Understanding the Approach of WAS to the Development of Subsidized Housing

1 Types of Properties

The properties we will seek are those with subsidy that serve low income individuals and families, USDA Rural Development 515 projects and HUD Project Section 8 Properties. USDA's properties generally subsidized with Rental Assistance Agreements that provide the tenant with subsidy between what they can afford (30% of adjusted gross income) which gives the property an agreed upon rent. HUD Section 8 pays a monthly amount similar to 515.

2 Objectives

Increase the number of sustainable subsidized units through aggressive research and development. under our control to sustain the Foundations operations and provide development opportunities. This will allow WAS to meet our stated mission of providing low income individuals with safe and comfortable housing.

We will utilize minimum staff and funding to provide:

A. Onsite reviews of projects, insuring they are managed properly
B. Reporting and records management complaint with State and Federal regulations (IRS- USDA-HUD)
C. Funds to support activities necessary to research and acquire desirable properties

3 Methods of Financing

Most often we will acquire a USDA 515 project with the use of Low Income Housing Tax Credits. These work well with USDA and HUD Section 8 properties. The regulations associated with both USDA and LIHTC –keep the rents affordable for extended periods of time while providing initial capital for purchase and improvement of the property upon acquisition.

Low Income Tax Credits

The low-income housing tax credit (LIHTC) program, created in 1986 and made permanent in 1993, is an indirect federal subsidy used to finance the construction and rehabilitation of low-income affordable rental housing. Washington lawmakers created this as an incentive for private developers and investors to provide more low-income housing. Without the incentive, affordable rental housing projects do not generate sufficient profit to warrant the investment.

The LIHTC gives investors a dollar-for-dollar reduction in their federal tax liability in exchange for providing financing to develop affordable rental housing. Investors' equity contribution subsidizes low-income housing development, thus allowing some units to rent at below-market rates. In return, investors receive tax credits paid in annual allotments, generally over 10 years.

Financed projects must meet eligibility requirements for at least 30 years after project completion. In other words, owners must keep the units rent restricted and available to low-income tenants. At the end of the period, the properties remain under the control of the owner.

1 9 Percent vs. 4 Percent

Claimed pro rata over 10 years, the tax credit can be used to construct new or renovate existing rental buildings. The LIHTC is designed to subsidize either 30 percent or 70 percent of the low-income unit costs in a project. The 30 percent subsidy, which is known as the so-called automatic 4 percent tax credit, covers new construction that uses additional subsidies or the acquisition cost of existing buildings. The 70 percent subsidy, or 9 percent tax credit, supports new construction without any additional federal subsidies.

Rental properties that qualify for the LIHTC tend to have both lower debt service payments and lower vacancy rates than market-rate rental housing. LIHTC properties typically experience a relatively quick lease-up and offer strong potential economic returns, primarily due to the existence of the credit. LIHTC properties are often packaged as limited partnerships such that they afford limited liability to their investors.

Broad economic principles influence where financed affordable housing will be built. Tax credit housing is generally located where the land costs are lower and the tax credit allowable rents are sufficient to allow for market-rate rents. Economics generally make it more difficult to build financed housing in major cities because land costs are higher and low-income rents are substantially below market rate. Nonetheless, with the help of additional federal, state and local subsidies, many developers have made these projects financially feasible.

2 Program Administration

At the LIHTC's inception in 1986, states received $1.25 per resident from the federal government. On December 15, 2000, a post-election lame duck 106th Congress passed a $450 billion budget package that included an LIHTC cap increase. The measure raised the cap from $1.25 per capita to $1.50 per capita in 2001 and $1.75 per capita in 2002. The LIHTC is now adjusted for inflation, beginning in 2003. For example, if California has approximately 33 million residents, the Golden State will receive $57.75 million in LIHTC volume cap ($1.755 x 33,000,000 = 57,750,000).

Within general guidelines set by the Internal Revenue Service (IRS), state housing agencies administer the LIHTC program. State agencies review tax credit applications submitted by developers and allocate the credits. The IRS requires that state allocation plans prioritize projects that serve the lowest-income tenants and ensure affordability for the longest period.

Once an applicant secures a tax credit reservation, the developer must leverage the financial resources for the development. Under a typical LIHTC transaction, a developer must secure a conventional loan from a private mortgage lender or public agency, gap financing from a public or private source and equity from the developer or private investor in exchange for the tax credits.

Once the project is built, states must ensure that it meets the LIHTC eligibility requirements. The LIHTC property must comply throughout the 15-year period or investors will be exposed to recapture of some of the credits. State housing agencies are responsible for monitoring LIHTC property owners by requiring them to certify on an annual basis that they are renting units to qualified low-income tenants. If property owners are found to be out of compliance, they can lose some of their credits.

3 Selling Credits

Developers may claim LIHTCs directly. However, most developers sell the tax credits for cash that is channeled into the development. The developer can either sell the tax credits directly to an investor or to a syndicator, who acts as a broker between the developer and investor. To benefit from economies of scale, syndicators pool several projects into one LIHTC equity fund. Then, syndicators market the tax credits to investors who essentially buy a piece of the syndicator's fund. This spreads the risk across the various projects benefiting from the fund.

The LIHTC is a complex income tax area, requiring owners and investors to comply with numerous administrative rules and regulations such as maintaining the required number of income-eligible tenants and ensuring that the appropriate documents and records are filed and maintained.

The paperwork associated with LIHTC properties is extensive to say the least. Apartment owners/investors must contend not only with the application process, but the carryover allocation, cost certifications and submission of numerous compliance forms on an annual basis.

The LIHTC program can offer developers and investors great opportunities to provide quality affordable housing to low-income residents and an opportunity to earn a profit. But because of the LIHTCs complexity, it is essential to consult a tax adviser when getting into this tax area.

OFTEN USED FINANCING AUGMENTATION

USDA 515 IS VERY COMPATABLE WITH TAX CREDITS AND USDA 538 PROGRAM. THE 538 PROGRAM DOES NOT REQUIRE GUARANTEES AND HAS A 40 YEAR AMORTIZATION.IT OFTEN ALLOWS A ONE STEP LOAN IF THE CONSTRUCTION IMPROVEMENTS ALLOW TENANTS TO REMAIN IN PLACE.

ANNOTHER RESOURCE WE MAY USE IS “HOME” FUNDING THATSTATES RECEIVE AND OFTEN ALLOCATE TO QUALIFYING PROJECTS.

CONVENTIONAL FINANCING IS USED ON OCCASION, GENERALLY FOR CONSTRUCTION.

4 PREDEVELOPMENT FUNDS

ALL PROJECTS REQUIRE SOME PREDEVELOPMENT FUNDS TO ACQUIRE AND REHABILITATE OR BUILD NEW. THE FOLLOWING IS AN EXAMPLE OF A USDA PRE-DEVELOPMENT USE OF FUNDS:

Development Budget		
Earnest Money	$ 10,000.00	
Design	1,927	incl. HERS
A/E cost review	3,500	
Soils Report/Lead/Asbestos/Radon	2,500	
Evergreen Fee	3,500	
Phase I	2,600	
Environmental	1,500	
Purchaser Legal	2,500	
Appraisal / Market Study	6,500	
C.N.A.	1,800	
Allocating Agency Fees	3,500	
	$ 39,826.88	

THESE WILL VARY PER STATE AND PROJECT.

5 USE OF THIRD PARTIES

BECAUSE IT IS DIFFICULT TO DEVELOP WITHOUT CASH OR BORROWING ABILITY TO PAY FOR COSTS, WE HAVE SELLECTED SEVERAL ORGANIZATIONS WITH WHOM WE OFFER INCENTIVES NECESSARY TO DEVELOP THE PROJECTS.

DEVELOPER FEES GENERALLY AVERAGE 12% OF THE PROJECT COSTS.MOST OFTEN THE DEVELOPER MUST HAVE A CREDIBLE FINANCIAL STATEMENT RELATIVE TO THE TRANSACTION AND GUARANTEE THE OPERATIONS FOR A PERIOD OF TIME. ADDTIONALLY, THEY MAY ALSO HAVE TO GUARANTEE SOME DEBT.

THE FOUNDATION WILL UTILIZE A PORTION OF THE DEVELOPER'S FEE ($30,000 MIN) AS PART OF OUR INTERNAL FUNDING.

SOMETIMES WE CAN COMBINE GIVING THE CONSTRUCTION TO THE DEVELOPER AND THE FOUNDATION TAKING A LARGE PORTION OF THE DEVELOPER FEE.

THE USE OF EVERGREEN INTERNATIONAL, INC. IN TRANSACTIONS FOR THE PURPOSE OF IDENTIFYING PROJECTS, FINDING DEVELOPERS AND STRUCTURING FUNDING, IS A CONSTANT UNTIL WE HAVE FUNDING TOSEEK OTHER SUCH SERVICES FOR A FEE. UNTIL THAT TIME EVERGREEN WILL ADVANCE ITS TIME AND FUNDS TO FIND AND DEVELOP PROJECTS WITHOUT REQUIRING FUNDS FROM THE FOUNDATION.

WE HAVE CONSIDERED USING "OAK LEAF" COMPANY AS A HOLDING COMPANY(NEEDS TO REVISE TO A OK CO.) – THIS IS BEING DONE WITH THE NEVADA PROPERTIES. THE USAGE OF LIHTC REQUIRES YOU TO HAVE AN ACQUISTION AT THE CLOSING ….THEREFORE IF THE PROPERTY IS TRANSFERRED PRIOR TO THE TAX CREDIT CLOSING WE LOOSE THE CREDITS ASSOCIATED WITH THE ACQUISITION AND ONLY RECEIVE CREDITS ON THE CONSTRUCTION IMPROVEMENTS. THE PURCHASE PRICE IS ALWAYS ESTABLISHED BY AN APPRAISAL THAT MEETS AND IS REVIEWED/APPROVED BY USDA.

6 PROGRAM DESCRIPTIONS

USDA 515

Section 515 Rural Rental Housing Loans are mortgages made by USDA to provide affordable rental housing for very low-, low-, and moderate-income families, elderly persons, and persons with disabilities.

Purpose

Section 515 loans are made by the U.S. Department of Agriculture's Rural Development Housing and Community Facilities Programs Office (RD), acting as a lender. Borrowers may use the funds to purchase buildings or land, to construct or renovate buildings, and to provide necessary facilities such as water and waste disposal systems.

Each year, Rural Development State Directors use needs criteria to establish a list of targeted communities for which applicants may request loan funds. RD issues an annual Notice of Funding Availability (NOFA) for these communities, and applications are then rated competitively in order to select recipients. Portions of the available funds are set aside for

nonprofit organizations, applicants serving counties
and colonias designated by USDA as underserved,
and Rural Economic Area Partnership zones.

Eligibility

Owner: Individuals, partnerships, limited
partnerships, for-profit corporations, nonprofit
organizations, limited equity cooperatives, Native
American tribes.

USDA 538

"538" PROGRAM OVERVIEW

Section 538 Guaranteed Rural Rental Housing ("538") Loan Program

Program Goal

Encourage commercial financing of rural rental housing, providing affordable housing for low & moderate income people.

 The 538 program is lender-driven*. USDA guarantees the loan rather than lending directly.*
A commercial lender requests the 538 guarantee, and, if approved, it makes (and services) the loan.

Type of Assistance

Federal guarantee of 90% (maximum) on loans on loans for affordable rural rental housing

Lender Benefits

There is a secondary market for 538 guarantees (e.g., Freddie Mac, Fannie Mae & Ginnie Mae)
The guaranteed portion of the loan is protected against loss by a Federal guarantee.
The guaranteed portion of the loan does not count against lending limits.
538 guarantees help lenders satisfy Community Reinvestment Act (CRA) requirements.
Lenders use their own forms, loan documents, and security instruments.

Authorized Loan Purposes

Construction of new rental housing, including land, on-site & off-site improvements, office & maintenance buildings, community & recreation facilities, parking, landscaping, fencing, appliances
Acquisition and rehabilitation of existing rural rental housing when there is at least $6,500/unit of rehab also involved.
Loan fees & costs (including USDA fees), professional services, market study costs, developer fees, construction interest.
Debt refinancing may be authorized on land acquisition and other incurred charges that are integral to the development. **Includes Rehab/acquisition of existing 515 projects.**

Program Features

 Tax-exempt financing is a permitted a source of capital for the loan being guaranteed.
Construction projects: The guarantee can be issued on a combined construction/permanent loan or simply on the permanent, take-out loan. (Interest credit is not provided on construction loans.)

Leveraging with other financing sources is encouraged, including with 9% Low Income Housing Tax Credits & HOME.
Davis-Bacon wage requirements **are not activated** by the use of 538 financing.

Size of Loans

No minimum. Maximum loan size is set only by *the lesser of*:
For-profit borrowers: 90% of project's appraised value *or* 90% of total development cost
Nonprofit & public borrowers: 97% of project's appraised value *or* 97% of total development cost
Maximum loan per dwelling unit may not exceed the dollar limits in §207(c)(3) of the National Housing Act as adjusted by HUD for California localities.

Affordability Criteria

Eligible tenants. Tenancy is restricted to those with incomes ≤115% of the area's Adjusted Median Income. Once a tenant is admitted, there is no further income restriction or any requirement for tenant income verifications or certifications.
Average rent. The project's average monthly rent + utility allowance must be ≤30% of area's Adjusted Median Income
Maximum rent. Maximum monthly rent + utility allowance must be ≤30% of 115% of area's Adjusted Median Income
These affordability requirements must be established in a deed restriction and remain in effect for the full term of the 538 loan, even if the loan is prepaid.

Interest Rate, Term, Payment Structure, and Fees

Rate: Negotiated by lender & applicant
A fixed rate is required.
Term: Minimum – 25 years. Maximum – 40 years, not to exceed useful life of the collateral.

Project Based Section 8

The Housing and Community Development Act of 1974 created the project-based Section 8 rental assistance program. Under the program, HUD enters into contracts with property owners to provide rental assistance for a fixed period of time for low-income families. Project-based Section 8 assistance may be provided only for tenants with incomes no greater than 80 percent of the area median income (AMI) and tenants generally pay rent equal to 30 percent of adjusted household income.

HFAs and Project Based Section 8

In 1999, HUD began an initiative to contract out the oversight and administration of most of its project-based contracts; some were contracted out to State Housing Finance Agencies. These HFAs are now

responsible for conducting on-site management reviews of assisted projects; adjusting contract rents; reviewing, processing, and paying monthly vouchers submitted by owners; renewing contracts with property owners; and responding to health and safety issues at the property. These performance-based contract administrators (PBCAs) now administer the majority of project-based Section 8 contracts.

HFAs administer Section 8 project-based contracts subsidizing more than 650,000 apartments, including 250,000 apartments in properties they have financed and more than 400,000 apartments formerly administered by HUD. Advocating for enough HUD funding to honor existing project-based assistance commitments is one of NCSHA's Legislative Priorities. Another priority is to aggressively represent the interests of HFAs in HUD's PBCA program and ensure that HUD recognizes HFAs' proven capacity and track record to serve as PBCAs.

What is the Project Based Section 8 housing program?

Project Based Section 8 housing is a government-funded program that provides rental housing to low-income households in privately owned and managed rental units. The subsidy stays with the building; when you move out, you no longer have the rental assistance. Most units rental cost will be 30% of your household adjusted gross income. There may be a variety of housing types available through this program including single-family homes, townhomes, or apartments.

How does it work?

You apply to each individual property that participates in the program. Some units may be reserved for households that are elderly or disabled. Often times you apply for a waiting list that may be several months long. Once you are selected from the waiting list, you may be offered a unit; however, there may be a limited number of available units to choose from.

Do I qualify?

To qualify you must fall within the Department of Housing and Urban Development's required income limits for the program. Example of rent at 30% income: household with one full-time worker at $7.25/hour might pay $348 per month.

How do I apply?
You can search for these units right from HousingLink's homepage. Simply select rent = % income as the maximum rent amount, click Submit, and view the results to see project based Section 8 and *public housing units*. Keep in mind that waiting lists for Project Based Section 8 units can often be long or closed.

Is there anything that can keep me from getting into Project Based Section 8 units?
Ask the property manager what their screening criteria are, and if there are any issues that automatically disqualify prospective renters. They may conduct a credit, rental, and criminal history check for each adult that will be occupying the unit.

Also see the following that could be used for funding gaps in acquisition development:

Federal Home Loan Bank – AHP

HOME program

Various State programs – Utah's Olene Walker Trust – Washington State's Washington Housing Trust – others (including State Tax Credits)