



RTHawk Housing Alliance LLC

- 100% owned by Wilbur Red Tomahawk (Standing Rock Sioux)
- Tribally Chartered Corporation
- Specializing in LIHTC financed development and management and other affordable housing programs
- Team of professionals with a combined total of over eighty (80) years of experience working with LIHTC projects sponsored by Tribal entities

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Planning Considerations:

Determine Housing Needs – Population

- Elderly
- Families
- New Households
- Veterans
- Disabled
- Students
- Homeowners
- Renters
- Supportive Housing
- Homeless
- Low / Moderate / High Income

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Planning Considerations:

Determine Housing Needs – New Construction

- Reduce your Waiting List
- Demand
- Alleviate Overcrowding
- Homeownership
- Rental
- Green components
- Availability of Land
- Environmental Review
- Infrastructure
- Infill

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Planning Considerations:

Determine Housing Needs – Rehabilitation

- Homeowner Rehab
- Rental Rehab
- Manage Maintenance Costs
- Improve Energy Efficiency
- Environmental Concerns
- Increase Space
- Increase Amenities
- Accessibility

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Planning Considerations:

Determine Housing Needs – Community Space

- Fencing
- Housing Office
- Community Facility Building
- Playground / Basketball Court
- Walking Trails
- Social / Resident Services
- Swimming Pool
- Community Gardens
- Police/Fire Substation
- Resident Manager Unit

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Planning Considerations:

Determine Financing Programs

- Tribal
- NAHASDA
- ICDBG (grant)
- Low Income Housing Tax Credits (LIHTC) (equity)
- Housing Trust Funds (typically grant)
- HOME Funds (both)
- Affordable Housing Program (grant)
- Title VI (loan)
- Section 184 (loan)
- BIA / IHS (typically grant)
- Rural Development (both)
- New Markets Tax Credits (NMTC) (equity)
- Solar Tax Credits (equity)
- IHBG Competitive (grant)
- Other

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Financing Strategies

- Money that doesn't have to be paid back
 - grants and equity
- Funding Available
- Compliance Requirements
- Competitiveness of Program
- Gap or Leverage Required
- Predevelopment and/or Bridge Funds
- Economies of Scale

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Priorities and Timing

- Develop Wish List
- Prioritize Projects
 - Importance
 - Difficulty
 - Logistics
 - Funding Programs
 - Political
- Funding Application Cycles
- Use of Funds - Deadlines

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Planning Tools/Strategies

- Strategic Planning / Needs Assessments
- Training/Technical Assistance
- Networking
- Visit successful projects
- Revisit policies and procedures
- Bulk up the waiting list – Community Outreach
- Build confidence in staff
- Enlist a trusted advisor or consultant
- Be specific on how the program(s) would impact **YOUR** project
- Give it a try

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Support for the Project

- Is the Tribal Council and Housing Board supportive of the project?
- Is the State Housing Agency supportive of Tribal Projects?
- What funds are available to commit to the project?
- Have your annual audits been good?
- What training has your staff had to prepare for project?
- Have all essential staff been included in project planning?
- Did the community / prospective tenants have input?

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Planning Considerations:

Realistic Goals and Timelines

Develop a "real" budget to include all line items needed for your project-including:

- **Soft Costs** – Fees for: legal, accounting, architect, market study, environmental, capital needs assessment
- **Hard Costs** – Infrastructure and Construction Costs. NOTE: when developing estimates utilize recognized construction estimating resources as well as internal and local knowledge of current building costs.


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Planning Considerations:

Realistic Goals and Timelines

- What are the deadlines for the funding sources you wish to apply for?
- What is a realistic construction schedule based on your local weather seasons?
- What is a realistic schedule for when you will need the actual funds?




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Planning Considerations:

Define the Project


• Project Location(s)	• Populations Served
• New Construction or Rehabilitation	• Amenities
• Number of Units	• Green / Energy Efficient Components
• Single Family, Duplex, or Apartments	• Primary Financing Source(s)
• Rental or Homeownership	• Tribe or TDHE's Contribution up front
• Distribution of Bedroom Types	• Tribe or TDHE's Contribution after Completion
• Square Footages of each Bedroom Type	
• Community Space	



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Low Income Housing Tax Credit (LIHTC) - EQUITY


- Developed by Congress in 1986 to privatize affordable rental housing and allow the federal government to administer funding opportunities rather than manage housing IRS Program
- Treasury Department (IRS) program – Not HUD
- Section 42 of the Internal Revenue Code (IRC) defines the LIHTC Program
- Generates tax credits for investors
- Dollar for Dollar reduction in tax liability
- Partnership Structure



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LIHTC - EQUITY

- New construction, rehabilitation, acquisition/rehabilitation, community space (as part of a housing project)
- The LIHTC is a permanent part of the code – not subject to appropriation.
- Primarily used by institutional investors
- Not a tax deduction
- The credits offset an investor's taxes over a 10-year period
- Recapture period is for initial 15-year period




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Low Income Housing Tax Credits

Equity

Form 1040 (2014) Page 2

38	Amount from line 37 (adjusted gross income)	38	
39a	Check <input type="checkbox"/> You were born before January 2, 1950. <input type="checkbox"/> Blind. <input type="checkbox"/> Total boxes		
b	If your spouse itemizes on a separate return or you were a dual-status alien, check here <input type="checkbox"/> 39a		
40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40	
41	Subtract line 40 from line 38	41	
42	Exemptions. If line 38 is \$12,025 or less, multiply \$3,800 by the number on line 42. Otherwise, see instructions	42	
43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	
44	Tax (see instructions). Check if any from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972 c <input type="checkbox"/>	44	
45	Alternative minimum tax (see instructions). Attach Form 6251	45	
46	Excess advance premium tax credit repayment. Attach Form 8962	46	
47	Add lines 44, 45, and 46	47	
48	Foreign tax credit. Attach Form 1116 if required	48	
49	Credit for child and dependent care expenses. Attach Form 2441	49	
50	Education credits from Form 8863, line 19	50	
51	Retirement savings contributions credit. Attach Form 8880	51	
52	Child tax credit. Attach Schedule 8812, if required	52	
53	Residential energy credits. Attach Form 8895	53	
54	Other credits from Form: a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8901 c <input type="checkbox"/>	54	
55	Add lines 48 through 54. These are your total credits	55	
56	Subtract line 55 from line 47. If line 55 is more than line 47, enter -0-	56	




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Low Income Housing Tax

(LIHTC) - EQUITY

- Apply through the state allocating agency
- Typically funds 80% or more of project costs
- Income and rent restrictions
 - Federal rule – Maximum of 60% AMI income and gross rent levels
 - Competition for tax credits may require lower income and rent levels - 30% - 50% AMI
 - Income averaging – up to 80% AMI
 - Gross rents include an utility allowance
- Incomes must be certified at move-in but may increase after that time with no penalty
 - Must include 100% of the per cap income from gaming.
 - The first \$2,000 in per cap income generated trust assets is excluded.



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Low Income Housing Tax Credits

(LIHTC) - EQUITY

- There is a 15-year mandatory compliance period and a 15-year extended use period. NOTE: Extended use periods may be longer based on State HA requirements.
- The tax credit project can be structured as either permanent rental or an eventual homeownership which requires rental for the first 15 years and then allows the tenants to purchase their homes

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LIHTC – How does it Work?

- Developers compete for tax credits through their state allocating agency
- Investors purchase the credits and provide equity for the construction of the project
- The project is built with a limited amount of NAHASDA and/or other Tribal debt
- Allows for more units for less money and more units over less time

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LIHTC – How does it Work?

- Credits are initially awarded based on the lower of the cost caps or the estimated construction costs
- Credits are reevaluated at final close out and the final allocation will be the lesser of the credits initially awarded or the final construction costs
- Credits are calculated depending on project type
 - 9% credits - New construction and rehabilitation
 - 4% credits - Bond projects or acquisition

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LIHTC – How does it Work?

- Tribal construction loan = total dev. cost (TDC) less investor equity
- Investor equity = annual credits x 10 x price per credit (i.e. \$0.80 - \$0.83)
- Tribal loan will typically consist of NAHASDA or other Tribal funds and/or the value of assets for a rehab project
- A developer's fee is paid (typically to the tribe or housing authority) for completing the various tasks necessary to bring the project to fruition
 - Usually paid 3 months after the project completes rent up
- Other gap financing sources may be available:
 - AHP, ICDBG, HOME, RD, other state housing funds, etc.



LIHTC – How does it Work?

- If your project is in a QCT or a DDA, then you receive 30% more credits.
- Qualified Census Tract (QCT)
 - Based on income levels – Defined by Census data
- Difficult Development Area (DDA)
 - Based on costs of development – Designated by HUD
- The Housing and Economic Recovery Act (HR 3221) enacted in 2008 allows states to determine DDA's



LIHTC – Structure


- IRS requires tax credits to go through a partnership structure
- Credits and losses flow based on percentage of ownership
- Limited Partner is the investor and receives a 99.99% interest
- General Partner is the managing partner and receives an 0.01% interest



LIHTC – Structure

- Limited Partner = Limited Liability
- Limited ability to direct – should only do so through the Limited Partnership Agreement (LPA) and Exhibits to the LPA
- Provides \$ for development only
- Visits the property on an annual basis to ensure compliance with the program
- Collects documents quarterly and annually


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LIHTC – Structure

- Tribal Entity = General Partner = Managing Partner
- Managing Partner = Decision maker
- Depended on for the day to day operations of the project (may contract out some of the work to a management agent or compliance consultant, but is ultimately responsible)
- Provides \$ for development (fills the gap - also funds the pre-development phase) and helps fund the operations in the event that the rent collected is not enough to pay for the expenses
- Ensures compliance with the program by submitting quarterly and annual reports to the investor and state agency


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LIHTC – Investor

- Willing to invest, but considers risk and return
- Provides \$ for development phase, but receive their return over 15 years
- Have to predict that they will have a sizable tax liability for the next 10+ years
- Must depend on the capacity of the general partner to perform and comply with the program requirements
- Depends on guarantees from the Tribal Entity to alleviate risk

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Guarantees

- Title Guarantee - If on trust land
- Construction Completion Guarantee - The Program requires that units are placed in service within two calendar years after the year of credit allocation
- Tax Credit Guarantee - The investor is paying up front for a 10-year stream of credits
- Operating Deficit Guarantee - The investor is only providing development funds
- Compliance Guarantee - If a project falls out of compliance, its tax credits are at risk

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New Construction Example

	Your Project	TC Project	Difference
Cost	\$ 4,500,000	\$ 5,675,000	
Less: Ineligible Costs		\$ (200,000)	
Equals: Basis		\$ 5,475,000	
Basis Boost		\$ 7,117,500	
Times: Credit Rate (9%) x 10		\$ 6,405,750	
Cost from above	\$ 4,500,000	\$ 5,675,000	\$ 1,175,000
Less Investor Equity @ \$0.81	\$ -	\$ (5,188,658)	\$ (5,188,658)
Less AHP or ICDBG			\$ -
Equals: Tribal Contribution	\$ 4,500,000	\$ 486,343	\$ (4,013,658)
Less: Developer Fee (15%)	\$ -	\$ (675,000)	\$ (675,000)
Equals: Final Cost	\$ 4,500,000	\$ (188,658)	\$ (4,688,658)
# of units	30	30	
Cost/Unit	\$ 150,000	\$ (6,289)	\$ (156,289)

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Rehabilitation Example

	Your Project	TC Project	Difference
Cost	\$ 3,000,000	\$ 5,450,000	
Less: Ineligible Costs		\$ (200,000)	
Equals: Basis		\$ 5,250,000	
Basis Boost		\$ 6,375,000	
Times: Credit Rate (9%/3.07%) x 10		\$ 4,848,000	
Cost from above	\$ 3,000,000	\$ 5,450,000	\$ 2,450,000
Less Investor Equity @ \$0.82	\$ -	\$ (3,975,360)	\$ (3,975,360)
Less AHP or ICDBG			\$ -
Less Value of CAS		\$ (1,500,000)	\$ (1,500,000)
Equals: Tribal Contribution	\$ 3,000,000	\$ (25,360)	\$ (3,025,360)
Less: Developer Fee (15%)	\$ -	\$ (450,000)	\$ (450,000)
Equals: Final Cost	\$ 3,000,000	\$ (475,360)	\$ (3,475,360)
# of units	30	30	
Cost/Unit	\$ 100,000	\$ (15,845)	\$ (115,845)

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Path to Homeownership

Traditional Homeownership Programs

- Fee land
- Realtor
- Must qualify / good credit
- Bank financing
- Market pricing
- Foreclosure risk

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Path to Homeownership

Tribal Homeownership Programs

- Trust land / fee land
- Limited market
- Limited financing options
- May need to qualify and have good credit
- Foreclosure risk (maybe)

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Path to Homeownership

Tax Credits to Homeownership

- Trust land / fee land
- TDHE or Tribe involvement in policies / procedures
- Reduced costs
- May work on qualification and credit repair over time
- Little or no foreclosure risk

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Path to Homeownership


Individual Mortgage

Purchase Price for a House -	\$135,000
Less: Down Payment Assistance -	\$ 13,500
Total Financing Needed -	\$121,500

Payment assuming 30-year term/amortization and 4.5% interest rate -
 ~\$615 per month

Total paid for the house in year 30 - ~\$222,000

Do you really own the home?




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Path to Homeownership

Tax Credits to Homeownership

- Must be rental for first 15 years
- Tenants must initially income qualify
- Income may increase over time
- Year 15
 - Conversion to Homeownership
 - Keep in Rental Stock



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Path to Homeownership

Tax Credits to Homeownership - Considerations

- TDHE or Tribe's policies
- Allocating Agency criteria
- Must be affordable
- Tenants ability to convert to homeownership
- Financing homeownership conversion




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Path to Homeownership

Best Practice Examples

- Reward existing good tenants
- Develop a homeownership waiting list
- Develop policies at the beginning of the project
- Orientation about the LIHTC to homeownership
- Annual status report to tenants wanting to be homebuyers
- Homeownership training
- Incentives




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Path to Homeownership

Case Study – LCO Housing Authority

Incentive Credits – used to reduce the final price of the home at the end of the 15-year rental period

- 100 credits monthly for on-time rent payments
- 100 credits for each successful inspection
- 100 credits for completing annual recertifications on time



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Path to Homeownership

Case Study – LCO Housing Authority

Purchase Price for Houses

2 Bedroom :	\$26,250
3 Bedroom:	\$27,562
4 Bedroom:	\$28,940



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Path to Homeownership

Case Study – LCO Housing Authority

Perfect tenant residing in unit for 15 years

On-time rent:	18,000
Successful inspections:	3,400
On-time recertifications:	<u>1,500</u>
Total credits:	22,900

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Path to Homeownership

Case Study – LCO Housing Authority

Net purchase price for the perfect tenant

2 Bedroom :	$\$26,250 - 22,900 = \$3,350$
3 Bedroom:	$\$27,562 - 22,900 = \$4,662$
4 Bedroom:	$\$28,940 - 22,900 = \$6,040$

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Path to Homeownership

Case Study – LCO Housing Authority

Tenant with late rent payments 33% of the time

On-time rent:	12,000
Successful inspections:	3,400
On-time recertifications:	<u>1,500</u>
Total credits:	16,900

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Path to Homeownership

Case Study – LCO Housing Authority

Net purchase price for the not so perfect tenant

2 Bedroom :	$\$26,250 - 16,900 = \$ 9,350$
3 Bedroom:	$\$27,562 - 16,900 = \$10,662$
4 Bedroom:	$\$28,940 - 16,900 = \$12,040$

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Path to Homeownership

Case Study – LCO Housing Authority

Incentive credits are a win-win situation

- Rewards tenants for good behavior
- Helps LCO stay in compliance with tax credit program

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LIHTC - Steps

• Pre-Application	• Construction
• Application	• Lease Up
• Reservation	• Close Out
• Choose an Investor	• Operations
• Due Diligence	• Post 15 Year
• Legal	
• Closing	

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LIHTC – Pre-Application


- The state housing agency creates a Qualified Allocation Plan (QAP) or similar document
- There are public comment periods and meetings
- QAP is adopted
- QAP, application documents, important dates, etc. are posted on the web



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LIHTC - Application

- Planning
 - Defining the project
 - Development Team
 - Cost Estimates
- Application Submittal
 - Threshold
 - Scoring
 - Required Exhibits
 - Throw Away Documents
- Wait
 - Deficiency Corrections (if allowed)




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Example: LIHTC – NM Info

2021 Dates & Numbers

- Intent to Apply Due – January 2021
- Applications Due – February 2021
- Preliminary Award Letter – April 2021
- Notice of Awards – June 2021
- Application Fee - \$500
- Approximately \$5.7 million in annual credits available
 - Special rules for rehab – Must be at least 20 years old
 - May not increase the footprint of the building.



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Example: LIHTC – NM Threshold

- Site Control
- Zoning
- Fees
- Minimum Score
- Development Team in Good Standing
- Financial Feasibility
- Submit Intent to Submit


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Example: LIHTC – NM Scoring

- TDHE Participation - 5 Points if \$250,000 net assets -10 Points if \$1 million net assets.
- Locational Efficiency - Up to 4 Points
- Rehabilitation Projects - Up to 5 Points
- Sustaining Affordability - 5 or 15 Points
- Income Levels of Tenants - Up to 16 Points
- Projects that Incorporate Market Units - 4 Points
- Extended Use Period - 5 Points
- Households Reserved for Specific Populations - Up to 15 Points
- Leveraging Resources - Up to 10 Points
- Complete Applications - 5 Points
- Public Waiting List - 2 Points
- QCT/Revitalization – 3-5 Points
- Eventual Tenant Ownership - 5 Points
- Historic - 5 Points
- Blighted Buildings - 5 Points
- Areas of Statistically Demonstrated Need - 10 Points
- Efficient Use of Tax Credits - Up to 15 Points
- Non-Smoking Properties - 4-6 Points
- Adaptive Reuse - 5 Points
- Other - Up to 6 Points

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Example: LIHTC – CA Info

Native American Apportionment – At least \$1 million in annual credits

2021 Funding Deadlines

- Round 1 – March 2021
- Round 2 - July 2021

- Projects with 16 or more units must have a manager's unit (including scattered site projects)
- Scattered sites will be limited to 5 sites and all sites must be within a 1 diameter circle and be in the same county (within 10 miles if a rehab project).

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 RTHAWK HOUSING ALLIANCE
Housing Relationships Built to Last

Example: LIHTC – CA Threshold

- Housing Need & Demand
- Site Control
- Enforceable Financing Commitment
- Zoning
- Financial Feasibility
- Sponsor Characteristics
- Minimum Construction Standards
- Size & Limitations
- Fees

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Example: LIHTC – CA Scoring

- GP/Management Characteristics – 9 points
- Housing Needs – 10 points
- Amenities – 15 points (Native American Apportionment exempt)
- Services (must be on-site or within 1.5 miles from site) - 10 points
- Sustainable Building Methods (LEED, etc.) – 5 points
- Lowest Income – 52 points
- Readiness to Proceed – 10 points (if we start early in the process)
- Misc. Fed/State Policies – 2 points
- Total Available – 113 points

• NOTE: Scattered site projects shall be scored proportionately in the services amenities category.

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LIHTC - Reservation

- Preliminary Award
- Final Award
 - Reservation Letter
 - Additional Documentation Submittals
 - Reservation Fees
 - State Reporting Requirements
 - Timelines and Milestones

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LIHTC – Choose an Investor

Provide updated numbers and schedules to multiple investors

- Schedule needs to be more specific with a building by building breakdown of construction start, construction completion, and lease up.

<ul style="list-style-type: none"> • Receive Letters of Intent (LOI) <ul style="list-style-type: none"> -Price -Equity Schedule -Fees -Adjusters -Report Requirements -Other Terms 	<ul style="list-style-type: none"> • Select Investor or Syndicator <ul style="list-style-type: none"> -Price -Equity Schedule -Indian Country Experience -Fees
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LIHTC – Due Diligence Checklist

<ul style="list-style-type: none"> • Project Based Due Diligence <ul style="list-style-type: none"> - ALTA Survey - A & E - Environmental Report - TSR - Land Lease / Sublease - Insurance 	<ul style="list-style-type: none"> • Sponsor Based Due Diligence <ul style="list-style-type: none"> - Financials - Capacity - Policies / Procedures - Questionnaires
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LIHTC – Legal

<ul style="list-style-type: none"> • Attorneys <ul style="list-style-type: none"> - Investor's Attorney - Syndicator's Attorney - General Partner's Attorney - Partnership's Attorney - Special Counsel (if needed) 	<ul style="list-style-type: none"> • Documents <ul style="list-style-type: none"> - Loan Documents - Management Agreements - Title Guaranty - Housing Assistance Payments - Resolutions - Acquisition Documents - Partnership Documents
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LIHTC – Closing

- Due Diligence Materials
- Legal Documents
- Investor / Syndicator Internal Approvals
- Amended and Restated Limited Partnership Agreement
- Partnership Checking Account
- Attorneys' Opinions

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LIHTC – Construction

- General Contractor vs. Subcontractors vs. Construction Management
- Monthly Draws
- Monthly Architectural Inspections
- Reporting to State Agency
- Communication with the Accountant
- Change Orders
- Contingency Account
- Placed In Service Requirements
 - Federal
 - Investor
- Certificates of Occupancy
- Internal Coordination with Occupancy and Resident Services

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LIHTC – Lease Up


- Internal Coordination with Development / Construction Team
- Wait List
- Special Populations
- Selection of Tenants
- Pre-Leasing
- Paperwork
- Move-In Inspections

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LIHTC – Close Out

- Punch List
- Accountant's Cost Certification
- Form 8609 Application
- As Built Surveys
- Other Documentation
- Final Pay (Developer's Fee)

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LIHTC Operations

- Rent
- Expenses
- Rental Assistance
- Housing Authority Responsibilities versus Tenant Responsibilities
 - Population
 - Project Type
- Inspections
- Compliance/Reporting

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LIHTC – Post 15 Year

- Conversion to homeownership vs. long-term affordable housing units
- Closing out initial partnership
 - Resignation of investor/limited partner
 - Moving units back into HA books/inventory
 - Termination of lease/sublease
 - Reserve Account Funds
- Rehabilitation of units / Re-syndication using the LIHTC program

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LIHTC – Resyndication

- How does it work?
 - Original LP applies for new LIHTC allocation – provides additional funds to rehab/repair existing LIHTC units
- What are benefits?
 - Original tenants can be protected even if over income at time of re-syndication

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LIHTC – Risks

- Health and safety issues that make the unit uninhabitable
- Incorrectly determining rents and/or incomes
- Complete loss of unit and no rebuild
 - Unit not suitable for occupancy at end of calendar year
- Failure to meet certain deadlines during the credit award through project close out stages

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Leverage for LIHTC Projects

- Stimulus Monies
- Operational
- Indian Housing Block Grant – Competitive
- Indian Community Development Block Grant (ICDBG)
- Affordable Housing Program
- Housing Trust Funds
- Title VI

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Stimulus Monies - Leverage

- Coronavirus Aid, Relief and Economic Security (CARES)
 - \$200 million for IHBG (based on formula)
 - \$100 million for ICDBG
 - BIA funding
 - IHS funding
 - Tribal government funding
- American Rescue Plan (ARP)
 - \$450 million for IHBG (based on formula)
 - \$280 million for ICDBG
 - BIA funding
 - IHS funding
 - Tribal government funding

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Operational Sources for Housing Projects

- Tribal HUD VASH (THVASH)
 - Rental assistance and support for Native Veterans who are homeless or at risk of homelessness living on a reservation or within an authorized service area.
 - Subsidy can be used for Non-CAS Units, LIHTC New Construction Units, Private Landlord Units
 - Administered by TDHE that has been awarded THVASH funds
 - Subsidy can be used to assist with rental payments up to 110% of Fair Market Rent (FMR)

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Operational Sources for Housing Projects

- Section 8 (Project vs. Tenant Based)
 - Administered through local Public Housing Agency (PHA)
 - Project Based & Tenant Based Housing Vouchers
 - Voucher can be used for LIHTC New Construction Units, Private Landlord Units
 - Section 8 requirements are identical to many Tribal Housing Authority qualification requirements if the Tribal HA has adopted Section 8 rules for their IHBG program.

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IHBG - Competitive

- Grant Size: \$500,00 - \$5,000,000
- Due Date: December 1, 2021
- Period of Performance: 60 months
- Must have Resolution from Tribe giving authority to apply which must also affirm that the tribe will not apply for funds separately

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IHBG - Competitive

- New Housing Construction – 10 Points
- Housing Rehabilitation / Acquisition / Housing Related Infrastructure – 7 Points
- Other – 2 Points
- New or previously unfunded applicants – 5 Points
- Leverage – 25% = 5 Points; 11% = 3 Points; 5% = 1 Point
- Maximum points will be awarded for the Implementation schedule if you can show that you have already completed major steps to facilitate the implementation of the project, such as developing proposed plans or specifications for new construction or rehab, proposing the site for new development, initiating the bid process for procurement assistance, securing leveraged financing, beginning coordination efforts with the community, etc.

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ICDBG

- Competitive or Imminent Threat
- Grant Size: Varies – may be based on location or size of NAHASDA allocation
- Due Date: October 25, 2021
- Maximum Points for 25% Leverage

Area ONAP	Population	Ceiling
Alaska	ALL	\$800,000
Eastern Woodlands	ALL	\$700,000
Northern Plains	ALL	\$1,200,000
Northern Plains	ALL	\$750,000
Southern Plains	ALL	\$1,000,000
Southwest		
	50,001+	\$4,000,000
	10,501-50,000	\$2,000,000
	7,501-10,500	\$1,600,000
	7,500 and below	\$800,000

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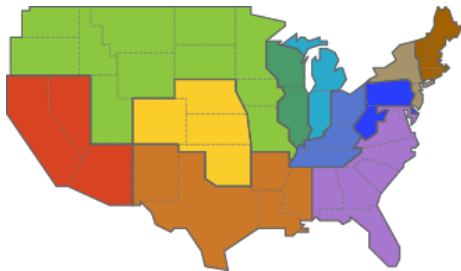
ICDBG

- Period of Performance: 60 months – May be shorter
- Must have Resolution from Tribe giving authority to apply and also addressing citizen participation requirements were met
- Eligible Activities: Rehabilitation, Infrastructure, Economic Development, Health Care, Correctional Facilities, Land Acquisition, New Construction – only if being developed by a Community Based Development Organization (CBDO)

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Affordable Housing Program (AHP) - Grant



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Affordable Housing Program (AHP) - Grant

- Competitive
- Regional
- Separate Pools for Rental Versus Homeownership
- Grant Size - Up to \$1,250,000
- Similar scoring and rules as LIHTC program

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Affordable Housing Program (AHP) - Grant

Project Types

- Rental
 - Development Projects - New Construction and Acquisition/Rehab
 - Rental Rehabilitation Projects

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Affordable Housing Program (AHP) - Grant

AHP Scoring Criteria (example)

- Priority 1 - Donated property
- Priority 2 - Non-profit or Government Entity Sponsorship
- Priority 3 - Income Targeting
- Priority 4 - Housing for the Homeless
- Priority 5 - Empowerment
- Priority 6 - First District Priority
(in-district, special needs, member participation)

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Affordable Housing Program (AHP) - Grant

AHP Scoring Criteria (example)

- Priority 7 - Second District Priority
(native, farmworker, preservation, small projects)
- Priority 8 - Subsidy Per Unit
- Priority 9 - Community Stability
(Owner-Occupied Rehab, Adaptive Re-Use, Revitalization Plan, Vacant/Abandoned Buildings)

NOTE: Commitments made in the application must be met for the entire retention period (Rental = 15 years / Homeownership = 5 years)

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Affordable Housing Program (AHP) - Grant

Examples of 2021 AHP Deadlines / Limits:

- Des Moines: June 1, 2021 - \$750,000 or \$50,000/unit Limit
- Chicago: June 11, 2021 - \$900,000 per project of 75% of total project cost, whichever is less
- Topeka: August 20, 2021 - \$750,000 or \$50,000/unit Limit
- San Francisco: March 10, 2021 - \$1.25 million per project

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Housing Trust Funds (HTF)

- May be federal, state, or local
- At least 75% of the funds must serve Extremely Low Income (ELI) households at 30% of Area Median Income (AMI) and 25% must serve Very Low Income (VLI) households at 50% AMI
- The statute requires that at least 90% of the funds be used for the production, rehabilitation, preservation, or operation of rental housing. Up to 10% may be used for homeownership activities for first-time homebuyers. Eligible homeowner activities include producing, rehabilitating, and preserving owner-occupied houses, as well as providing down payment, closing cost, and interest rate buy-down assistance.
- HTF assistance can be in the form of a grant, loan, deferred payment loan, equity investment, or other forms

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Title VI

- Authorizes HUD to guarantee financing for the purpose of affordable housing activities.
- Eligible Activities:
 - Modernization of existing 1937 Act housing
 - New construction
 - Model Housing Activities
- Guarantee covers 95% of the principal and interest outstanding
- Maximum commitment is the annual NAHASDA grant less the amount required to maintain CAS multiplied by 5.
- Must evidence financial capacity to repay loan


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How do the numbers really work?

- **Project Type**
 - New Construction
 - Infrastructure vs infill
 - Rehabilitation
- **State Allocating Agency**
 - Threshold items
 - Scoring items
 - TDC Caps
 - Credit Caps
- **Investor**
 - Project Location
 - Market
 - Construction & Lease Up Schedule
 - Timing of Equity


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How do the numbers really work? (continued)

- **Construction**
 - Project Location
 - Market
 - Bids
 - Flexibility
 - Final Costs
 - Timing of Funds
 - Construction & Lease Up Schedule
- **Economies of Scale**
- **Investor Pricing / Additional leveraging sources**
- **May need to be creative**


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Example: How do the numbers really work?

- **Cost caps –**
 - 130% of the last years' projects for new construction
 - 100% of the last years' projects for rehabilitation
 - 2018 average was \$188,151 per unit
 - Per project maximum is \$1,232,333
- **Credit efficiency scoring category**
 - 5, 10, or 15 points for requesting less credits than needed
 - Must request less than \$16,074 in credits per unit and less than \$16.61 tax credits per square foot.
- **Minimum Construction Standards**

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Sample Projects with creative approaches

- Mixing Rehab & New Construction
- Scattered Site & Subdivision
- Supportive Housing
- Multiple Funding Sources

Here are a couple of examples:

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Washington Project

Existing Units
35 scattered site units

New Construction Site
- 12 Units and Sports Court

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Washington Project Continued

Size	# Units	Basis Limits	Total Basis Limits	Blended/Unit
2BR	22	\$204,862	\$4,506,964	
3BR	18	\$265,864	\$4,785,552	
4BR	6	\$292,561	\$1,755,336	
6BR	1	\$292,561	\$292,561	
Totals	47		\$11,340,443	\$241,286

12 New Construction Units - ~\$320,000/unit = \$3,840,000
 35 Rehab Units - ~\$210,000/unit = \$7,350,000
 47 Total Units - \$11,190,000

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New Mexico LIHTC Project – Funding Sources

- LIHTC Equity
- NAHASDA
- HTF
- HOME
- AHP
- BIA/Tribal Roads
- IHS
- ICDBG
- ICDBG – Imminent Threat
- ARPA Funds
- State Transportation Funds




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How do the Numbers Really Work?

	Your Project	TC Project	Difference
Cost	\$ 4,500,000	\$ 5,675,000	
Less: Ineligible Costs		\$ (200,000)	
Equals: Basis		\$ 5,475,000	
Basis Boost		\$ 7,117,500	
Times: Credit Rate (9%) x 10		\$ 6,405,750	
Cost from above	\$ 4,500,000	\$ 5,675,000	\$ 1,175,000
Less Investor Equity @ \$0.81	\$ -	\$ (5,188,658)	\$ (5,188,658)
Less Leverage (AHP/IHBG/ETC)		\$ -	\$ -
Equals: Tribal Contribution	\$ 4,500,000	\$ 486,343	\$ (4,013,658)
Less: Developer Fee (15%)	\$ -	\$ (675,000)	\$ (675,000)
Equals: Final Cost	\$ 4,500,000	\$ (188,658)	\$ (4,688,658)
Cost/Unit	\$ 150,000	\$ (6,289)	\$ (156,289)
# of units	30	30	
Credits/Unit		\$ 21,353	

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Compliance, Asset Management, and Best Practices

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Key Players

- General Partner
- Limited Partner / Investor
- Internal Revenue Service
- State Housing Agency

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Key Players

- Tribal Council
- Housing Board
- Housing staff — “Compliance Team”
- Tenants
- State agency compliance officer
- Investor partner

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LIHTC Program Terms

- | | |
|---------------------|--------------------|
| BIN | •Rent-Up Period |
| •Building | •Credit Period |
| •Form 8609 | •Compliance Period |
| •Placed-In-Service | |
| •Minimum Set-Asides | |
| •Project | |
| •Unit | |

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NAHASDA: Principal Statutory Objectives

- Assist and promote affordable housing
- Improve access to mortgage finance markets for tribal housing
- Encourage self-sufficiency
- Plan and integrate infrastructure
- Promote private capital market participation

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NAHASDA: Statutory Divisions

Title I: Block Grants and Grant Requirements

Title II: Affordable Housing Activities

Title III: Allocation of Grant Amounts

Title IV: Compliance Audits and Reports

Title V: Termination of Assistance

Title VI: Federal Guarantees for Financing

Title VII: Other Housing Assistance

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NAHASDA: Key Requirements


- Formula
- Indian Housing Plan
- Eligible Beneficiaries
- Eligible Activities
- Program Administration
- Financial Management
- Reporting and Recordkeeping

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NAHASDA: Eligible Families

- Low-income Indian families
- Non low-income families
- Essential families
- Law Enforcement Officers


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Best Practices

- Well defined management structure
- Current audited financial statements and tax returns
- Detailed financial policy and procedures (including but not limited to)
 - Rent collection
 - Tenant accounts receivable
 - Accounts payable
 - Work order/maintenance expense tracking
- Detailed housing policy and procedures (including but not limited to)
 - Waiting list policies
 - Eviction policies
 - Drug and alcohol policies
 - Pet policies
- Structure of the housing organization

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Finance Area

The Tax Credit Limited Partnership (“LP”) must be treated as a separate business for accounting purposes

- it should have the following:
 - separate checking account
 - separate account for security deposits
 - ability to track income and expenses related specifically to the tax credit project.


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Finance Area

- Contracts should be made in the LP's name
- The LP must be able to provide quarterly and annual financial statements and tax returns
- If Housing Authority/Tribe pays an expense on behalf of the LP - expenses are reimbursed
- An experienced, independent tax credit accountant will need to be engaged on an annual basis to prepare the partnership tax return and the annual audit.
- The investors require that these items are completed by an independent third party accountant in a timely manner.

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Tenant Relations Area - Occupancy Specialist

- Occupancy Specialist process, including:
 - Procedures for intake
 - Procedures for processing paperwork
 - Procedures for maintaining tenant files

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Tenant Relations Area - Resident Services

- Resident Services Specialist process, including:
 - Procedures for inspections
 - Procedures for notification of tenant issues
 - Procedures for ensuring unit repairs completed

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Maintenance Area

Maintenance process, including:

- Procedures for routine maintenance
- Procedures for preventative
- Procedures for emergencies

- Maintenance staff
- Work order system
- Warehouse / Inventory

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Tenant Orientations

- The TDHE should require that applicants for the tax credit homes complete an orientation prior to move-in
- Orientation should explain:
 - TDHE/Tribal and LIHTC Program policies and procedures
 - Review of lease requirements
 - How to perform proper home maintenance
- Other optional training could be applied at this time (i.e. budgeting family expenses so that rent is paid/preparing tenant for eventual homeownership)

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Tenant Selections

What is the criteria?

- Pre-screening procedures
 - Criminal background check
 - Credit check
 - Drug Screening
 - Rental history and performance

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Required Documentation

Items to Get Started

- Copy of the Tax Credit Application
- Copy of all other Financing Sources
 - HOME
 - Bond
 - RD 515
 - etc...
- Copy of current Policy & Procedure Manual

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Required Documentation

Items to Get Started (cont' d)

- Copy of Land Use Restriction Agreement
- All Rental Forms:
 - Current Year Income & Rent Limits
 - Household Application
 - Verification Forms
 - Tenant Income Certification (“TIC”)
 - Lease

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Additional Program Rules

- Available Unit Rule
- Vacant Unit Rule
- Full-time Student Household
- General Public Use Rule
 - HERA clarification
- Violence Against Women Act (VAWA)

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Waiting Lists

- Use of TDHE waiting lists
- TDHE determines preference order
- Preference can be based upon tribal enrollment, application date, ability to pay rent, rental history, or current living conditions to name a few
- Waiting lists can be created for special categories:
 - Homeownership, Elders, Veterans, Disabled etc.

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NAHASDA: Waiting List Policy

- Establishes order of assistance to qualified candidates
- Used to implement preference system
- Essential to ensure compliance with carrying admissions and occupancy policies pursuant to program regulations and local rules
- Serves as source of data about need and demand for units by size, household type, special needs and location
- Should be updated annually
- May be closed if number of applications greatly exceeds available units

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NAHASDA: Household Waiting List Application

- Should be time- and date-stamped when received
- Should be accepted and processed to determine eligibility
- Staff can help applicant complete application
- If waiting list is closed, consider keeping an "inquiry list"

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NAHASDA: Waiting List Application

- Application should provide information to determine:
- Family characteristics
- Estimated annual gross income
- Appropriate size, location, and type of home for family
- Whether the family is suitable for participation in housing program, in accordance with local selection criteria
- Whether applicant may qualify for preference: Veterans, Disabled, Homeless etc.

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Qualifying LIHTC Households

- Income Limits
- Income Minimums
- Handicapped Units & other set-asides
- Contact Information for State Agency
- Current Utility Allowances & supporting documentation

NOTE: Utility Allowances must be updated on an annual basis.

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Household Composition

Special Rules for certain household types:

- Section 8 Recipients
- Zero Income
- Full-time students
- Live-In Attendants

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Household Composition

Treatment of Special Household Members:

- Excluded Members
- Foster Children/Adults (Change 4 – HUD Handbook)
- Live-in Attendants
- Absent Members
- Unborn Children

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Household Composition

Absent Household Members

Is absence permanent or temporary?

- Permanently absent - **not** counted
- Temporarily absent - **must** be counted

Examples of Permanently Absent:

- Divorce / Legal Separation
- Adult child moves from home
- Permanently confined to nursing home/hospital

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Household Composition

Examples of Temporarily Absent

- Military duty
- Working out of town
- Incarceration

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Full-Time Students
Requirements
and
Exceptions




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Full-Time Students

Rental to full-time student households has certain restrictions.

NOTE: Only applies to households where everyone is a full-time student

- Eligibility Requirements/Exceptions:
 - Married Filing a Joint Return
 - Receiving TANF/AFDC
 - In a program similar to Job Training Partnership Act (JTPA) – such as Workforce Investment Act (WIA)
 - Single parent claiming all children on tax return
 - One member of the household was previously in foster program




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Full-Time Students

- Full-time student household must meet an exception allowing eligibility EACH year.
- Household must complete Annual Student Certification form every year

Remember – this rule only applies to full-time student households



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Applications / Verifications / Recertifications

- Interview applicant
- Complete initial application
- Verify all information (income/assets)
- Determine total household income
- Complete the TIC and lease

Staff must know the specific state LIHTC requirements and must use state required LIHTC forms

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Verifications

Three types of verifications:

- Third party – sent directly to source and returned to HA
- Second party – Check stubs, award letters, etc. provided by Applicant
- First Party – Self Affidavits
- Third Party Verifications should be used whenever possible

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Verifications (cont'd)

- Verifications are good for 120 days
- After 120 days pass – verification process must be started over
- Must follow up on any information on verification that is not clear

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Tenant Annual Recertifications

- MUST be completed within 12 months of move in date (i.e. date of TIC/Lease)
- Late Recertification's are Noncompliance
- Need to make sure that household changes have not created a New Household
- Need to check Student Status
- LIHTC allows annual self certifications for 100% LIHTC projects (most projects must still comply with NAHASDA rules for recertifications)

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Determining Annual Household Income

- Income
 - Inclusions
 - Exclusions
 - Examples
- Assets
 - Types
 - Exclusions
 - Income from Assets
 - Imputed Asset Income

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NAHASDA: Income Eligibility

- Families with incomes at or below 80% of Median Income Limits
 - Eligible for program
- Families with incomes between 81 - 100%
 - 10% of IHBG can be used if no other Housing available.
 - NOTE: Must include provision in IHP
- Families with incomes above 100% of Median Income - NOT ELIGIBLE. Assistance provided to households over 100% of income limit must be approved by HUD.


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NAHASDA: Income Eligibility

Primary beneficiary of NAHASDA/IHBG resources:
 Family's annual income may not exceed 80 percent of median income, either:

- Area median income
- U.S. median income
- Adjustments for family size

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NAHASDA: Income Eligibility

Non - Low Income Households:

Assistance can be provided for:


- Homeownership activities
- Model activities
- Loan guarantees under Title VI of NAHASDA

Must demonstrate that need for housing cannot reasonably be met without IHBG assistance

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Annual Household Income - LIHTC

- Must follow guidelines in HUD Handbook, Section 4350.3, Chapter 5 (as amended)
- Must use GROSS income (not net income)
- Must annualize over 12 months – (even if lease term is shorter)
- Household Income = Income + Asset Income
- Income = Regular, Periodic (wages, SSI, TANF, etc)
- Asset = Lump Sum, Accessible (Bank Accounts, Savings, Real Estate, Annuities, etc.)

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Examples of Included Income

- Employment Income
- Social Security
- TANF
- Alimony & Child Support
- Recurring Gifts
- Public Assistance
- Payment in lieu of earnings (unemployment benefits, workers compensation, severance pay)
- Per Cap from gaming activities

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Examples of Excluded Income

- Food Stamps
- Section 8 Assistance
- Payment for foster care
- Hostile fire pay to military members
- First \$2,000 of per cap income from Tribal Trust Land activities
- Earnings in excess of \$480 of adult dependent full-time students
- Student Financial Assistance

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Assets

- Savings Accounts, Checking Accounts, Money Market, etc.
- IRA, 401K, etc.
- Real Estate ownership
- Whole Life Insurance
- Pension & Retirement Plans

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Examples of Excluded Assets

- Personal property (vehicle that is used on a regular basis, jewelry, furniture, etc.)
- Assets that are not owned or accessible to the client
- Interest in Indian Trust Land
- Assets lost in divorce, foreclosure or bankruptcy
- Term Life Insurance
- Assets disposed of for fair market value

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Asset Income

- Asset income equals the greater of: Actual asset income vs. Imputed asset income
- Imputed asset income is ONLY calculated if the cash value of the asset is \$5,000.00 or more.
- Asset income is determined using the interest rate, dividends, etc. If the asset does not earn income (i.e. a non-interest bearing checking account) then there is no income for that asset
- Imputed asset income is calculated using the HUD Passbook rate of 0.06%.

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Asset Income (cont'd)

- Must count assets and asset income from all assets, including assets of minors.
- Under \$5,000 Asset Certification form required for all tenant files where household assets total less than \$5,000

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Lease

- Initial Lease Term must be at least 6 months
- Do not pre-sign lease — sign lease same day keys are given for the rental property
- Move-in date and signature date on lease and TIC should all be the same
- Lease must contain language identifying the LIHTC program requirements

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Violence Against Women Act (VAWA)

Applies to:

- Public housing
- Section 8 Housing Choice Voucher Program
- Section 8 Project Based Housing
- Section 202 Housing for elderly
- Section 211 Housing for disabled
- Section 236 Multi-family rental housing
- Section 221 Below Market Interest Rate
- HOME
- Housing Opportunities for Persons with AIDS (HOPWA)
- Housing Trust Fund
- McKinney-Vento Act homeless programs
- Rural Development multifamily housing and
- Low-Income Housing Tax Credit (LIHTC) housing

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Violence Against Women Act (VAWA)

- Victimization cannot be used to deny access or evict tenants
- Applicants cannot be denied access or evicted based on factors directly related to the victimization
- VAWA Notice of Occupancy Rights
- Victim Self-Certifications
- Confidentiality
- Emergency Transfer Plans
- Lease Bifurcations and Addendums
- HUD Model Forms

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Inspections

- TDHE & Tenant Expectations
- Tenant Files
- Physical Inspection of Units
 - Five Inspectable Areas Defined by UPCS
- Consequences
- Remedies

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Inspections

- Project will be inspected by both the State Housing Agency and the tax credit investor
- Leasing units and tenant files will both be inspected.
- Two week notice will be provided prior to the inspection date
- Tenants must receive written notice of the time & date of inspection. Notice should contain language advising the tenant that their unit will be inspected even if they are not home.
- Maintenance and occupancy staff should have a plan to prepare for inspections

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Inspections (continued)

- Housing staff must inspect units on a regular basis, provide written reports for the tenant files, issue work orders and follow up on all findings
- Most inspectors utilize the Uniform Physical Conditions Standards (“UPCS”) protocol
- Physical inspections will include both the interior and exterior of the unit as well as any common areas
- All inspections should be performed with a representative of the maintenance staff present.

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Inspections (continued)

- Maintenance staff should have all necessary items to complete quick repairs at time of inspection.
 These items include:
 - Batteries for smoke detectors
 - Replacement smoke detectors
 - Sink/tub stoppers
 - Ladders, washers, screws, light bulbs
- Maintenance staff person should check smoke detectors, stove fans and burners, pilot lights for inspector when inside the unit.

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Tenant Files

- Should be neat and organized
- File set up should be consistent from file to file
- Tenant Files must include:
 - Application
 - Verifications
 - Clarification records
 - TIC
 - Lease & Addendums
- Have a duplicate set of files
- Should have a file for each unit and each household that lived in the unit

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IRS Form 8823

- Who issues it?
- What is it?
- When is it issued?
- Where is it filed?
- Why is it issued?
- How is it corrected or prevented?


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IRS Form 8823

- Issued by State HA to show:
 - Corrected/Uncorrected Compliance Findings
- Filed with IRS
- Failure to correct may result in recapture/ loss of tax credits
- **Remember: Only the IRS can recapture tax credits**

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Satisfying State, Federal, and Investor Program Requirements

What are they looking for?

- Well defined management structure
- Current audited financial statements and tax returns
- Detailed financial policy and procedures-including but not limited to:
 - Rent collection
 - Tenant accounts receivable
 - Accounts payable
 - Work order/maintenance expense tracking
- Detailed housing policy and procedures - including but not limited to:
 - Waiting list policies
 - Eviction policies
 - Drug and alcohol policies
 - Pet policies
- Structure of the housing organization


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State Requirements

- Minimum 15-Year Compliance Period
- States may have different reporting requirements but all expect submission at least annually
- Onsite inspections of units and tenant files
- Noncompliance reported by state agency to IRS on Form 8823

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Other Requirements


- Investor Reports
 - Quarterly Financials
 - Occupancy Reports
 - Certificates or statements confirming that the partnership remains in compliance
 - Other reports the investor deems necessary to evaluate the partnership (e.g. Business Report)
- Annual Reports
 - Tax Return & Audit
 - Operating Budget
 - Utility expense changes
 - Insurance Renewal

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Questions?

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THANK YOU!

www.RTHawkHousing.com
