Low Income Housing Tax Credits Program Setup: Finance Workshop

Southwest Tribal Housing Alliance
7th Annual Housing Forum
Casino Del Sol Resort – Tucson, AZ
July 30, 2015

www.VitalSpiritllc.com

VitalSpirit LLC

- Team of six professionals
- Combined total of over 50 years experience working with LIHTC projects sponsored by Tribal entities
- Principals and staff have worked on over 300 LIHTC (includes tribal, non-profit, and for-profit) projects on financing and/or compliance services
- Projects were a mix of new construction and rehabilitation
  - Included housing for seniors, families, homeless, and other special needs.

Housing Strategies Built to Fit

Project Planning

- What is on your wish list?
  - Do you have existing rental housing that is in need of major repairs?
  - How many new housing units do you need and serving what populations and income levels?
  - Do you have available land?
  - What about infrastructure?
  - How are you going to pay for these projects?
  - What are your priorities?
  - What about the timeline?
  - Is your Housing Authority ready?

Housing Strategies Built to Fit

Determine Housing Needs – Population

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

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Determine Housing Needs – New Construction

- Reduce you Waiting List
- Alleviate Overcrowding
- Homeownership
- Rental
- Green components
- Availability of Land
- Infrastructure
- Infill

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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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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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Determine Financing Programs

- Tribal
- NAHASDA
- ICDBG
- BIA / IHS
- Rural Development
- State Housing Funds
- HOME Funds
- Low Income Housing Tax Credits (LIHTC)
- New Markets Tax Credits (NMTC)
- Solar Tax Credits
- Affordable Housing Program
- Other

Housing Strategies Built to Fit

Determine 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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Additional Planning Strategies

- Strategic Planning / Needs Assessments
- Training
- Networking
- Visit successful projects
- Revisit policies and procedures
- Bulk up the waiting list
- 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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Determining Capacity – Staffing

- Does housing staff have experience with the LIHTC program?
- If so, how are your existing LIHTC projects performing?
- Is there adequate staff for a new program/project?
- Does housing staff have experience with construction projects?
- General Contractor vs. Subcontractors vs. Construction Management
- Training and technical assistance
- Using consultant(s)

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Short Term Considerations – Support & Sources

- Is the Tribal Council and Housing Board supportive of the project?
- 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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Common Concerns about Leveraging

- Capacity
- Land Status
- Tribal Preference
- Rents
- Evictions
- Inspections
- Ownership Structure

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Housing Strategies Built to Fit

Tribal Housing Development: Leveraging Success Stories

Iscani Subdivision – Phase I

LIHTC Equity
AHP Grant
NAHASDA
Tribal

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Tribal Housing Development: Leveraging Success Stories

Iscani Subdivision – Phase II

LIHTC Equity
AHP Grant
NAHASDA
Tribal

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Tribal Housing Development: Leveraging Success Stories

Cuspes Park

LIHTC Equity	USDA
NAHASDA	BIA
MSHA	IHS
AHP	Other
Title VI	

Housing Strategies Built to Fit

Tribal Housing Development: Leveraging Success Stories

White Sands Village

LIHTC Equity
NAHASDA
RHED

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Tribal Housing Development: Leveraging Success Stories

White Sands Village – Phase II

LIHTC Equity
AHP
HOME
NAHASDA

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Tribal Housing Development: Leveraging Success Stories

Yavapai Homes IV

LIHTC Equity
Solar Equity
AHP
NAHASDA

Tribal Housing Development: Leveraging Success Stories

Lac Courte Oreilles Homes II

LIHTC Equity
NAHASDA
WHEDA

ZHA LIHTC #1 (NM19-08 in Blackrock)

- 4-Plex Unit (5 ea.) - Rehab
- 6-Plex Units (3 ea.) - Rehab
  Total: 38 Units
- Community Building - New
- LIHTC Award: $584,862 in Credits

ZHA LIHTC #1 Continued

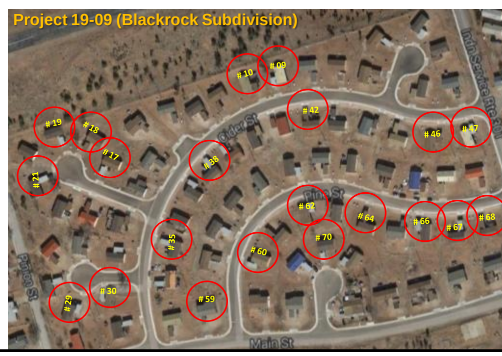
- Tax Credit Consultant: Vital Spirit
- Architect: Suina Mead Architects
- Investor: Raymond James Tax Credit Funds, Inc.
- Contractor: ***ZHA Force Account***

ZHA LIHTC # 1

Construction Period Sources:		Final Out of Pocket Costs for ZHA	
Value of Units	$ 1,100,000	Initial ZHA Contribution	$ 726,034
RJTCF Equity	$ 5,204,751	Less:	
AHP Funding (applied)	$ 266,000	Contractor Fees	$ 487,975
ZHA or Pimero Loan	$ 726,034	Developer Fees	$ 780,000
Total Sources	$ 7,296,785	Equals: Net out of pocket	$ (541,941)
Uses:			
Acquisition of the Units	$ 1,100,000		
Rehab of units	$ 3,531,012		
Community Space	$ 218,226		
Construction Contingencies	$ 423,721		
Contractor Fees	$ 487,975		
Tenant Relocation Fees	$ 52,000		
Soft Costs / Professional Fees	$ 555,032		
Operating Reserves	$ 68,819		
Consulting Fees	$ 80,000		
Developer Fees	$ 780,000		
Total Uses	$ 7,296,785		

ZHA LIHTC #2 (Reservation)

- 21 Units - LR Rehab
- Community Building - New
- LIHTC Requested: $343,087 in Credits



ZHA LIHTC # 2

Construction Period Sources:		**Final Out of Pocket Costs for ZHA**	
Value of Units	$ 630,000	Initial ZHA Contribution	$ 410,145
RJTCF Equity	$ 2,915,953	Less:	
AHP Funding (anticipated)	$ 147,000	Contractor Fees	$ 260,190
ZHA	$ 410,145	Developer Fees	$ 402,500
Total Sources	$ 4,103,098	Equals: Net out of pocket	$ (252,545)
Uses:			
Acquisition of the Units	$ 630,000		
Rehab of units	$ 1,858,500		
Community Space	$ 200,000		
Construction Contingencies	$ 205,850		
Contractor Fees	$ 260,190		
Tenant Relocation Fees	$ 42,000		
Soft Costs / Professional Fees	$ 388,882		
Operating Reserves	$ 45,176		
Consulting Fees	$ 70,000		
Developer Fees	$ 402,500		
Total Uses	$ 4,103,098		

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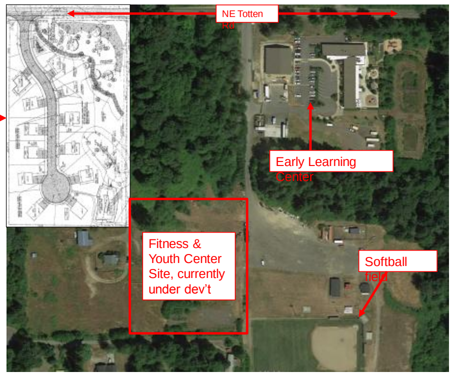
AERIAL
Suquamish
Tribe -
Washington

Totten Housing Development Site



Totten Housing Development

Trinity River Elders' Village

- Yurok Indian Housing Authority project on Hoopa Reservation
- Total Development Cost - $4,760,085
- Investor Equity - $3,134,573 (includes solar credits)
- Net YIHA Contribution - $892,000 (Also applied for $330,000 AHP grant)
- 12 single family units and a community building
- Solar panels will offset 50% of the homes' and 75% of the community building's energy usage.

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LIHTC Project Stages

- Planning stage: defining community needs, financing, and staff
- Implementation: Define Project & Secure Financing (LIHTC Application)
- Construction Completion & Initial Rent Up (LIHTC Carryover)
- Closeout of initial finance requirements (LIHTC Form 8609's)
- Normalized / regular operations
- Completion of initial 15 year compliance period

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Low Income Housing Tax Credit Program

- Alleviate unmet housing needs
- Define your projects
- Offer homeownership opportunities/incentives
- Rehabilitate your CAS or other units
- Include community amenities/services
- Incorporate green building techniques

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Key Players

- Tribal Council & Housing Board
- Housing staff – Development/Finance/Operations
- Tenants
- State agency
- Investor partner
- Other funding partners
- Independent tax credit experienced accountant
- Architect and Energy Consultant?
- Consultant?

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Low Income Housing Tax Credit Program

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

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Low Income Housing Tax Credit Program

- Generates tax credits for investors. The credit is a dollar-for-dollar reduction in tax liability.
- Not a tax deduction
- The credits offset an investor's taxes over a 10-year period
- Primarily used by institutional investors

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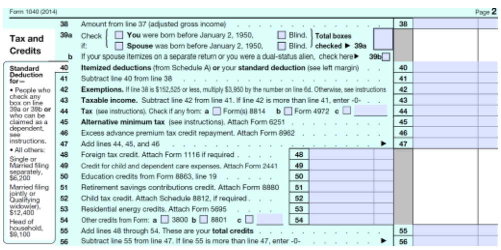
Low Income Housing Tax Credit Program


Form 1040 (2014) Page 2

Tax and Credits

38	Amount from line 37 (adjusted gross income)	38	
39a	Check if: ☐ **You** were born before January 2, 1950, ☐ Blind. ☐ **Spouse** was born before January 2, 1950, ☐ Blind. **Total boxes checked** ▶ 39a		
b	If your spouse itemizes on a separate return or you were a dual-status alien, check here ▶ 39b ☐		
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 $152,525 or less, multiply $3,950 by the number on line 6d. 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** ☐ Form(s) 8814 **b** ☐ Form 4972 **c** ☐	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 5695	53	
54	Other credits from Form: **a** ☐ 3800 **b** ☐ 8801 **c** ☐	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	

Standard Deduction for—
• People who check any box on line 39a or 39b **or** who can be claimed as a dependent, see instructions.
• All others:
Single or Married filing separately, $6,200
Married filing jointly or Qualifying widow(er), $12,400
Head of household, $9,100

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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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Federal LIHTC program requirements

- There is a 15 year mandatory compliance period and a 15 year extended use period
- 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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Federal LIHTC program requirements

- 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
  - 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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2015 Income Limits - McKinley County

	Charts	60.00%	50.00%
1 Person		22,740	18,950
2 Person		25,980	21,650
3 Person		29,220	24,350
4 Person		32,460	27,050
5 Person		35,040	29,200
6 Person		37,680	31,400
7 Person		40,260	33,550
8 Person		42,840	35,700

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2015 Rent Limits - McKinley County

Bedrooms (People)	Charts	60.00%	50.00%
Efficiency (1.0)		568	473
1 Bedroom (1.5)		609	507
2 Bedrooms (3.0)		730	608
3 Bedrooms (4.5)		843	703
4 Bedrooms (6.0)		942	785
5 Bedrooms (7.5)		1,038	865

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New Mexico Timeline

- The QAP training is typically in mid-November
- Applications are typically due the beginning of February
- Preliminary award announcements are typically in April
- Final award announcements are typically in May

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Arizona Timeline

- The QAP training is typically in January
- Applications are typically due March
- Final award announcements are typically in June/July

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Texas Timeline

- Pre-applications are due in January
- Full applications are typically due in February
- Preliminary award announcements are typically in April
- Final award announcements are typically in July

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Low Income Housing Tax Credit Program

- 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
    - currently 7.53%
  - 4% credits - Bond projects or acquisition
    - Currently 3.23%

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How LIHTC financing works

- Tribal construction loan = total dev. cost (TDC) less investor equity
- Investor equity = annual credits x 10 x price per credit (i.e. $0.80 - $0.90)
- 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.

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How LIHTC financing works

- 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 DDAs

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Flow of tax credits

- 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

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Partner Roles - Investor

- Syndicator versus Direct Investor
- 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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Partner Roles – Tribal Entity

- 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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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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Fun with Numbers – New Construction

	Your Project		TC Project		Difference
Cost	$ 4,050,000		$ 4,957,500		
Less: Ineligible Costs			$ (200,000)		
Equals: Basis			$ 4,757,500		
Basis Boost			$ 6,184,750		
Times: Credit Rate (7.5%) x 10			$ 4,638,563		
Cost from above	$ 4,050,000		$ 4,957,500		$ (907,500)
Less Investor Equity @ $0.80	$ -		$ (3,710,850)		$ 3,710,850
Less AHP or ICDBG			$ (350,000)		$ 350,000
Equals: Tribal Contribution	$ 4,050,000		$ 896,650		$ 3,153,350
Less: Developer Fee (15%)	$ -		$ (607,500)		$ 607,500
Equals: Final Cost	$ 4,050,000		$ 289,150		$ 3,760,850
# of units	$ 30		$ 30		
Cost/Unit	**$ 135,000**		**$ 9,638**		**$ 125,362**

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Fun with Numbers – Rehabilitation

	Your Project		TC Project		Difference
Cost	$ 2,250,000		$ 4,387,500		
Less: Ineligible Costs			$ (200,000)		
Equals: Basis			$ 4,187,500		
Basis Boost			$ 4,993,750		
Times: Credit Rate (7.5%/3.2%) x 10			$ 3,100,313		
Cost from above	$ 2,250,000		$ 4,387,500		$ (2,137,500)
Less Investor Equity @ $0.80	$ -		$ (2,480,250)		$ 2,480,250
Less AHP or ICDBG			$ (350,000)		$ 350,000
Less Value of CAS			$ (1,500,000)		$ 1,500,000
Equals: Tribal Contribution	$ 2,250,000		$ 57,250		$ 2,192,750
Less: Developer Fee (15%)	$ -		$ (337,500)		$ 337,500
Equals: Final Cost	$ 2,250,000		$ (280,250)		$ 2,530,250
# of units	$ 30		$ 30		
Cost/Unit	**$ 75,000**		**$ (9,342)**		**$ 84,342**

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What are the Risks?

- Health and safety issues that make the unit uninhabitable
- Incorrectly determining rents and/or incomes
- Complete loss of unit and no rebuild
- Failure to meet certain deadlines during the credit award through project close out stages.

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After credit reservation

- Solicit investors for a letter of intent
- Complete the due diligence process (land survey, Phase I environmental study, A & E, land lease, etc.)
- Execute legal documents (partnership agreement, management agreement, loan documents, guarantees, etc.)
- Complete construction (equity draws, inspections)
- Qualify tenants
- Complete close out documentation (cost certification, 8609s)
- Operate the project throughout the compliance period

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Financing Needs - AHP Grant

Federal Home Loan Bank System

- Authorized by Congress in 1932
- Comprised of 12 regional, independent Banks
- The mission of the Banks is to provide liquidity and stability to the nation's financial system, and to promote housing and economic development in communities

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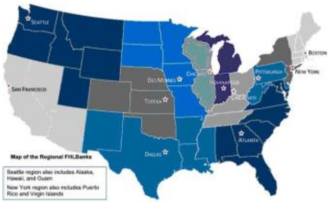
AHP Grant



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AHP Grant

Affordable Housing Program (AHP)

- Households must be at or below 80% of Area Median Income (AMI)
  - NOTE: At least 20% of units must be targeted at 50% AMI or below on Rental projects

- Retention Periods / Deed restrictions:
  - Rental = 15 years / Homeownership = 5 years

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AHP Grant

Project Types

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

- Homeownership
  - Development Projects - New Construction and Acquisition/Rehab
  - Development – Habitat for Humanity Projects
  - Owner Occupied Rehabilitation
  - Down Payment and Closing Cost Assistance

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AHP Grant

Example: AHP Scoring Criteria

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)
Priority 7 – Second District Priority (rural, veterans, economic diversity)
Priority 8 – Subsidy Per Unit
Priority 9 – Community Stability (Owner-Occupied Rehab, Adaptive Re-Use, Revitalization Plan, New Construction in Difficult Urban Areas, & Abatement of Hazardous Environmental Conditions)

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

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Questions?

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