

# Dreamcatcher

Issued Quarterly By Travois Inc.

Vol. 7, Fall 2008

## More tax credits and 9% constant rate mean better opportunities for tribes under LIHTC program

by David Bland, chairman of Travois Inc.



The Housing and Economic Recovery Act of 2008 did three very important things for the Low Income Housing Tax Credit program:

- it increased the availability of tax credits by 10 percent in every state for 2008 and 2009;
- it fixed what used to be much lower and fluctuating credit rate to a constant rate of 9 percent; and
- it allows states to designate specific areas as Difficult Development Areas (DDAs) and award such projects up to 30 percent in more credits.

Why does this help tribes? First, while the economy remains in a recession and the availability of debt capital remains very scarce, some of the only housing sponsors who have a reliable source of financing will be American Indian tribes through their NAHASDA allocations. All other sponsors will struggle to borrow or to raise capital from other "soft" sources.

Second, while the price per credit dollar has dropped dramatically, and is likely to continue to drop some more, the constant rate of 9 percent means that for most projects the higher credit rate more than compensates for the lower price per credit dollar.

Third, while most tribes are already eligible for a 30 percent boost in credits, those that have not been eligible now likely will be.

What this all means is that there is likely to be less competition for credits and tribes will likely have a better chance to win an award. It means that even though investors pay less for the credits, there will be more credits for each project. Because most tribes are already in areas that receive a 30 percent boost in credits anyway, the combination of the higher credit allocation, the 30 percent boost in credits per project for most Indian Country projects, and less competition, means that this is perhaps the best time to seek a tax credit-financed project in years.

Call Travois soon if you are interested in developing a tax credit project for 2009. Lorna Fogg, president of Travois, can be reached at 727-868-2059 or via e-mail at <u>development@</u> <u>travois.com</u>.

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Lorna Fogg and Robin Thorne will serve on a LIHTC panel on Wednesday at the NAIHC Legal Symposium in Las Vegas, and Lorna will be part of a leveraging panel on Thursday. Be sure to say hello or ask questions!

### Travois projects awarded more than \$4.5 million in tax credits in 2008

Despite economic and market turmoil, several Travois clients won an allocation of Low Income Housing Tax Credits in 2008. Nine projects received \$4,570,438 in tax credits – generating more than \$35 million in investor equity to build or rehabilitate affordable housing in Indian Country. Many projects received additional tax credits as part of the economic stimulus bill passed earlier this year as well.

"We're thrilled that our tribal partners received this critical funding," said Lorna Fogg, president of Travois. "Tribal projects are inherently less risky than traditional affordable housing, and we are pleased to see state agencies and investors acknowledge this fact by providing tax credits and equity to develop this desperately needed housing."

The Arizona Department of Housing awarded the San Carlos Homes IV project \$715,122 in tax credits to rehabilitate and construct 40 homes. The San Carlos Apache Housing Authority has previously been awarded and developed three other tax credit projects.

The Leech Lake Housing Authority received \$558,328 in credits from the Minnesota Housing Finance Agency to develop 25 single family homes. Leech Lake Homes VI received a forward allocation of 2009 credits for its sixth tax credit project.

The Montana Board of Housing allocated \$438,705 to the Northern Cheyenne Shoulder Blade Complex developed by the Northern Cheyenne Tribal Housing Authority. NCTHA is rehabilitating a 35-unit elderly complex. This is its first Low Income Housing Tax Credit project.

The North Dakota Housing Finance Agency awarded tax credits to two tribal projects: Hidatsa Homes and Dakota Magic Homes. The Dakota Nation Housing Development Corporation received \$285,670 to develop its first tax credit project, a 24-unit development near Hankinson, N.D. The Ft. Berthold Housing Authority received \$459,443 in tax credits to build a 28-unit elderly apartment complex in New Town, N.D. This is FBHA's second tax credit project.

Two tribal housing entities in Washington received tax credits to develop low income housing. The Tulalip Tribes Housing Department received \$867,516 in tax credits to develop its third project, which will both rehabilitate and construct a total of 66 units. The Quinault Housing Authority received \$596,813 from the Washington State Housing Finance Commission to build 35 single family homes. This is its first tax credit project.

"Quinault Housing Authority has been working diligently towards

No. of units tax credit allocation State Housing authority Arizona San Carlos Apache HA 40 \$715,122 Minnesota Leech Lake HA 25 \$558, 328 N. Cheyenne Tribal HA 35 \$438,705 Montana North Dakota Dakota Nation Housing DC 24 \$285,670 North Dakota Ft. Berthold HA 28 \$459,443 Dakota Nation Housing DC \$299,248 South Dakota 21 Washington Tulalip Tribes Housing Dept. 66 \$867,516 Quinault HA Washington 35 \$596,815 Wisconsin Sokaogon Chippewa HD 24 \$349,593 TOTALS 298 \$4,570,438

meeting the housing needs for its tribal members for quite some time," said James Hobucket-Shale, Quinault construction manager. "We have over 100 families within our reservations boundaries, not including the families that live off the reservation that want to either move home or have multiple families living under one roof. The severe shortage of adequate homes has stopped this from happening. By constructing 35 new homes, it will bring us that much closer to meeting some of our housing needs."

The South Dakota Housing Development Authority awarded \$299,248 in tax credits to the Barker Hill Homes project – the second project developed by the Dakota Nation Housing Development Corporation. The project will build 21 single family homes on the Lake Traverse Reservation.

Sokaogon Homes I was awarded \$349,593 in tax credits by the Wisconsin Housing and Economic Development Agency to rehabilitate 24 units for the Sokaogon Chippewa Community.

#### Save the date: 9th Annual Travois Indian Country Tax Credit Conference



The Hyatt Regency Tamaya Resort & Spa will be the site of the next Travois conference, to be held Aug. 17-19, 2009, in beautiful Santa Ana Pueblo, N.M.

Our annual conference is a training and networking opportunity – perfect for tribal housing authority staff, tribal council members, tribal economic development staff members, investors, lawyers and accountants – which discusses the availability of funds through the Low Income Housing Tax Credit and New Markets Tax Credit programs. Compliance, design and inspections are also key topics that are covered.

**Richard Litsey**, senior advisor for Indian Affairs on the U.S. Senate Committee on Finance, will be the keynote speaker. He will discuss the political climate in the new administration and alternate funding sources in the wake of the current economic crisis.

More details about the conference will be provided as they are available. Online registration will once again be offered. Check <u>www.</u> <u>travois.com</u> in the coming months for more information.

A block of rooms has been reserved at the Hyatt Regency Tamaya for conference attendees. Call 505-867-1234 and mention "Travois, Inc." to receive discounted room rates of \$125 for single rooms and \$150 for double rooms. The daily resort fee has been waived for our group. While the conference is not in session, attendees are welcome to seek out the numerous entertainment options available at The Hyatt Regency Tamaya, including the Twin Warriors Golf Course, a spa, on-site dining, the Santa Ana Star Casino and more.

It is also a short drive from both Albuquerque and Santa Fe, which each have hundreds of shopping, dining and site-seeing opportunities. To learn more about all the things to do in New Mexico, visit www.newmexico.org.

All photos courtesy of the Hyatt Regency Tamaya Resort & Spa.



### Robin's rules: inspections

Robin Thorne, director of Travois Asset Management, normally answers



compliance questions in this quarterly column. This issue, however, she has teamed up with Travois Design & Construction services staff to focus on explaining the two different types of

inspections for LIHTC projects. This column is not intended to replace Travois Asset Management services. If you have questions, please send an e-mail to <u>robin@</u> <u>travois.com</u>.

Travois held a Uniform Physical Conditions Standards (UPCS) training Sept. 30 through Oct. 1 in Tampa, Fla., and it was a huge success! More than 50 people attended the training. Many of our clients sent representatives from their occupancy, resident service and maintenance staffs. Travois is planning another UPCS training in 2009, so be sure to let us know if you are interested in attending.

State housing agencies must use either local health, safety and building codes, or the UPCS to inspect an occupied tax credit project. These inspections include reviewing the site, building exteriors, building systems (HVAC, plumbing, sewer, etc.), building interiors and common areas. The project investor will also utilize the same standards when performing its annual on-site inspections.

The two different types of inspections for tax credit projects sometimes cause confusion with our housing authority clients. The first inspection happens during construction and is called a "Work-In-Place," "Construction-In-Place," or "Construction Progress" inspection. These inspections are usually performed by third party inspectors who have been approved by the project investor and are strictly related to reviewing the units during the construction phase of a project.

The second type of inspection occurs after construction is complete and a unit is ready for move-in or is already occupied. These inspections



are usually identified as "Occupancy Inspections," "Compliance Inspections," "On-Site Reviews," etc. It is important for your staff to recognize the differences between these two types of inspections.

#### Work-In-Place Inspections

Work-in-place inspections by a certified third party building inspector are required by most if not all investors on tax credit projects. Because the International Building Code is the most comprehensive and generally recognized set of building codes on Indian Reservations, we recommend that housing authorities by Robin Thorne, director of Travois Asset Management

contract with an ICC-certified Residential Building Inspector.

Please note: Travois Design & Construction Services offers construction inspections. All Travois inspectors have been certified by the International Code Council and have been approved by the investors we work with. Please contact Ashley Bland for more information.

Prior to the start of construction, the architectural drawings or technical plans and specifications are reviewed by the code official to ensure compliance with the code. Then after construction has started, work-inplace inspections are performed once per month to ensure construction is completed according to the project plans, specifications and code.

The code official will focus on structural members (wall, floor, ceiling and roof construction), plumbing, electrical wiring, HVAC systems, egress and penetrations. Prior to the release of Certification of Occupancy, the code official will focus on interior and exterior finishes, safety requirements and installed appliances to validate the completed structures.

The purpose of these inspections is to provide the housing authority (as the owner) and the investor (as the partner) with a level of assurance that the construction for the project meets the highest standards of residential building.

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### Robin's rules continued ...

#### **Occupancy Inspections**

The first "Occupancy Inspection" should occur when a household is being moved into a tax credit unit for the first time.

This inspection should be done with the tenant present so that everyone can agree upon the condition of the unit at move-in and any repairs that need to be made.

A good initial move-in inspection can help to identify post-construction completion items, i.e. "punch list" items that may have been missed during final construction completion inspection.

Punch list items are the responsibility of the contractor and should be followed up on immediately. These items should not be given to the maintenance department as repairs because the costs for punch list items should be covered under the construction contract.

If appliances are not working properly at move-in, they are covered under warranties, and the contractor should be notified so that they can follow up on having the appliance repaired or replaced.

Occupancy inspections are usually performed by someone from the housing authority staff. Housing authority staff should use the inspection to familiarize the tenant with the home, the appliances and the mechanical systems. This is also an excellent opportunity to be specific with the tenants as to their responsibilities with regard to the home.

Special attention should be given to health and safety issues. Explain to the tenant the important role the smoke detectors play in protecting the family and remind them to let you know if the smoke detector is not working properly.

Also, remind them that windows, doors and hallways cannot be blocked so as to prevent an emergency exit from the home. There are many other

Occupancy inspections are usually performed by someone from the housing authority staff. This is an excellent opportunity to be specific with the tenants as to their responsibilities with regard to the home.

topics that can be covered with your tenant during the move-in inspection.

Remember, do not rush through this important inspection. Have a checklist and take your time. A proper move-in inspection can save you time and money in the future.

#### Note:

Great news for 2009! The 2008 Housing and Economic Recovery Act contained a provision exempting 100-percent Low Income Housing Tax Credit projects from annual recertification of household income.

This will greatly decrease the amount of paperwork that is required for your tax credit tenant files in the subsequent years after the initial move-in paperwork is completed. The rule change is basically the same as the old recertification waivers that you used to have to apply for on a perproject basis.

It is important to note that each state housing agency is interpreting/ implementing these new rules differently.

You must know what your state housing agency is going to require as far as annual recertification paperwork going forward in 2009.

If you are currently a Travois Asset Management client, we will be working with you to implement these new rules and track which tenant files they apply to.

If you have any questions regarding the new recertification requirements, please send an e-mail at <u>robin@</u> <u>travois.com</u> or call our office at 727-868-2059.

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#### Robin's rules continued ...

#### **Reminders:**

We are close to the end of 2008. This is a good time to begin putting together all the necessary information to complete your 2008 annual reporting requirements.

Each state is different, and it is important that you know what information/forms your state compliance department expects to receive on an annual basis. Please note if you are a current Travois Asset Management client, we will be working with you to prepare all of the necessary documents for your tax credit annual compliance reporting requirements.

Be sure to read ahead to the tax credit calendar on Page 10 of this issue. We have listed many of the upcoming deadlines for state compliance reports.

The end of the year is also a good time to check and make sure you are using the most current and effective compliance related forms. Check to see if your state compliance department has updated its compliance manual and/or forms. Ask yourself if there are some provisions that need to be added to your current tenant lease form. Maybe your tenant application form could use some updating?

The end of the year is a perfect time to ask and answer these questions. This will help to make sure you start of the 2009 compliance year with confidence.

### Best wishes for a happy and prosperous 2009!

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#### Midwestern states receive additional LIHTC authority

The Emergency Economic Stabilization Act of 2008, which was signed into law in October, provides a benefit to potential Low Income Housing Tax Credit projects in Midwestern areas that were affected by natural disasters last summer.

An additional \$8 per person of Low Income Housing Tax Credit authority is being made available to counties in ten states for 2008, 2009 and 2010.

The affected areas are in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska and Wisconsin.

The counties receiving the additional tax credits were presidentially declared disaster areas due to flooding, tornadoes or severe storms on or after May 20, 2008, and before Aug. 1, 2008.

The additional credits will help encourage new development and the rehabilitation of housing in the counties most affected and will also benefit other projects in the state by freeing up the traditional tax credit allocation.

These ten states will receive more tax credit authority than normal, which means tribes will have unprecedented access to extra credits, even if they are not located in the affected counties.

Travois urges tribes in these states to contact us for more information on applying for Low Income Housing Tax Credits.

Please contact Lorna Fogg, president of Travois, at 727-868-2059 or e-mail <u>development@travois.com.</u>



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### A strong foundation: Establishing the qualified active low income community business

When you ask people what it takes to build a house that will stand for generations, many of them will give the same answer: a strong foundation.

Just like a new house, the foundation is the key to making a new business or new economic development program last. In a New Markets Tax Credit (NMTC) project, the foundation is the legal structure of the entity that owns the project.

The ownership entity of an NMTC project is called a qualified active low-income community business (QALICB). When you are considering using NMTCs to fund your economic development project – a new administration building, a new grocery store, an expanded tribal enterprise – QALICB establishment will be the first item on your to-do list.

After you have verified that your project is taking place in a qualifying census tract (known as a low-income community or LIC), contact the lawyer who is assisting you with your project. He or she will need to verify that your project will meet the legal requirements of being a QALICB based on **two questions**: What will your project do? What legal structure will your project have?

#### What will your project do?

Ask him or her to find the section of the Internal Revenue Code that contains the rules for the NMTC program: IRC 45D. The specific part of this section that deals with QALICB establishment is IRC 45D(d)(3)(A). While that attorney is reading these regulations ask yourself the following general questions:

- Will my project make most of its revenue from renting dwelling units?
- Will my project consist of a golf course, liquor store, massage parlor, country club, hot tub or suntan facility, racetrack, gambling facility or the sale of alcohol?
- Will my project make most of its revenue from the cultivation of crops or the raising of livestock?
- Will my project be used as a holding company for stock or other financial assets?

In a New Markets Tax Credit project, the foundation is the legal structure of the entity that owns the project.

If the answer to any of these questions is yes, your project will probably not qualify for NMTC financing. At that point, you should contact Travois to discuss ways the business concept might be changed to account for program rules.

### What legal structure will your project have?

While you are asking yourself this question, ask your lawyer to go back to section 45D and specifically review IRC 45D(d)(2)(A). What

by Phil Glynn, director of Travois New Markets

is the best legal structure to help you make your project successful? A tribal corporation? A state corporation? A federally chartered section 17 corporation? Any of these corporate structures can work as long as they provide some legal separation from the tribal government. Tribal governments can hold ownership in a QALICB – even 100 percent ownership. The assets developed using NMTC financing, however, have to be held in a separate corporate entity that is not characterized as a disregarded entity for tax purposes.

If your project will be owned by an existing tribal enterprise, that entity must have legal separation from the tribe. If your project will be a new real estate development, you can create a single purpose entity (SPE). This will allow you to work with a blank slate to ensure that everything you do helps you reach both of your important goals: secure NMTC financing and make your project successful.

Sitting down with an attorney to discuss these issues is the most important step you can take after deciding to pursue NMTC financing. It will lay a solid foundation that you, your co-developers and business managers can build on for years.

Contact Phil Glynn, director of Travois New Markets, at 816-994-8970 or <u>pglynn@travois.com</u>.

### Native Spaces: Join Northern Cheyenne on the trail to being green!

by Greg Giakoumis, construction & inspection analyst

It seems we can't get away from the buzz word "green" these days. Green cars, green homes, green technology – there are even green household cleaning products!

In recent past, the only thing that we worried about being green was our grass. Is being green just a fad, or is it here to stay?

We believe that being green is here to stay and that it is everyone's personal responsibility to support the movement. But doing so is by no means the most inexpensive trail to follow.

Given this time of economic crisis, it is difficult to put up the extra funds that it takes to go green.

That is why we would like to recognize the Northern Cheyenne Tribe of Lame Deer, Mont. They are taking the necessary steps today that will make their new project as green as possible for tomorrow.

The Northern Cheyenne Tribal Housing Authority has received an allocation of tax credits for their Shoulder Blade Complex.

The complex is approximately 35,000 square feet, consisting of 35 units. During the planning stages for the rehabilitation of the complex, the housing authority was adamant about making the complex as energy efficient as possible.

They would not only implement the common "green" build measures,

such as energy efficient appliances, HVAC, insulation, electrical fixtures, and windows/doors, but they are taking their green initiative a giant leap further by providing an alternative energy source.

They will be utilizing the most easily accessible natural resource: sunlight. The technology that grasps this renewable energy does so by utilizing photovoltaics (PV).

A PV system, or more commonly known as a solar system, converts sunlight directly into electricity, and it works anytime the sun is shining!

Now given the sheer magnitude of the complex and the limited funds, the size of the solar system had to be restrained. Even with these factors against the foresight of the housing authority, they will employ the highest maximum energy output available.

Reference the chart on the right that shows the current energy consumed compared to the projected energy consumed after utilizing the solar system and green build measures. After rehabilitation is complete, the complex will use a projected 43 percent LESS energy than formerly consumed!

We commend the staff at Northern Cheyenne Tribal Housing Authority for their eager ambition to become as green as can be! We here at the Travois Design & Construction Services encourage you to join Northern Cheyenne on the trail to taking the necessary measures to make your future or current project as green as can be! And we're not talking about the lawn!

Feel free to contact Greg Giakoumis, construction & inspection analyst, with your questions or comments. Greg can be reached at 727-857-3207 or via e-mail at <u>giakoumis@travois.</u> <u>com</u>.



#### Native spaces: Travois & Colville Collaborate on Green Project

by Ashley Bland, director of Travois Design & Construction Services



As part of Travois' effort to push green building initiatives, we decided this year to provide a grant in the form of a prototype solar hot water heater to be installed in a project where it might provide motivation for the continuation of such measures.

After much thought, we selected the Colville Homes I project, for the staff's dedication to providing quality new construction that will lower tenants' energy consumption and utility costs, as well as Colville Indian Housing Authority's efficient management and construction of its first Low Income Housing Tax Credit project.

The installation was announced at the project's grand opening during a ceremony on August 28, 2008.

From the beginning Colville Indian Housing Authority, led by Executive Director Elena Bassett, expressed great interest in making their project as green as possible.

With Travois' assistance, a new solarpowered hot water heater will be installed in one of the units, where the housing authority, will monitor its efficiency and the reduction of tenant-paid utilities.

According to data gathered on the system that will be installed in early

December, the system will be 30 percent more efficient than a typical hot water heater.

In an average household, hot water heaters account for as much as 40 percent of total utility costs. If the system is successful, the housing authority would like to consider installations for future tax credit projects.

We applaud Colville Indian Housing Authority to their commitment to the families they serve, and we are proud to have worked with them to test this new green product.

For more information about green build measures, feel free to contact Ashley Bland at 703-845-9630 or ashley@travois.com.

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### Cook's corner: Jerry's own world famous blue corn scones



The 9th Annual Travois Indian Country Tax Credit Conference will be held in August 17–19,

2009, at the Hyatt Regency Tamaya Resort & Spa in Santa Ana Pueblo, N.M. This month's recipe is courtesy of Jerry Kinsman at <u>The Cooking</u> <u>Post</u>, a tribal enterprise of Santa Ana Pueblo.

Native people throughout the American Southwest have used corn (maize) in a variety of colors, and blue corn is one of the most prized grains. These scones would be perfect as part of a holiday breakfast. 1/2 cup Tamaya roasted blue cornmeal (or regular cornmeal)
1 3/4 cup all-purpose flour
1/3 teaspoon baking powder
1/4 teaspoon salt
1/4 lb. chilled butter
1/4 cup light brown sugar
1 egg
1/2 milk
1/2 teaspoon vanilla extract

Preheat oven to 375 degrees F. Grease and flour a baking sheet. Stir the dry ingredients in a bowl then cut the butter into the dry mixture with a pastry blender (or suitable substitute) to form a course meal. Beat the egg with the milk, sugar and vanilla. When smooth, stir into the other mixture until the dough holds together.

Knead briefly on a floured surface; pat into an 8-inch circle; place on baking sheet. Using a pizza cutter or serrated knife, score circle into eight wedges.

Bake for 15 or 20 minutes (depending on high or low altitude) or until nicely brown. Serve with honey, fruits or jams.

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#### Tax credit calendar

December						
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**Dec. 9–10:** Bureau of Indian Affairs/Tribal Budget Advisory Council – meeting; Washington, D.C.

**Dec. 9–11:** National American Indian Housing Council – 2008 Legal Symposium; Las Vegas, Nev.

**Dec. 11–13:** 11th National Indian Nations Conference, Justice for Victims of Crime; Palm Springs, Calif.



January 2009						
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Jan. 8–9: Novogradac & Company LLP – 15th Annual Tax Credit Developer's Conference; Miami, Fla.

Jan. 11–16: National Council of State Housing Agencies – The Housing Finance Agency Institute; Washington, D.C.

**Jan. 12:** Oklahoma Housing Finance Agency, Affordable Housing Tax Credit applications due.

Jan. 15: Washington State Housing Finance Commission, Low Income Housing Tax Credit applications due.

**Jan. 16:** Montana Board of Housing (MBOH), Low Income Housing Tax Credit applications due.

Jan. 19–22: National Congress of American Indians and National Indian Gaming Association – Inaugural Week Tribal Events; Arlington, Va.

Jan. 25–27: Council for Affordable and Rural Housing – Mid-year Meeting; Miami, Fla.

Jan. 26: MBOH, annual state compliance reports due.

Jan. 29–30: Novogradac & Company LLP – New Markets Tax Credit Conference; San Diego, Calif.

Jan. 30: New Mexico Finance Authority and Wyoming Community Development Authority, LIHTC applications due.

Jan. 31: Minnesota, New Mexico, Washington and Wisconsin, annual state compliance reports due.

February							
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**Feb. 6:** Kansas Housing Resource Corporation, LIHTC applications due.

**Feb. 15:** Arizona, Michigan and Oklahoma annual state compliance reports due.

**Feb. 16:** Wisconsin Housing & Economic Development Authority LIHTC applications due

**Feb. 23–24:** The Chaucer Group LLC – Affordable Housing/ Mixed-Use Development Training; Nashville, Tenn.

Feb. 24–26: NIAHC 2009 Legislative Conference; Washington, D.C.

**Feb. 26–27:** The Chaucer Group LLC – Project Financing Training; Nashville, Tenn.

Feb. 27: North Dakota Housing Finance Agency, South Dakota Housing Development Authority and Texas Department of Housing & Community Affairs, LIHTC applications due.

Feb. 28: Idaho annual state compliance reports due.

Looking ahead . . . other annual state compliance report due dates South Dakota: March 6 Arizona: March 15 Kansas: March 15 Maine: May 1

#### The Travois Team

#### Travois development staff



David Bland chairman



Lorna Fogg president



Bryan Schuler development director



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David Styron senior project coordinator



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