



# LOW INCOME HOUSING TAX CREDITS

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# LOW INCOME HOUSING TAX CREDITS

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- I. What are LIHTCs?
- II. Leveraging Resources with LIHTC
- III. 4% vs. 9% Credits





## WHAT IS A TAX CREDIT?

- Dollar for dollar reduction in tax liability used by investors per Section 42 of IRS Code
- Investor provides capital / equity in exchange for tax credits
  - Equity provided to develop project
  - Tax Credits received over 10-year period
  - Not a loan – No debt-service payments







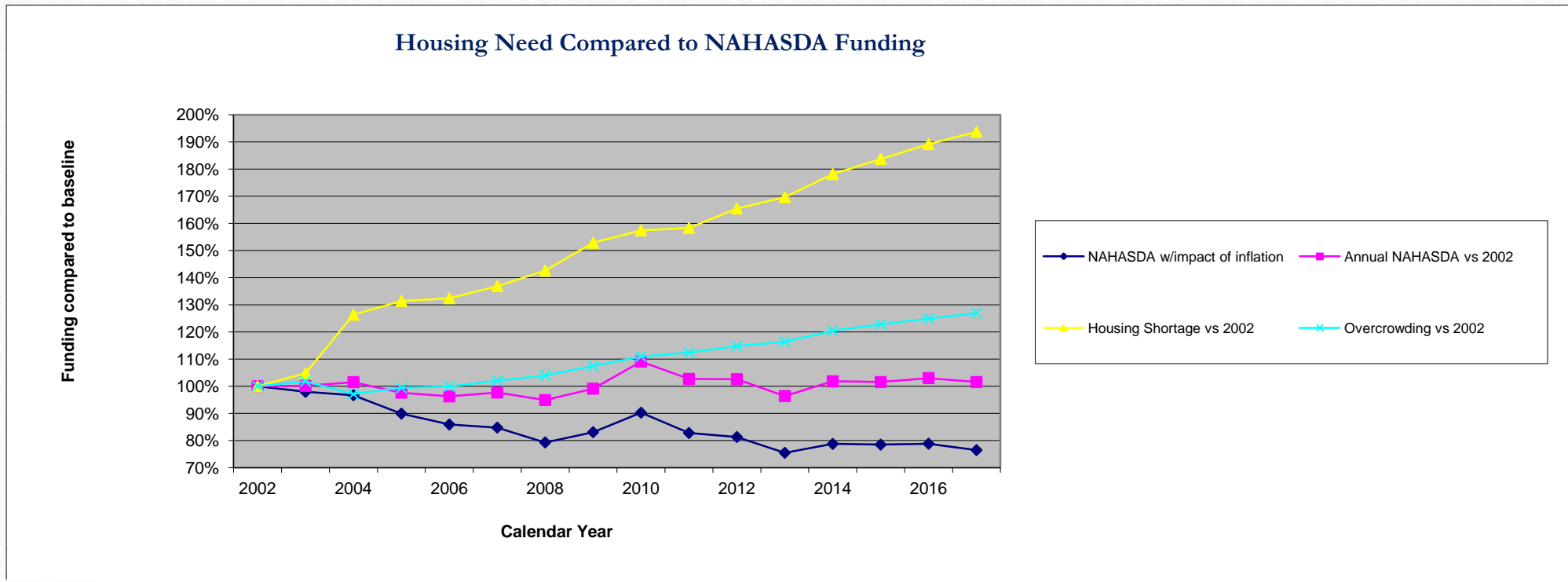
# WHY LOW INCOME HOUSING TAX CREDITS?

- Housing Needs for Specific Target Populations or Income Levels
- Equity financing for development or rehabilitation of affordable housing
  - Can include Community Buildings used by qualified housing tenants
- Leverage other funding sources to meet growing housing needs
  - More units built/rehabilitated with less TDHE funding
- Potential Source of Employment
  - Housing is managed by Tribally Designated Housing Entity
  - May be constructed by TDHE or third-party contractor
- Development Fee





# HOUSING NEED VS. NAHASDA FUNDING





# LEVERAGING EXAMPLE

	<u>Without Tax Credits</u>	<u>With Tax Credits</u>
Available TDHE Capital	\$1,000,000	\$1,000,000
Tax Credit Equity	\$0	\$4,000,000
Total Available Capital	\$1,000,000	\$5,000,000
Avg Cost Per Unit	\$200,000	\$200,000
Number of Units Built/Rehabbed	5	25

- Assumes \$1MM in TDHE Capital Available
- Assumes RJTCF historic average of 80% of cost paid for with Investor Partner Equity
- Assumes average cost per unit of \$200,000







# KEYS TO SUCCESS

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- I. What are my needs?
- II. What is my capacity?
- III. Project Support





## WHAT ARE MY NEEDS?

- Housing Waiting List (overcrowding)
- Rehabilitation of existing housing stock vs. New Construction
- Families, Seniors, Veterans, Homelessness, Special Needs, Income Ranges?
- Location (Trust Land vs. Fee Land)
- Employment
- Amenities







# WHAT IS MY CAPACITY?

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- Human Resources
  - State Deadlines, Training, Construction Schedule (weather)
- Infrastructure
- Self-Performance vs. third-party contractor
- Availability of Land





# WHAT IS MY FINANCIAL CAPACITY?

- Tribal Funding programs:

- NAHASDA

- Loans:

- Rural Development
- Section 184
- Title VI
- HOME

- Equity – LIHTC

- Operational Subsidy – VASH

- Grants:

- ICDBG
- IHBG
- BIA / IHS
- HTF
- AHP

- Stimulus:

- ARPA
- CARES







# PROJECT SUPPORT

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- Tribal Council
  - Changes in Elected Leadership over time
- Housing Board
- Housing Staff
  - Training Opportunities / Technical Assistance
- Meeting Community Needs





# OBTAINING TAX CREDITS

- Tax Credit Application
  - Market Study
  - Legal Documents Required under QAP
  - Demonstration of Need, Capacity, Commitment, etc.
  - Project Defined
- Projects awarded credits based on scoring under Qualified Allocation Plan
  - Competitive Scoring Process
- Tax Credit Allocation







# TERMS TO KNOW

- Letter of Intent and Partnership Agreement
- Price per Credit
- Guarantees:
  - Completion, Operating Deficit, Tax Credit, Title
- Credit Delivery and Equity Delivery
- Adjusters
- Development Fee
- Leases
- Bureau of Indian Affairs
- Environmental Considerations (ESA vs. EA)





# PROJECT FINANCING STRUCTURE

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- TDHE Debt
- TDHE Equity – Managing Partner, but 0.01% interest
- Investor Partner Equity
  - = annual credits x 10 x Price Per Credit x 99.99%
- TDHE also receives Development Fee







# GENERAL CONCEPTS

- LIHTC Equity 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% to 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.





## GENERAL CONCEPTS

- 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







# PATH TO CLOSING

- Due Diligence Checklist
- Title/Survey (BIA) and Leases
- Plans & Specs
- Financials / Insurance
- Contracts (GC, Architect, Engineering)
- Environmental
- Partnership Agreement and Guarantees
- Closing Docs (Loans, Rental Assistance, Mgmt Agreement, Compliance Agreements, Legal Opinions, etc.)
- Tribal and Housing Board Resolutions





# CONSTRUCTION

- General Contractor, Subcontractors, Construction Management
- Monthly Draws & Change Orders
  - Contingency
- Architectural Inspections
- State Agency Reporting
- Communication with Accountant
- Placed-In-Service Requirements
- Certificates of Occupancy
- Lease-Up and Tenant Qualification
- 8609s







## PROJECT OPERATION & ASSET MANAGEMENT SUPPORT

- Managing Partner = Decision Maker, Responsible for day-to-day Operation
- 15-year Initial Compliance Period
- Annual State Agency Compliance Visits
- Annual Investor Partner Compliance Visits
- Annual Reporting: Tax Returns and Audits
- Maintenance of Units, Inspections, Compliance, Budgets





# PROJECT CLOSEOUT

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- Year 15 – Investor Partner exits the Partnership
  - 15-year Extended Use Period
- Homeownership?
- Rehabilitation / Re-syndication?







# 4% VS. 9% CREDIT PROJECTS

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## 9% LIHTC PROJECTS

- Most Common LIHTC Structure with TDHEs
- Typically More Suitable for Scale and Scope of Rural Projects
- Eligible or Qualified Basis multiplied by 9%







## 4% LIHTC PROJECTS: STRUCTURE

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- Eligible or Qualified Basis multiplied by 4% (now fixed)
- Must-Pay Debt
- Feasibility Studies
- Construction Loan
- Soft Financing from local municipalities
- Non-Tribal Rental Assistance





## 4% LIHTC PROJECTS

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- Most Commonly Seen in Urban Settings
  - Mixed Income and Mixed Use Developments
  - Urban Housing May Serve Tribal Members and Descendants
  - Economic Opportunity and Homelessness
- Substantial Scale and Scope Required to Make Sense
- Eligible or Qualified Basis multiplied by 4% (now fixed)







## 4% LIHTC PROJECTS: MIXED USE AND MIXED INCOME

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- Mixed Income is for households of various income levels.
  - Market Rate may Subsidize lower-income units
- Mixed Use is the use of a building or set of buildings for more than one purpose.
  - Economically subsidize the affordable housing
  - Amenities and services for tenants.
  - Could be completely unrelated
  - May combine office, commercial, and residential
  - Allows for new “town center.”
  - Proximity to Employment Opportunities





## 4% LIHTC PROJECTS: MIXED USE AND MIXED INCOME

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# 4% LIHTC PROJECTS: LAND AND JURISDICTION

- Site Selection
- Competitive Scoring
  - Distance to Amenities
  - Walkability
  - QCT/DDA
- Jurisdiction – Typically Not Trust Land
  - Real Estate Taxes or PILOT
  - Zoning
  - Permits
- Partnership Owns the Land





## 4% LIHTC PROJECTS: TRIBAL PREFERENCE

- When can Tribal Preference be used on Fee Land?
- Combined Funds: Housing located on land where Tribe does not have sovereignty/civil jurisdiction and project is funded with IHBG and other federal funds with nondiscrimination requirements.
- Example: HOME and CDBG funds considered combined when used on non-Tribal sovereign land. Must designate NAHASDA restricted units; if all units are similar then units funded can be determined on prorated basis.







# 4% LIHTC PROJECTS: TRIBAL PREFERENCE

Funding Source\Location of the Activity		Within Indian Land	Outside Indian Land
100% NAHASDA		Low-Income Indians Only Tribal Preference Allowed	Low-Income Indians Only Tribal Preference Allowed
Mixed	"Leveraged"	Low-Income Indians Only Tribal Preference Allowed	Low-Income Indians Only Tribal Preference Allowed
		Check with other federal sources to be safe	Check with other federal source to be safe
	"Combined"	With Private Funding Low-Income Indians Only Tribal Preference Allowed	Proportionality Rule
		With Public Funding Low-Income Indians Only Tribal Preference Allowed	Proportionality Rule
		Waivers may be necessary from other public funding sources (incl. state)	Waivers may be necessary from other public funding sources (incl. state)
0% NAHASDA		Open question as to whether Fair Housing Act applies in Indian Lands without waiver given by NAHASDA	Follow state and federal Non-Discrimination Laws. May not limit/prefer Housing to Indians and May not give Tribal preference.





## 4% LIHTC PROJECTS: KEY PARTNERSHIPS

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- Tribal Leadership
- Service Providers
- Third-Party Management
- Non-Profits







THANK YOU!

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