicants.
3. Address Year 15 preservation threats.
4. Better data for preservation (not specifically a QAP recommendation)

# DHCD 2023 Draft QAP

https://dhcd.maryland.gov/HousingDevelopment/Pages/QAPGuideRevisions.aspx




## 2023 Revision to the Qualified Allocation Plan and Multifamily Rental Financing Program Guide

Currently, the Department of Housing and Community Development is working to update its Qualified Allocation Plan and Guide.

The Department is interested in obtaining your insight and feedback on a range of issues. To foster communication, several ways to engage the Department's partners and stakeholders have been established. In particular, this webpage is dedicated to the 2023 Qualified Allocation Plan and Multifamily Rental Financing Program Guide review process, as well as a dedicated email address for convenient communication of your ideas and suggestions. Please send all feedback to dhcd.qap@maryland.gov

### 2023 Qualified Allocation Plan and Multifamily Rental Financing Program Guide Draft

#### Documents 2023 QAP and Guide 1st Draft Documents

- Blackline Draft of the 2023 Maryland Qualified Allocation Plan
- Clean Draft of the 2023 Maryland Qualified Allocation Plan
- Blackline Draft of the 2023 Multifamily Rental Financing Program Guide
- Clean Draft of the 2023 Multifamily Rental Financing Program Guide
- Proposed Changes to the Qualified Allocation Plan and Multifamily Rental Financing Program Guide

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# Overall Scoring Table

| Scoring Summary Table | Maximum Possible Points |
|---|---|
| 4.1 Capacity of Development Team | **74 Total Points** |
| 4.1.1 Development Team Experience | 42 points |
| 4.1.2 Deductions from Team Experience Score | Negative 10 points |
| 4.1.3 Developer Financial Capacity | 18 points |
| 4.1.4 Nonprofits (NPs), Public Housing Authorities (PHAs) and Minority/ Disadvantaged Business Enterprises (MBE/DBEs) | 14 points |
| 4.2 Community Context | **16 Total Points** |
| 4.2.1 Community Impact Projects | 16 points* |
| 4.2.2 Communities of Opportunity | 16 points* |
| 4.2.3 Defined Planning Areas and Opportunity Zones | 16 points* |
| 4.3 Transit Oriented Development (TOD) | **~~8~~ 5Total Points** |
| 4.4 Public Purpose | **~~46~~ 45 Total Points** |
| 4.4.1 Income Targeting | 15 points |
| 4.4.2 Targeted Populations: PWD or Special Needs | 10 points |
| 4.4.3 Family Housing | 8 points |
| 4.4.4 Tenant Services | 8 points |
| 4.4.5 Policy Incentives | ~~5~~ 4 points |
| 4.5 Leveraging and Cost Effectiveness | **25 Total Points** |
| 4.5.1 Direct Leveraging | 15 points |
| 4.5.2 Operating Subsidies | 10 points |
| 4.5.3 Construction or Rehabilitation Cost Incentives | Negative 8 points |
| 4.6 Development Quality Standards | **31 Total Points** |
| 4.6.1 Green Features | 10 points |
| 4.6.2 Energy Efficiency | 8 points |
| 4.6.3 Project Durability and Enhancements | 13 points |
| 4.7 State Bonus Points (maximum of 10 points) | **See note#** |
| Total | **~~200~~ 196 points** |

* Project cannot receive points under more than one of the Community Impact, Communities of Opportunity, and Defined Planning Area categories.

# State Bonus Points may be awarded outside of the ~~200~~ 196 point scale.

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# Choice Neighborhoods Points Reduced and Adjusted (4.4.5)

4. ~~Five~~ Two (~~5~~2) points will be awarded to "Choice Neighborhood" projects. The "Choice Neighborhood" program is a federal grant program, administered by HUD, that provides resources to help transform high-poverty, distressed neighborhoods. These points will be awarded as follows:
   - Points will only be awarded to projects located within the boundaries of, and contributing to, a "Choice Neighborhood" planning grant or award identified by HUD; and
   - ~~Points will only be awarded to~~ Projects with a "Choice Neighborhood" planning grant or award in the Baltimore or DC Metro area must meet the "twinning" projects requirement, as defined in Section 4.4.1, ~~which~~ and include an overall total of at least 150 units to receive points under this category; or
   - Projects with a "Choice Neighborhood" planning grant or award in Allegany, Calvert, Caroline, Cecil, Charles, Dorchester, Frederick, Garrett, Kent, Queen Anne's, Saint Mary's, Somerset, Talbot, Washington, Wicomico, or Worcester Counties must meet the "twinning" projects requirement, as defined in Section 4.4.1, and include an overall total of at least 120 units to receive points under this category.
   - Note: for the purposes of this scoring criteria, the Baltimore Region and the DC Metro Area include Anne Arundel, Baltimore, Carroll, Harford, Howard, Montgomery, and Prince George's Counties and the City of Baltimore.

# QAP Choice Neighborhoods Policy Incentive Changes

1. **Points reduced from five (5) to two (2).**
2. **Incentive extended to Planning Grant areas (awards? applications?), including in our region:**
   a. Poe Homes in Baltimore City
   b. Harbour House/Eastport Terrace in Annapolis
3. **Applications must:**
   a. Be twinning proposals (include both 9% and 4% LIHTC)
   b. Have at least 150 units total in Baltimore/DC metro areas and 120 units total in other (more rural) counties. (Guide continues to use our suggested definition of Baltimore & DC metro areas.)

# HUD Choice Neighborhoods FY22 Implementation NOFO Scoring

| | | |
|---|---|---|
| **Leverage** | Neighborhood - CDBG | 2 |
| | Neighborhood Investment | 1 |
| | Housing Leverage | 3 |
| | People Leverage | 3 |
| | subtotal | **9** |
| | **TOTAL** | **107** |

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# HUD Choice Neighborhoods FY22 Implementation NOFO Scoring

(c) Low-Income Housing Tax Credits (LIHTC).

(i) Only LIHTC allocations (nine percent or four percent) that have been secured as of the application deadline date will be considered for leverage scoring under this NOFO. Applications must provide evidence from the allocating agency that the allocation or reservation is secured. Evidence may be in a form other than a letter, provided that it comes from an official agency source such as a website or public announcement. LIHTC allocations that are not secured (i.e., documentation in the application does not demonstrate they have been reserved by the state or local housing finance agency) will not be counted for leverage scoring. Only tax credits that have been reserved specifically for revitalization performed through this NOFO will be counted.

(ii) Other resource commitments that are contingent on the receipt of tax credits that have not yet been secured cannot be counted.

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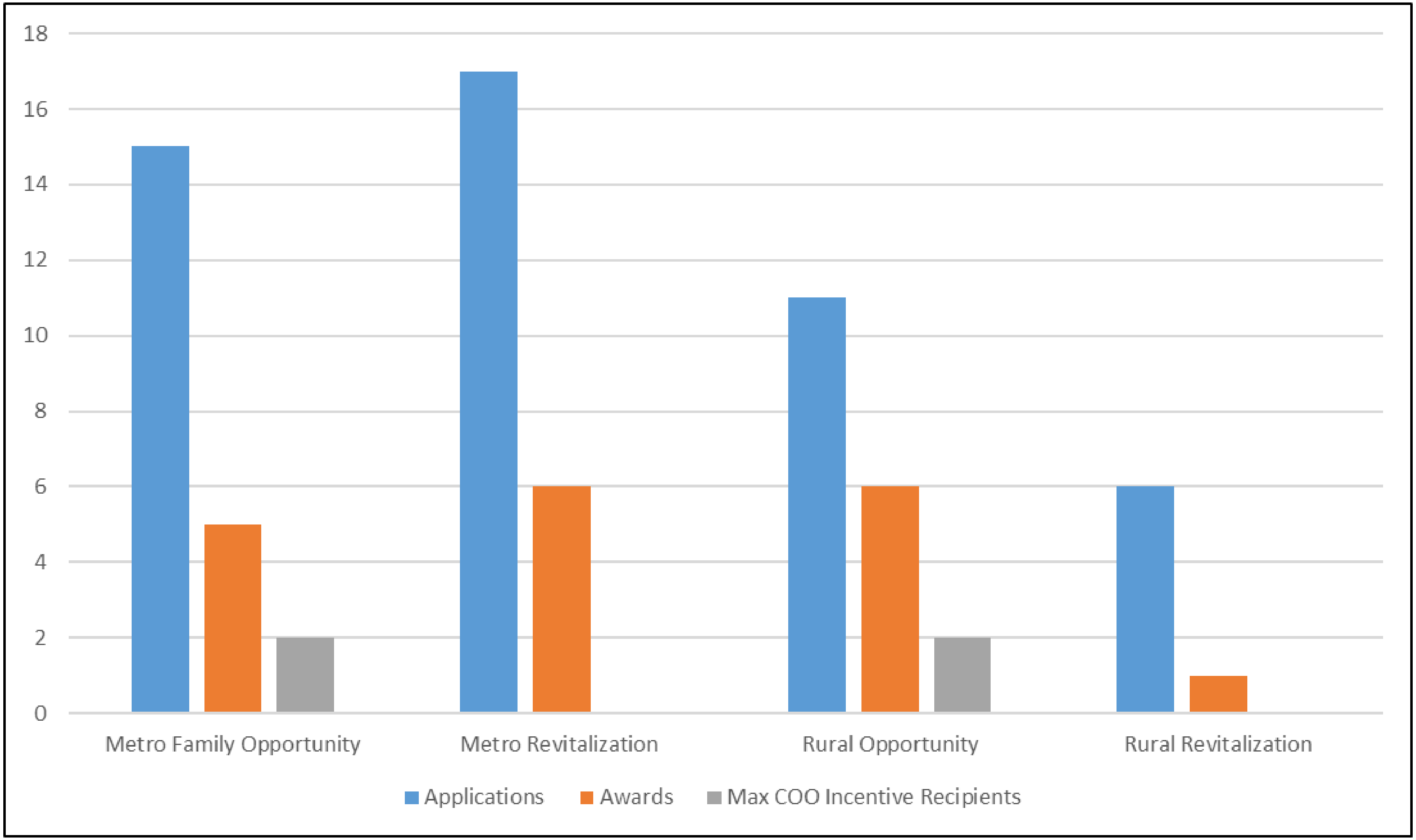
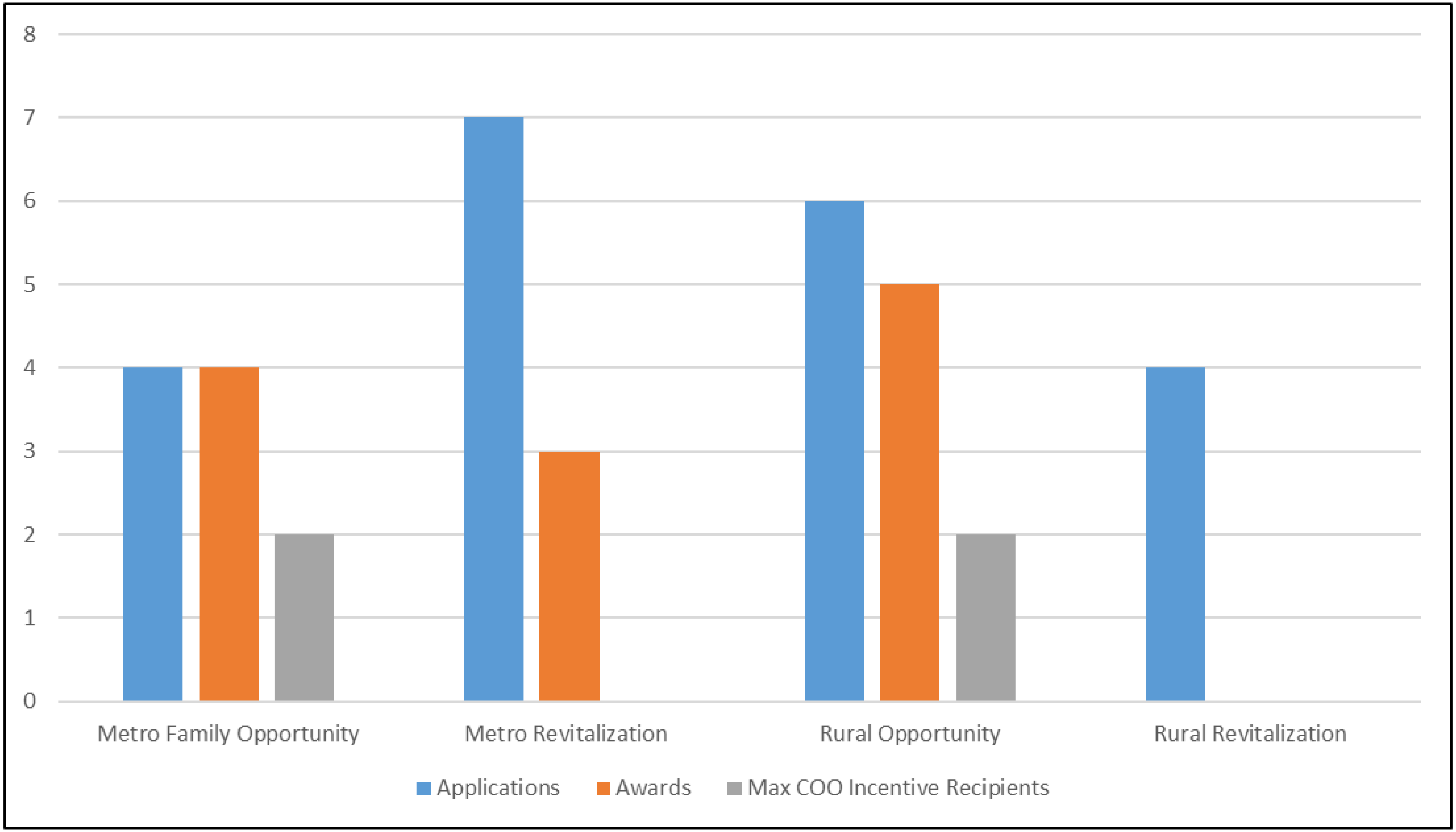
# No Family Opportunity Area Incentive Change (Section 4.4.5)

2. Two (2) points will be awarded to the top two (2) projects in communities of opportunity in the Baltimore Region and the DC Metro areas. These points will be awarded as follows:
   - Points will only be awarded to new construction, gut rehabilitation, or adaptive re-use projects, as defined in Section 3.13.3;
   - Points will only be awarded to family or intergenerational housing. For purposes of this section, intergenerational housing means housing designated for both families and seniors and which complies with the federal Housing for Older Persons Act; and
   - Points will only be awarded if at least 75% of the total units are net new units.
   - Note: for the purposes of this scoring criteria, the Baltimore Region and the DC Metro Area include Anne Arundel, Baltimore, Carroll, Harford, Howard, Montgomery, and Prince George's Counties and the City of Baltimore.

# 2020 LIHTC Round



# 2022 LIHTC Round



# New Year 15-Related Preservation Requirement (Section 3.6)

For projects applying for LIHTC, applicants must provide a proposal from at least one syndication firm showing the amount of expected LIHTC, the investor type, expected net proceeds, syndication costs, pay-in schedule, and willingness to comply with DHCD's regulations. The syndicator's letter must provide a proposed schedule for completing its due diligence and indicate the current status of its review of the application and project, including whether a site visit has been completed.

Each applicant must present a clear plan for the Project at the end of the initial 15-year Compliance Period. The plan must include support and rationale for the following:

- The exit strategy for the limited partner or investor member, as applicable, and the anticipated ownership changes;
- Any anticipated refinancing, re-syndication, or sale to a third party; and
- How affordability will be maintained through the minimum extended affordability period in accordance with Section 3.2.3.

Letters that fail to explicitly include the acknowledgements and information listed above will be rejected as incomplete and will result in the application failing threshold review and being removed from processing.

# Questions on new Year 15 Language

1. How will an *applicant's* plan be binding on the *investor*?
    a. How would plan prevent an investor from refusing to recognize a reasonable nonprofit right of first refusal (ROFR) at Year 15?
    b. Our recommendation, modeled on NYC, would have awarded points for binding investor commitment to a reasonable ROFR.
2. As a threshold requirement, what standard would DHCD use to judge if a plan is good enough?
3. Does DHCD have a rationale for not actively clarifying their right to deny credits or transfer of investor interest, as we suggested?
4. Is DHCD's argument compelling that requiring a waiver of the Qualified Contract will weaken their current legal argument that 40-yr. extended use agreement is enough?

# Federal LIHTC Statute Qualified Contract Language

## §42(h)(6)

(E) Exceptions if foreclosure or if no buyer willing to maintain low-income status. (i) In general. The extended use period for any building shall terminate-

(I) on the date the building is acquired by foreclosure (or instrument in lieu of foreclosure) unless the Secretary determines that such acquisition is part of an arrangement with the taxpayer a purpose of which is to terminate such period, or

(II) on the last day of the period specified in subparagraph (I) if the housing credit agency is unable to present during such period a qualified contract for the acquisition of the low-income portion of the building by any person who will continue to operate such portion as a qualified low- income building.

Subclause (II) shall not apply to the extent more stringent requirements are provided in the agreement or in State law.

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# Reserves for Replacement

- Another concern? At risk at investor Year 15 exit?
- California and New York City require to remain with the property.
- From Maryland QAP Multifamily Program Guide:

### 3.9.4 Reserves for Replacement

All projects must budget at least $300 per unit per year in reserves for replacement (RFR) deposits. Additionally, RFR deposits must be adequate to support the project as determined by a capital needs assessment (CNA) prepared by a qualified third party. DHCD reserves the right, in its sole discretion, to require a new CNA every five (5) to ten (10) years and adjust RFR deposits based upon such new CNA.

# For More Information

**Dan Pontious** | Housing Policy Coordinator

410-732-0500 x1055 | dpontious@baltometro.org | www.baltometro.org

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