“Structuring the Financing”
Affordable Rental Housing Development Training
Albuquerque, NM
August 15, 2013
Structuring the Financing

1. Create a development budget (Schedule A)
2. Establish rents (Schedule B)
3. Develop an operating budget (Schedule C)
4. Calculate loan size
5. Determine how to fill the financing “gap”
6. Assess project feasibility and revisit assumptions made in steps 1-4 if needed
Development Budget

Budget Considerations:

- Size and type of project
  - No. of units - Size of units – Amenities
- Construction Methods (Green)
- Location
- Builder and Developer fee limits
- Construction Contingency
- Tax Credit scoring considerations
- Reserve requirements
Development Budget (continued)

- Profit & General Requirements capped at 6% each of Construction Cost
- Builder’s Overhead capped at 2% of Construction Cost
- Minimum Contingency = 5% New; 10% Rehab
- Operating Reserve = 6 months of Operating Expenses, Debt Service, and Replacement Reserve payments
Development Budget (continued)

- Developer Fees capped as a percentage of Total Development Cost (TDC) before developer’s fees, consultant fees, and reserves
  - 15% for projects of 30 or fewer units
  - 14% for projects of 31-60 units
  - 13% for projects of 61-74 units
  - 12% for projects of 75-99 units
  - 10% for projects of 100 or more units
Case Study – Majestic 12 Apartments
Roswell - 50 units new construction (25 two BDRM & 25 three BDRM) @ 50% AMI

SCH A: Development Cost Budget - See Tab 4

- Builder’s Profit, Overhead & General Requirements are provided.
  - Why might they be below allowable limits?
  - Is the construction contingency adequate?
  - Developer fee % on this project?
Case Study (continued)

$ 8,700,000  TDC before Developer Fee & Reserves

14% Allowed Percentage (i.e. 31 to 60 units)

$ 1,218,000  Max Developer Fee (includes consultant fees)

Therefore TDC before reserves is $9,918,000, but we still need to calculate reserves

How? Depends on how much debt the project can carry

Let’s start with revenues
Rent Considerations:

- Market
- Financing Source Limitations (e.g. Home & LIHTC Limits)
- Utility Allowances – What are they? We assume all electric for this project – See Tab 4
- Project based Section 8 vouchers
Case Study (continued)

- Refer to LIHTC Income/Rents Limits – See Tab 5
- Use Area Median Income (AMI) of $47,900 since it is above non-metro median of $47,000
- Use LIHTC chart to determine maximum rent by bedroom size & AMI level
- Why might you want to use lower rents?
- Let’s look at projected rents (@ max allowable)
**Case Study**  
50% AMI @ Max LIHTC Rents

<table>
<thead>
<tr>
<th>MFA’s – Schedule B</th>
<th>Restricted Units at 50% of Median</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number BR/Unit Type</td>
<td>2-BR</td>
</tr>
<tr>
<td>Sq. Ft. per Unit</td>
<td>850</td>
</tr>
<tr>
<td>Number of Units</td>
<td>25</td>
</tr>
<tr>
<td>Gross monthly rent/unit</td>
<td>540</td>
</tr>
<tr>
<td>Minus: Utility Allowance</td>
<td>74</td>
</tr>
<tr>
<td>Net Monthly Rent/Unit</td>
<td>466</td>
</tr>
<tr>
<td>Annual Rental Income</td>
<td>139,800</td>
</tr>
</tbody>
</table>
Case Study (continued)
Schedule C - Operating Budget

- Vacancy Allowance
  - Concessions - Turnover - Collections
- Other Income
- Operating Expenses
  - Self Managed or Third-Party Management
  - Owner paid utility expenses
  - Services provided for targeted population
  - Trends in taxes and insurance
  - Reserve Requirements
Case Study (continued)

- What is a reasonable vacancy factor?
  MFA uses higher of 7% or market study

- How about Replacement Reserves (RR)?
  ✓ $250/unit/year senior housing new construction, or
  ✓ $300/unit/year all other new construction
  ✓ Rehabs? Per Capital Needs Assessment

- Let’s look at MFA’s Schedule C (FYI, 15 year cash flow projections will be required)
## Case Study (continued)

<table>
<thead>
<tr>
<th></th>
<th>Monthly</th>
<th>Annually</th>
<th>Per unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Rental Income</td>
<td>$24,775</td>
<td>$297,300</td>
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<tr>
<td>Less Vacancy (7%)</td>
<td>(1,734)</td>
<td>(20,811)</td>
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<tr>
<td>Laundry/Misc. Income</td>
<td>875</td>
<td>10,500</td>
<td></td>
</tr>
<tr>
<td>Less Vacancy (7%)</td>
<td>(61)</td>
<td>(735)</td>
<td></td>
</tr>
<tr>
<td>Total Income</td>
<td>23,855</td>
<td>$286,254</td>
<td>$5,725</td>
</tr>
<tr>
<td>Less Operating Expenses</td>
<td>16,465</td>
<td>197,585</td>
<td>3,952</td>
</tr>
<tr>
<td>Less Replacement Reserve</td>
<td>1,250</td>
<td>15,000</td>
<td>300</td>
</tr>
<tr>
<td>Net Operating Income (NOI)</td>
<td>$6,140</td>
<td>$73,669</td>
<td>$1,473</td>
</tr>
</tbody>
</table>
Case Study (continued)

- NOI is the cash flow available to service debt
- NOI/Debt Service = DSCR
  (Debt Service Coverage Ratio)
- Calculations
  - NOI/DSCR = Debt Service
  - Debt Service/Loan Constant = Maximum Mortgage
- How much debt can the project support?
Case Study (continued)

- Calculate the annual amount available to service debt, which is:
  - NOI divided by 1.20
  - Why 1.20? (it is a debt service cushion)

- Calculate maximum loan size
  - Annual Available Cash divided by Loan Constant of 0.07389 (i.e. 6.25% 30 year loan)
    (or use a Financial Calculator/Excel formula)
Case Study (continued)

How much of Net Operating Income is available for Debt Service?

Net Operating Income $73,669
Divided by: 1.20
Available for Debt Service $61,391

Divided by 12 (monthly) $ 5,116
### Case Study (continued)

#### Mortgage Calculation

<table>
<thead>
<tr>
<th>Bank</th>
<th>Monthly Payment</th>
<th>Interest Rate</th>
<th>Term</th>
<th>Maximum Mortgage* (rounded)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$5,116</td>
<td>6.25%</td>
<td>30</td>
<td>$831,000</td>
</tr>
</tbody>
</table>

*Annual Amount Available divided by Loan Constant of 7.389%

In Excel Loan Constant = 12*(PMT(interest rate/12,amortization term*12,-1)
Case Study (continued)

How to Calculate Operating Reserve

Monthly Operating Expenses $16,465
Monthly Replacement Reserve $  1,250
Monthly Debt Service $  5,116
Total Per Month $22,831

X 6 Months = $136,986
(MFA underwrites to 6 months reserves)
Case Study (continued)

Now let’s go back and finish Schedule A

9,918,000  TDC plus Developer Fee
136,986  Plus Reserves
$10,054,986  Total Development Cost

Great, now we know the cost.
But how do we pay for it?
Case Study (continued)

Fill in the Funding Gap

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Development Cost</td>
<td>10,054,986</td>
</tr>
<tr>
<td>Less: First Mortgage</td>
<td>831,000</td>
</tr>
<tr>
<td>Less: City Donated Land</td>
<td>325,000</td>
</tr>
<tr>
<td>Gap</td>
<td>$ 8,898,986</td>
</tr>
</tbody>
</table>

How can we fill the gap?
Questions?

Dan Foster will now explain the Low Income Housing Tax Credit (LIHTC) Program
Tax Credit Fundamentals

- Created in Tax Reform Act of 1986
- Purpose: To stimulate private investment in affordable housing
- Mechanism: Investors fund project and in exchange, they can claim dollar for dollar credit against tax liability
Tax Credit Fundamentals (continued)

- Scale: $2.25 per capita to each state
- Deepest Federal Subsidy that funds up to 75% of total development cost
Affordable Use:

- Minimum set asides:
  - 20% of units for tenants earning no more than 50% of median income, or
  - 40% of units for tenants earning no more than 60% of median income, but
  - Minimum set asides are not competitive.
- Use restriction for 30 years required (income and rent limits)
Tax Credit Calculation

Eligible Basis
X
Applicable Fraction
X
Basis Boost (if applicable)
=
Qualified Basis

Qualified Basis
X
Tax Credit Rate
=
Annual Tax Credits
Tax Credit Calculation (continued)

Annual Tax Credits
  X
10 (years)
  =
Total Tax Credits

Total Tax Credits
  X
Equity Price
  =
Equity
Variables

- 9% Tax Credits for new construction or rehabilitation costs
- 4% Tax Credits with federal subsidy or for acquisition costs

✓ Acquisition costs qualify when substantially rehabilitated and building meets 10 year rule. Not eligible for basis boost.
Variables (continued)

- 4% tied to market and variable over time
- 9% now fixed until December 31, 2013. Future projects will have a variable rate
- Equity pricing negotiable – varies with project type, payment timing, guaranties, other factors
- Basis Boost – Increases tax credit basis 30% if project is in a QCT or DDA
Partnership Structure

Majestic 12 Apartments
Limited Partnership

General Partner
(Subsidiary of Developer)
0.01%

Limited Partner Investor
99.99%
Partnership Structure (continued)

- General partner controls and operates the project, provides guarantees
- Passive limited partner invests equity in return for 99.99% ownership
- Limited partner gets its return almost exclusively from the tax credits and losses
- Investor equity reduces other financing needs, helps project development, and allows rents to be affordable
Tax Credit Amount Calculation

- Total Eligible Basis (Schedule A)
  - Less adjustments for federal grants, subsidies, higher quality market rate units or historical tax credits
- Multiply 130% for Difficult to Develop Area
- Multiply 100% for Applicable Fraction
- Multiply by Tax Credit Percentage
- This will equal Total Tax Credit Request – Schedule F
Calculate Tax Credit Amount

Total Eligible Basis $ 9,478,000
Less Adjustments $ -

Eligible Basis $ 9,478,000
QCT or DDA 130%

Eligible Basis $ 12,321,400
Applicable Fraction 100%

Eligible Basis $ 12,321,400

Tax Credit Percentage 7.41%

Total Tax Credit Request $ 913,015
Case Study – Majestic 12 Apartments

Tax Credit Equity Calculation

Tax Credit Amount
X
10
X

Tax Credit Equity Price
=

Tax Credit Equity
Case Study (continued)
Calculate Tax Credit Equity

Max MFA Tax Credit Amount $ 913,016
X 10 (years)
Total Tax Credit Amount $ 9,130,160
X .85 (cents per $)
Total Tax Credit Equity $ 7,760,627
MFA’s Responsibilities as Housing Credit Agency

- Create a Qualified Allocation Plan;
- Provide Local Jurisdiction Notice;
- Allocate no more HTC than needed to ensure feasibility; and
- Monitor for program compliance.
Tax Credit Timeline

- Apply for credits (January 2014)
- Get a tax credit reservation (May 2014)
- Receive carryover allocation, indicate lock-in election November 15, 2014)
- Incur 10% of costs by August 30th of the following year (August 30, 2015)
- Complete project and Place in Service within two years of allocation (PIS application due November 15, 2016)
- Record extended use agreement
- Apply for 8609’s
- Rent tax credit units to qualified tenants
- Keep tax credit units in compliance
Qualified Allocation Plan
Minimum Application Requirements
Threshold

- Site Control
- Zoning
- Score
- Fees
- Applicant Eligibility
- Financial Feasibility
Minimum Project Score

- 130 points for competitive round; 80 points for bond projects
- No partial points
- Applicant self-scores application; MFA scores application
- Scoring criteria and information needed to obtain points in QAP and checklist
- Deficiency Correction used only to correct incomplete application or meet threshold – not scoring or Allocation Set Aside requirements
What makes a successful application?
Elections that will Impact Your Project Budget

- Certification by LEED, Enterprise Green Communities, National Green Building Standard, Build Green NM
- Targeting 50% AMGI/AMGR or 15% Units at Market Rate
- Target Population Services
- Financial Literacy Training
The Most Successful Application

... Is for the project that you can deliver and successfully operate for the entire extended use period!
Additional LIHTC Material

• LIHTC Presentation Addendum
• MFA LIHTC Allocation Webpage:
  ▪ http://www.housingnm.org/low-income-housing-tax-credits-lihtc-allocations
Case Study continued

Filling the Gap

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<tr>
<td>Less: Tax Credit Equity</td>
<td>$7,760,627</td>
</tr>
<tr>
<td>Gap</td>
<td>$1,138,359</td>
</tr>
</tbody>
</table>

Let’s talk about how HOME can help fill the gap.
Questions?

Dan Puccetti will now explain MFA’s HOME Program
HOME Investment Partnership Program

- Created by the National Affordable Housing Act of 1990 (NAHA) & amended several times by subsequent legislation. Latest: July 2013
- MFA receives funds annually from HUD.
- What is a CHDO?
- CHDOs are required to obtain HOME funds for development within 24 months of receiving CHDO operating funds.
MFA’s HOME Program Rules

- Used throughout New Mexico, except Albuquerque & Las Cruces
- MFA’s allocations from HUD 2010 $8.2M, 2011 $7.2M, 2012 $3.8M & 2013 $3.6M - Notice a trend?
- Allocated to various MFA departments
- Awards made on a first come, first served basis
MFA’s HOME Program Rules

Eligible Applicants

Private for-profit developers, nonprofit organizations, housing authorities, units of local government, tribal agencies, Community Housing Development Organizations (CHDO’s) and individuals.
Eligible Uses of HOME Funds

- New Construction - Rehabilitation
- Land acquisition - Site improvement
- Soft costs (e.g. architect & engineering)
- Financing costs - Relocation (rehabs)
- Short term rent up reserves (max 18 months)
- Demolition - Loan closing costs
- Environmental review costs
**Ineligible Uses of HOME Funds**

- Public housing projects (i.e. per 1937 Act)
- Delinquent taxes, fees or charges on property
- Projects previously receiving HOME funds (unless within 1 year of completion)
- Long term reserves
- Pre-pay federal low-income housing mortgage
MFA’s HOME Rental Program

- HOME units must be occupied by low-income families earning at or below 60% AMI
- A HOME unit may be fixed or floating and is set aside for qualifying families
- Minimum one year lease unless otherwise mutually agreed with tenant
- Annual tenant income certification
MFA’s HOME Rental Program

- Restricted rents, published annually by HUD
- Two HOME rent limits:
  1. HIGH HOME = lesser of fair market or 30% of 65% AMI
  2. Low HOME = lesser of fair market or 30% of 50% AMI
- If 5 + HOME units, 20% must be LOW HOME
- Rents must be reduced by Utility Allowances
MFA’s HOME Rental Program

How are HOME units calculated?

✓ Generally, the pro-rata portion of HOME financing, subject to 221(d)3 limits
✓ Example: 100 unit project – if HOME is 10% of TDC MFA will require 10 units
  (8 HIGH HOME & 2 LOW HOME rents)
✓ MFA may require that all be LOW HOME
**Minimum Affordability Requirements**

Minimum Per Unit HOME Affordability

<table>
<thead>
<tr>
<th>Income Range</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1 - $14,999</td>
<td>5 Years</td>
</tr>
<tr>
<td>$15,000 - $40,000</td>
<td>10 Years</td>
</tr>
<tr>
<td>$40,000 +</td>
<td>15 Years</td>
</tr>
</tbody>
</table>

Refinance of rental rehab project 15 Years

New Construction of rental housing or acquisition of new rental housing 20 Years
MFA’s HOME Rental Program

- Designed to provide “gap” financing to enhance affordability of rental developments
- MFA limits are more restrictive than HUD to better allocate a scarce resource
- Most HOME awards are structured as long term low-interest rate loans but may be forgivable if 30% AMI families are served. (Forgivable loans are excluded from basis for LIHTC)
Maximum HOME Rental Awards

- HOME (9% LIHTC) - $12.5K per unit for CHDOs and $7.5K for non CHDOs up to max $450K

- Other HOME (includes 4% LIHTC) - $30K per unit up to max $550K not to exceed 80% of TDC

- Forgivable loans – Max $550K if serving 30% AMI families subject to above limitations
MFA HOME Rental Award Process

- **Application** - accepted in annual LIHTC round and ongoing for other projects

- **Review** - MFA reviews application for completeness, feasibility & need. Requires site control & local support letter

- **Approval** - After review, requests are submitted to Policy Committee, Board Committee and the Board for final approval. Generally 30 to 90 days
MFA HOME Rental Award Process

- **Commitment** - when approved, MFA will issue an Award Letter outlining terms and conditions.
- **HUD Environmental Assessment** - must be approved before property can be purchased (if not yet owned) or construction start.
- **Closing** - checklist will be provided listing items required for closing. Allow time for loan doc review, third party reports, etc.
MFA HOME Rental Award Process

- **Disbursement** – After loan docs are signed, funds will be disbursed in three draws against expenses incurred: (1) at Closing, (2) at 50% completion & (3) at completion

- **Guarantees** required if more than minimal amounts to be used during construction

- **Typical loans docs**: Loan Agreement, Note, Mortgage & Land Use Restriction Agreement
MFA’s HOME Rental Standards

- MFA determines repayment, term, amortization, and interest rate based on project cash flow
- Terms – due in 15-40 years, generally amortizing (possible longer amortization period)
- Interest - 0% to 4% per annum
- Debt Service Coverage Ratio (DSCR) between 1:20 to 1 & 1.40 to 1
MFA’s HOME Rental Standards

- Financial Health – Financials must demonstrate applicant’s financial soundness
- Experience – Applicants must demonstrate the experience & capacity to successfully complete & operate the proposed project
- Must meet MFA rental design standards
- Market Analysis – Show a demonstrated need for the project & that the right market is targeted
MFA’s HOME Rental Standards

- Development budget – Must be realistic and within MFA’s guidelines (e.g. developer fee/contractor profit must not be excessive)
- Rents – Must be within program requirements. Most restrictive program governs. Set-aside requirements can be “nested”. Adjust for vacancy factor (greater of market or 7%)
- Operating budget – Must be realistic & within guidelines (e.g. management fees max 6% for underwriting, operating cost per unit, etc.)
MFA’s HOME Rental Standards

- Projections must be feasible & support debt service. Excess cash flow may indicate too much subsidy. Insufficient cash flow may indicate need for more subsidy or infeasible project.
- HOME fills a demonstrated “gap” in sources after first mortgage debt is maxed out.
- HOME used to enhance affordability.
MFA HOME Rental Monitoring

- Post completion MFA’s Asset Management Department will monitor for the life of the loan:
  - Tenant income verification
  - Housing standards compliance
  - Record keeping
Federal Requirements

- Section 3 - Jobs for Residents
- Section 504
- Davis Bacon wage rates (12 or more units)
- Fair Housing and Equal Opportunity
- Affirmative marketing
- Minority and Women’s Business Enterprise
- Lead Based Paint
Federal Requirements

- Relocation – Uniform Relocation Act
- Environmental Assessments required before land purchase (in most cases) and construction start
- Call MFA Environmental Officer Debbie Davis (505) 767-2221 for guidance

See [http://www.housingnm.org/relevant-federal-regulations](http://www.housingnm.org/relevant-federal-regulations) for a complete list of relevant federal regulations
Back to the Case Study

- How much can you get in HOME funds?
  - 50 units X $7,500 = $375,000
- This is 3.73% of TDC ($375,000/$10,054,986)
- Multiply by 50 units = 2 units (rounded up)
- MFA will usually require HIGH HOME units at $679 & $776 (2 & 3 bedrooms). Exceeds LIHTC so you can only charge the lower LIHTC rents.
- Otherwise you would need to recalculate income
Case Study – Revised Gap Calculation

- Re-calculate first mortgage after adding HOME loan of $375,000 at 40 year amortization

- Net Operating Income $73,669
  Divided by: 1.20

- Available for Debt Service $61,391

- Less HOME loan payment (9,375)

- Available for 1st Mortgage $52,016
# Mortgage Calculation

Amount Available minus Secondary Debt Service
Annually $61,391/12 = $5,116 monthly – HOME $782 = $4,334 Bank loan

<table>
<thead>
<tr>
<th>Bank</th>
<th>HOME</th>
</tr>
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<tbody>
<tr>
<td>Monthly Payment</td>
<td>$4,334</td>
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<tr>
<td>Interest Rate</td>
<td>6.25%</td>
</tr>
<tr>
<td>Term</td>
<td>30</td>
</tr>
<tr>
<td>Maximum Mortgage</td>
<td>$704,000</td>
</tr>
</tbody>
</table>

| Monthly Payment | $782         |
| Interest Rate   | 0%           |
| (years amortization) | 40    |
| Mortgage        | $375,000     |
Filling the Gap

Total Development Cost  
10,054,986

Less: Revised Bank loan  
704,000

Less: HOME loan  
375,000

Less: City Donated Land  
325,000

Less: Tax Credit Equity  
7,760,627

Gap  
$890,359

(HOME increased total loans by $248,000)

Can deferred developer fee fill the gap? How much is allowed? By whom? If not, can you access grants or donations? Value engineer costs?

See Tab 4 MFA Sch A-1 - Go or No-Go?
Other MFA Loan Programs

- Primero Investment Fund
- Tax Exempt Bonds
- 542(c) FHA-Insured Mortgage Program
- Section 538 Rural Housing Services Guaranteed Loan Program
- NM Housing Trust Fund (HTF)
- Land Title Trust Fund (LTTF)
- NM Affordable Housing Tax Credit
# Equity and Debt Financing
## Sources for Rental Housing

### Debt

<table>
<thead>
<tr>
<th>Category</th>
<th>Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>Predevelopment Loan &amp; Grants</td>
<td>*Primero Loan or Grant Programs</td>
</tr>
<tr>
<td></td>
<td>✓ Other Nonprofit Lenders (Local Initiatives Support Corp., Enterprise, etc.)</td>
</tr>
<tr>
<td>Stand Alone Interim/ Construction Financing</td>
<td>✓ Conventional Construction Loan</td>
</tr>
<tr>
<td></td>
<td>*Primero &amp; NM Housing Trust Fund</td>
</tr>
<tr>
<td>Combined Construction and Permanent Financing</td>
<td>Tax Exempt Bond Proceeds, *HOME/Rental, *542c Insured Loan or *538 Guaranteed Rural Rental Housing Program, *Land Title Trust Fund, *NM Housing Trust Fund</td>
</tr>
</tbody>
</table>

### Equity

<table>
<thead>
<tr>
<th>Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>*Low Income Housing Tax Credits, Syndication Proceeds, *NM Affordable Housing Tax Credit</td>
</tr>
<tr>
<td>✓ Other Grants and Organizational Funds (FHLB, Foundations)</td>
</tr>
<tr>
<td>✓ Developer Funds, Deferred Developer Fees</td>
</tr>
</tbody>
</table>

*MFA Provided"
For more information:

- Visit MFA’s website at: www.housingnm.org/developers

- Contact MFA Housing Development Staff
  – Felipe Rael, Director (505) 767-2249
  – Dan Foster, Tax Credits (505) 767-2273
  – Dan Puccetti, Lending (505) 767-2251
LIHTC Presentation Addendum
Federal Requirements of the Qualified Allocation Plan (QAP)

Designated agencies must prepare a QAP which:

- Defines project selection criteria;
- Gives preference to projects serving the neediest tenants, for the longest time period, in a QCT with a concerted community revitalization plan; and
- Defines procedures for compliance monitoring.
Federal Requirements of the QAP (continued)

Criteria for project selection must include:

- Location;
- Housing Needs Characteristics;
- Project Characteristics, including use of existing housing as part of a community revitalization plan;
- Sponsor Characteristics;
- Special Housing Needs;
Federal Requirements of the QAP (continued)

- Public Housing Waiting Lists;
- Tenants with Children;
- Projects Intended for Eventual Tenant Ownership;
- Energy Efficiency; and
- Historic Properties.
Federal Requirements for Determining Tax Credit Amounts

Elements which must be considered:

- Sources and uses of funds;
- Total project financing;
- Tax benefit proceeds;
- Percentage of tax credit dollars used for intermediaries;
- Reasonableness of development costs; and
- Reasonableness of operating costs.
Reservations, Carryover Allocations, and IRS Forms 8609

- A Tax Credit Reservation is not an “allocation” of tax credits. There are three steps from the “awarding” of tax credits to the issuance of the tax credits:
  - Tax Credit Reservation
  - Carryover Allocation
    - 10% Test
Reservations, Carryover Allocations, and IRS Forms 8609 (continued)

- Forms 8609
  - Tax Credits cannot be claimed until Form 8609 is issued by MFA
Carryover Allocations

- Treasury Regulation 1.42-6 defines documents needed for carryover allocation in accordance with Section 42 of the Code.
- MFA has additional requirements stated in the QAP.
MFA Carryover Application

MFA Carryover Requirements:

- All financing commitments – construction and permanent, including a letter of intent from an equity provider
- Recorded deed or executed lease vested in the name of the entity – *this means partnership!*
  - MFA’s 542(c) Risk Sharing Program – HUD must issue a Firm Approval Letter before land can be purchased or leased.
- Zoning – if exempt at application
Carryover Application Requirements (continued)

- Certificate of Partnership
- Limited partnership agreement
- Updated application
- Contractor’s resume – if not provided at application
- Rehabilitation Projects – appraisal and capital needs assessment
Carryover Application

- Copy of application, checklist, sample forms and instructions available on MFA’s website.
- Submission date November 15\textsuperscript{th}.
- Carryover documents sent out early December and must be returned for MFA’s signature before the end of the year.
10% Test

42(h)(1)(E)(ii) Qualified Building---For purposes of clause (i), the term “qualified building” means any building which is part of a project if the taxpayer’s basis in such project (as of the later of the date which is 12 months after the date that the allocation was made or the close of the calendar year in which the allocation is made) is more than 10 percent of the taxpayer’s reasonably expected basis in such project (as of the close of the second calendar year referred to in clause (i)).
Placed in Service and Final Allocation Application Process

- At a minimum the Placement in Service application must be provided by November 15\textsuperscript{th} (two years from Carryover)
- Final Allocation Application should be submitted no later than 120 days from the close of the Project’s first taxable year of the Credit Period. Final application required to issue 8609’s.
Land Use Restriction Agreement (LURA)

- Section 42(h)(6) of the Code requires imposition of “an extended low-income housing commitment”

- LURA sets forth
  - Covenants running with the land for a minimum 30 years or longer
  - Compliance fees
  - Set-asides
  - Special housing needs to be served
Land Use Restriction Agreement (LURA) (continued)

- Any other such commitments
- Can not be terminated prior to its term for any reason other than foreclosure
- Owner does not have the right to require MFA to present a qualified contract

- To claim credits in the year that the buildings are placed in service a LURA must be executed and recorded prior to December 31\textsuperscript{st}
Allocation Set Asides

- **Nonprofit Set Aside**: Ten percent of the Annual Credit Ceiling for each calendar year will be reserved for Projects sponsored by Qualified Nonprofit Organizations as defined in IRS Code Section 42(h)(5)(C).

- **USDA Rural Development Set Aside**: Ten percent of the Annual Credit Ceiling will be set aside for Projects with USDA Rural Development (USDA-RD) Financing Commitment(s) for the proposed Project.