Minnesota Housing Finance Agency

2009 Housing Tax Credit Program Procedural Manual

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This information will be made available in alternative format upon request.

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Introduction

The Federal Tax Reform Act of 1986 created the Housing Tax Credit (HTC) Program (see Section 42 of the Internal Revenue Code) for qualified residential rental properties. The HTC offers a reduction in tax liability to owners and investors in eligible low-income rental housing projects involving new construction, rehabilitation, or acquisition with rehabilitation.

The Minnesota Housing Finance Agency (Minnesota Housing) has been designated by the Minnesota Legislature as the primary allocating agency of Housing Tax Credits (HTC) in Minnesota. Qualified local cities and counties have also been designated by the Legislature as suballocators of the HTC.

Section 42 of the Internal Revenue Code ("Section 42") requires that housing credit allocating agencies develop an allocation plan for the distribution of the tax credits within the jurisdiction of the allocating agency (IRS Regulations 1.42-17 Qualified Allocation Plan). Minnesota Housing's *Qualified Allocation Plan (QAP)* (see Minnesota Housing website, Multifamily Housing Tax Credit Allocation section) combines state and federally legislated priorities with other priorities established by Minnesota Housing following receipt of comments from the public, local municipalities and federal agencies. The *QAP* is subject to modification or amendment to ensure the provisions conform to the changing requirements of Section 42 and applicable state statutes. No assurances can be given that IRS guidance will not require further adjustments to the *QAP* and additional review of selected developments.

Minnesota Housing is also required to monitor HTC projects during the Compliance Period as well as notify the Internal Revenue Service (IRS) of any noncompliance with the requirements of Section 42 of which it becomes aware. All applicants should review the IRS Regulations 1.42-5 Monitoring Compliance. In addition, Minnesota Housing will monitor the projects during the remaining term of the Declaration of Land Use Restrictive Covenants (Declaration).

This information summarizing the HTC program is provided as a brief overview. It is not comprehensive and should not be relied upon for income tax purposes. The tax credits are allocated to the owner (taxpayer). The owner is solely responsible for compliance with Section 42.

Minnesota Housing is under no obligation to undertake an investigation of the accuracy of the information submitted in an application. Minnesota Housing's review of a proposed housing project does not constitute a warranty of the accuracy of the information, nor of the quality or marketability of the housing to be purchased, constructed, or rehabilitated pursuant to the HTC program. Developers, potential investors and interested parties should undertake their own independent evaluation of the feasibility, suitability and risk of the project. If any information submitted by the applicant in connection with the allocation of HTCs by Minnesota Housing is later found to have been incorrect or there has been a subsequent change in any material respect, it is the responsibility of the applicant to inform Minnesota Housing and to request a reexamination of the application.

This manual is provided solely for use in applying for housing tax credits from Minnesota Housing and may not be relied upon in structuring or investing in specific transactions, compliance with the Internal Revenue Code, Treasury Regulations or any other laws or regulations governing Tax Credits. Interested parties should consult with a knowledgeable tax professional prior to entering into any commitment concerning the use and claim of housing tax credits.

Chapter 1 – The Minnesota Housing Mission Statement

The vision of Minnesota Housing is for all Minnesotans to live in affordable homes.

Our mission is to finance and advance affordable housing opportunities for low and moderate income Minnesotans to enhance quality of life and foster strong communities.

Chapter 2 – Role of the Suballocators

Suballocators were authorized by the 1990 legislature to allocate and monitor tax credits to eligible projects in their cities or counties. The suballocators award their allotted tax credits in Round 1 of competition.

A. Round 1

During Round 1, for-profit applicants must apply directly to the suballocator for a credit allocation if the project falls within a suballocator's jurisdiction. Nonprofit applicants may apply to the Minnesota Housing nonprofit set-aside or the suballocator individually or concurrently. Any unused tax credits are returned to Minnesota Housing prior to Round 2.

B. Round 2

In Round 2, projects located in suballocator jurisdictions may apply directly to Minnesota Housing. In Round 2, where partially funded projects receive priority, a suballocator may recommend one partially funded project for additional tax credits.

C. Joint Powers Agreement

A suballocator may elect to enter into a Joint Powers Agreement with Minnesota Housing. Under a Joint Powers Agreement, Minnesota Housing shall perform certain functions related to the credit allocation and compliance monitoring in exchange for the transfer of the suballocators tax credits to Minnesota Housing.

D. Subsidy Layering Review

Suballocators are responsible for entering into an agreement with the U.S. Department of Housing and Urban Development (HUD) to perform subsidy layering reviews.

E. Suballocator Reporting

As the primary and lead housing credit agency for the state of Minnesota, Minnesota Housing is responsible for collecting and filing the required form with the IRS each year on the last day of February. The local suballocators have agreed to submit the following information to Minnesota Housing no later than January 31st for all tax credit activity that has occurred in the preceding year:

1. A completed Minnesota Multifamily Rental Housing Common Application form for each development receiving an allocation through a reservation, carryover, or issuance of 8609 for tax credits issued from volume cap and through tax-exempt bonds.

2. A copy of the Reservation/Binding Agreement, original Carryover Agreement, a completed IRS Form 8610 Schedule A for each development receiving a Carryover Allocation, and copies of the IRS Form 8609s.

3. From time to time there may be other requests for information for federal and state reporting purposes.

Chapter 3 – Policies and Procedures

A. Application Cycle

The Minnesota Housing allocation procedure for Housing Tax Credits has two annual funding cycles (Round 1 and Round 2).

Round 1 uses a forward selection process. Tax credit selections for Round 1 take place in the fall of the year preceding the allocation year of the credits.

Round 2 will make available for allocation, credit authority remaining or returned since Round 1. Additionally, Round 2 will establish a waiting list for credits that may be returned.

Minnesota Housing will accept applications in accordance with the *QAP*. The closing date for receipt of applications for each competition can be found in Chapter 10 Allocation Schedule of Critical Dates. (Application closing dates subsequent to the first competition may be approximate depending upon availability of tax credits and ability of Minnesota Housing to process applications).

The Multifamily and Housing Tax Credit application materials can be found at http://www.mnhousing.gov/housing/developers/common-app/index.aspx

The Multifamily Consolidated Request for Proposal Guide provides a comprehensive resource of all Minnesota Housing Multifamily application materials, including: narrative requirements, submittals, Minnesota Housing forms, and reference materials. Minnesota Housing encourages you to visit our website to access these materials.

Minnesota Housing will base its selection decision upon the application and attachments received on the application due date. No applications, attachments or documentation will be accepted after the application due date unless requested by Minnesota Housing.

The application, narratives and project schedule must be submitted electronically and the original executed application plus three (3) copies must be submitted with the complete application package. The application and all required submissions must be complete and legible or the application will be returned. Applications will not be accepted by facsimile. Refer to the Multifamily Consolidated Request for Proposal Guide for details.

Application should be submitted no later than 5:00 p.m. on the application date to:

Minnesota Housing Finance Agency
Housing Tax Credit Administrator
400 Sibley Street, Suite 300
St. Paul, MN 55101-1998

Upon receipt of an application, as required by federal law, Minnesota Housing will notify the Chief Executive Officer of the local jurisdiction where the proposed project is planned. This notification will include characteristics of the proposed HTC project and provide an opportunity for the local unit of government to comment on the project. Minnesota Housing will also notify the local public housing authority, City Administrator, and the suballocators.

Information submitted in an application for Housing Tax Credits is public information that is accessible to the public pursuant to Minnesota Statutes, Chapter 13.

B. Multiple Buildings

Projects may include "multiple buildings" having similarly constructed housing units, provided the buildings are located on the same tract of land, are owned by the same person for federal income tax purposes and are financed pursuant to a common plan of financing. Scattered site buildings on different tracts of land will also qualify if the project meets all of the other requirements described above and the project is 100 percent rent restricted.

C. Nonprofit Set-aside

Federal law requires that 10 percent of the total annual credit available be reserved each year exclusively for projects involving ownership by nonprofit organizations which have a 501(c)(3) or (c)(4) status or appropriate equivalent designation approval from the IRS. On an annual basis, Minnesota Housing and suballocators may reserve an additional 5 percent for a total annual nonprofit set-aside of 15 percent.

The nonprofit must be local, organized and incorporated in the state of Minnesota and have significant experience in Minnesota as a sponsor, owner, or manager of low-income housing. The nonprofit must have as one of its exempt purposes the fostering of low-income housing and must "materially participate" in the ownership, development and operation of the low-income project through the term of the Declaration.

The intent of Section 42 is to ensure that a for-profit entity or individual does not set up a "sham" nonprofit organization in order to tap the nonprofit set-aside. This could include establishing a nonprofit organization for the specific project, without any history, experience, local community involvement, or financial strength.

The nonprofit organization must demonstrate that the nonprofit is acting independently and free from influence of control by the for-profit project team members. Minnesota Housing reserves the right to contact the officers and directors of the nonprofit organization to determine their independence.

Minnesota Housing will require that all nonprofits applying for the nonprofit set-aside, disclose all identity of interest between the nonprofit and any member of the for-profit project team. An identity of interest would include any officer, director, partner, stockholder, relative, seller or owner of land or building involved, processing agent, real estate salesperson or broker, employee, or anyone acting to represent any for-profit member of the project team who controls or influences the decisions of the nonprofit.

If there is an identity of interest, affiliation or conflict, as determined by Minnesota Housing, Minnesota Housing will disqualify the nonprofit from receiving credits from the nonprofit set-aside. In making this determination, Minnesota Housing will consider the following:

1. The nonprofit's history, funding sources and composition of its board;

2. Past experience and anticipated future activities of the nonprofit, including involvement in the local community;

3. Sources and manner of funding of the nonprofit;

4. The nonprofit's degree of financial strength for completion and operation of the project during the term of the Declaration;

5. The relationship of the principals involved in the formation of the nonprofit organization with for-profit individuals concerning the tax credit application. A nonprofit cannot be affiliated with or controlled by a for-profit entity by:

   a. Having more than a 25 percent share of common board members; or

   b. Having more than 25 percent of its funding, directly or indirectly, from the parent entity; or

   c. Having any other type of association that is not considered an arms-length affiliation.

6. The extent to which the nonprofit materially participates within the meaning of Section 469(h) of the Internal Revenue Code in the development and operation of the project throughout the term of the Declaration. Minnesota Housing will also look at the nonprofit's involvement in the project related construction, management, ownership interest, sharing of fees and funding provisions.

   If the nonprofit set-aside is exhausted during a round, the nonprofit applicant with proposed projects in Minnesota Housing's jurisdiction may be eligible for tax credits from the appropriate for-profit set-aside and selected based upon its point ranking. (See also Article 4 and 5 of the *QAP*). However, any proposal with a qualified nonprofit applicant must comply with the nonprofit requirements of IRC Section 42(h)(5)(C) and (D) including material participation for the term of the declaration. This requirement is a covenant on the land that shall apply to all subsequent owners.

D. Rural Development/Small Project Set-Aside

Eligible projects must have either:

- A Rural Development (RD) financing commitment or,
- A site located in a *RD service area* (Housing Tax Credit Manual Chapter 11 Reference Materials section) and consisting of twelve (12) or less units.

All projects within this set-aside must meet all applicable HTC Design Requirements. First priority will go to projects with applications for financing or a commitment from Rural Development. A developer may have a maximum award of two (2) projects within this set-aside each allocation year. Once a project has elected to participate in this set-aside, the project may not be transferred to an alternative set-aside in the existing round. The tax credits will not be allocated to an RD project until a financing commitment has been executed.

E. Developer and Development Limits

During the allocation year, no more than 10 percent of the State's per capita volume limit in tax credits may be awarded to any one developer or general partner. No more than $780,000 in cumulative tax credits may be awarded to any one project.

At the sole discretion of Minnesota Housing, these limits may be waived for projects that involve community revitalization, historic preservation, preservation of existing federally assisted housing, housing with rents affordable to households at or below 30 percent of median income or in response to significant proposed expansions in area employment or natural disaster recovery efforts. Minnesota Housing may also waive these limits during Round 2 if there are excess tax credits at year-end.

Applicants should not assume that this waiver will be automatically provided or rely on this statement when determining the scope of the proposed project.

F. Transfer of Ownership

Minnesota Housing strongly discourages the transfer of ownership in projects that have been awarded tax credits. Minnesota Housing feels that for the long term viability of quality housing, the development and management teams making the decisions in developing the tax credit housing need to also own and operate the project for the long term. Any transfer of title of a selected project or transfer of more than a 50 percent interest in a general partner or change in a nonprofit partner prior to a date five years after the project's new construction/rehabilitation placed in service date will be considered a material change in the project and **will be subject to the approval of Minnesota Housing**. Owners wishing to change or transfer ownership must submit a completed and executed *Notice of Intent to Transfer Ownership* (HTC 27), *Transfer Agreement* if prior to issuance of 8609 (HTC 20), a transfer of ownership fee, (See Chapter 9) and any other documentation that Minnesota Housing deems necessary

G. Unacceptable Practices

1. Unapproved Transfer of Ownership:

   Any unapproved change or transfer of ownership from selection through five years after the project's new construction/rehabilitation placed in service date will have an effect on all individuals/entities from the development and management team on each side of the transfer that submit applications in future HTC rounds. These entities may be penalized as follows:

   For four funding rounds from the date Minnesota Housing discovers an unapproved change or transfer of ownership:

   a. First Transfer (-10 points on each application submittal)

   b. Two or More Transfers (-25 points on each application submittal)

   In addition, if Minnesota Housing becomes aware of a transfer of ownership by an individual or entity without proper notification and approval by Minnesota Housing, the Minnesota Housing reserves the right to determine that all parties involved in the transfer will not be eligible for participation in Minnesota's HTC program for a period of ten years.

2. Displacement of Section 8 Tenants:

   Minnesota Housing will not accept applications that have displaced (or will displace) Section 8 tenants in a housing project because rents will be increased above the Section 8 Payment Standard Rent limit. Rehabilitation projects that have existing Section 8 tenants may not increase those rents (in

Section 8 units only) above HUD's Payment Standard Rents after completion of rehabilitation.

a. Minnesota Housing has agreed to partner with the local HUD area office to determine if tenants of rehabilitation projects;

   1. were displaced prior to application;

   2. are displaced after rehabilitation has been completed.

b. If Minnesota Housing and the local HUD area office agree that intentional displacement of Section 8 tenants has occurred, with exception given to lease violations by the tenant, Minnesota Housing will:

   1. reduce or rescind the reservation/allocation of the tax credits to the project prior to issuance of 8609;

   2. assess a -25 point penalty to all parties involved in ownership/management of the project for four funding rounds following notification of the assessment of the negative points by Minnesota Housing and may also be placed against tax-exempt tax credit projects, owners, and managers.

3. Changes to Project:

   The award of tax credits is based upon information provided in the application and the preliminary plans submitted with the application. Until the property is placed in service, any material changes to the project or building design (i.e., changes in unit mix or unit size, that affect applicable *Design Standards for HTC 2009*, or design features required for preference points) as submitted in the application require written notification to and approval from Minnesota Housing. Any changes that have not been previously approved by Minnesota Housing could result in a proportional loss of tax credits up to the full amount of the allocation as well as the assessment of penalty points to the owner/developer of up to -25 points.

4. Late 8609 Application Submissions Resulting in the Loss of Tax Credit Authority to the State:

   When Minnesota Housing becomes aware that a late submission of a complete and acceptable 8609 application package by a development's owner/agent results in the loss of any volume of housing tax credit authority to the state of Minnesota, Minnesota Housing reserves the right to determine that all parties involved will not be eligible for future participation in Minnesota's HTC Program for a period of up to ten years.

5. Filing of Non-Agency Approved 8609 with the IRS:

   When Minnesota Housing becomes aware that a development's owner/agent has filed an 8609 with the Internal Revenue Service in advance of the owner/agent's receipt of the Minnesota Housing signed version of the approved 8609, or if the owner/agent electronically files an 8609 with the Internal Revenue Service which does not accurately reflect the information contained on the Minnesota Housing signed version of the approved 8609, Minnesota Housing will file an 8823 Notice of Non-Compliance with the IRS and reserves the right to determine that all parties involved will not be

eligible for future participation in Minnesota's HTC Program for up to a period of ten years. This applies to credits issued by Minnesota Housing, suballocators and in conjunction with tax-exempt bonds.

6. Repeated non-compliance with Minnesota Housing's Fair Housing Policies, Procedures, and/or Requirements:

   Repeated failure to comply with Minnesota Housing's Fair Housing Policies, Procedures, or Requirements will be penalized. Minnesota Housing will impose up to a -25 point penalty on future housing credit developments to all parties involved in ownership and/or management on the development(s) that repeatedly is found in non-compliance. The penalty points will be in effect for four funding rounds following notification of the assessment of the negative points by Minnesota Housing and may also be placed against tax-exempt tax credit projects, owners, and managers.

H. Minimum Underwriting Factors

A development selected for a reservation of tax credits is selected based upon the underwriting factors relating to maintenance and operating expenses and permanent financing stated by the applicant in its application and as approved by Minnesota Housing (See Chapter 6.H). These factors will be monitored throughout the tax credit process until Minnesota Housing's issuance of the approved IRS Form 8609. Minnesota Housing WILL NOT ALLOW ANY SIGNIFICANT ADJUSTMENTS TO THESE FACTORS. Changes in these factors could lead to the revocation of the tax credit allocation.

I. Identity of Interest

The applicant must disclose any and all relationships (generally based on financial interests or family ties) with others involved in the project. A written disclosure to Minnesota Housing detailing the nature of all identity of interest relationships is required for all parties.

J. Disclosure and Eligibility of Development Team

The applicant must disclose on the Multifamily Rental Housing Common Application Form the names and addresses, including corporate officials where applicable, of all parties that have a significant role in the project ("significant parties"). These significant parties include, but are not limited to general partners, accountants, architects, engineers, financial consultants, any other consultants, management agents and the general contractor (each team member must complete a *Qualification Form*.) Minnesota Housing must be satisfied that those who will own and operate the project are familiar with and prepared to comply with the requirements of the program.

The following significant parties are not eligible to participate in the Tax Credit Program:

1. Significant parties who have been convicted of, enter an agreement for immunity from prosecution from, or plead guilty, including a plea of *nolo contendere*, to a crime of dishonesty, moral turpitude, fraud, bribery, payment of illegal gratuities, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records;

2. Significant parties who are currently debarred from any Minnesota program, other states' program, or any federal program;

3. Significant parties who have serious and persistent compliance monitoring violations may not be eligible at the sole discretion of Minnesota Housing; or

4. Significant parties having an Identity of Interest with persons or entities falling into any of the above categories may not be eligible at the sole discretion of Minnesota Housing.

K. Determination of Credit Amount

Federal law mandates that, although a proposed project may be eligible for up to 70 percent or up to 30 percent present value credit amount, Minnesota Housing may not allocate more credit than is necessary for the financial feasibility of the project and its viability as a qualified affordable housing project throughout the compliance period.

After a project meets the development selection criteria, including marketability, Minnesota Housing will evaluate each proposed project, taking into consideration:

1. Development costs, including, developer fees, builder profits, contractor overhead, and general conditions.

2. All sources and uses of funds.

3. Projected income and expenses.

4. Proceeds expected to be generated from the sale of tax credits, including historic tax credits.

5. The difference between total project costs and total available financing resources, which is referred to as the GAP. A calculation is made to determine the amount of tax credits needed by the project to fund the GAP over a ten-year period, based on the estimated market value of the tax credits.

Based on this evaluation, Minnesota Housing will estimate the amount of credit to be reserved for each application. This determination is made solely at Minnesota Housing's discretion and is not a representation as to the feasibility of the project. Rather, it will serve as the basis for making a reservation of credits. The amount of the tax credit can change during the process due to variations in cost, mortgage amount, tax credit percentage, syndication proceeds, etc.

This analysis to determine the maximum amount of tax credits must be performed by both Minnesota Housing and the owner/developer at the time of application, at the time a carryover allocation is approved, and at the time the project is placed in service, providing all project costs are finalized and certified.

If there are changes in resources and/or uses of funds or other material changes, Minnesota Housing will adjust the tax credit amount to reflect the changes, and the tax credit may be reduced. Tax credit amounts will not automatically be increased above the initial reservation request or allocation amount. Requests for additional tax credits for the project must follow the procedures in Chapter 3.L of the manual and will depend upon the availability of credits.

L. Requests for Additional Credit Amounts

Projects that have had a justifiable increase in eligible basis or previously received a partial allocation may be eligible to apply for supplemental tax credit amounts. To receive a supplemental tax credit amount, the owner must submit an application when applications are due for Round 1, Round 2, or at the time the carryover application is submitted.

Developers who have a Minnesota Housing reservation from the current year will be required to submit a revised Multifamily Rental Housing Common Application Form, documentation supporting the increased amount of credits requested, an updated and revised Self-Scoring Worksheet, any new or revised documentation obtained since the previous application and a supplemental application fee.

A complete application package with all attachments and a full application fee will be required for additional tax credits for developments initially awarded tax credits from a suballocator or that have a tax credit allocations from a prior year.

Minnesota Housing permits only one supplemental or additional tax credit allocation award for each development. Awards of additional credits requested as part of a carryover application are not counted against this limit.

Applications that are submitted for an additional tax credit amount will be subject to the same evaluation process described above, the availability of credits, as well as limitations on the time period for allocation of additional credits under Section 42.

M. Resubmission Process for Non Select Projects

In a current allocation year, if a project fails to receive credits in Round 1, it may be considered for a reservation of tax credits in Round 2 by following these guidelines. Resubmittal must occur by Minnesota Housing's HTC application deadline. Minnesota Housing will not consider applications resubmitted after the deadline. A resubmitted application must include the following:

1. Cover letter requesting resubmission with a copy of Minnesota Housing's non-selection letter attached.

2. Re-signed and re-dated Multifamily Rental Housing Common Application Form (all changes from the initial application must be clearly identified).

3. Any new or revised documentation obtained since the previous application.

4. Evidence of any scoring change (an updated and revised *Self-Scoring Worksheet*).

5. Any documentation Minnesota Housing deems necessary (upon request only).

6. The Supplemental Application fee.

Minnesota Housing reserves the right to require a full, new application for any project. This right will be exercised if staff feels the proposed project differs substantially from the initial application.

N. Qualified Census Tracts and Difficult Development Areas

Federal law permits, but does not require, Minnesota Housing to reserve a greater amount of credits than the legislated maximum credit percentage for projects in areas that meet either of the following criteria:

1. Qualified census tracts (QCT) designated by HUD in which 50 percent of the population has an income of less than 60 percent of the area median or has a poverty rate of at least 25 percent; where such areas do not comprise more than 20 percent of the overall population, (For a current list of the HUD-designated QCT on the Internet, link through Minnesota Housing's web site [HTC Reference Materials] or go directly to www.huduser.org/datasets/qct.html or http://factfinder.census.gov

2. Difficult development areas (DDA) designated by HUD as having high construction, land, and utility costs relative to area median income.

   For DDA Information, go to the same web site defined for QCT above.

O. Reservations

Once staff has ranked applications and determined allowable credit amounts for each application, staff will make recommendations to Minnesota Housing's Board of Directors for final approval of the reservation of credits. After the ten-day adjustment period (referenced below), the selected applicant will have 20 days to acknowledge selection by returning an executed project profile, and the appropriate reservation fee (See Chapter 9).

A development selected for a reservation of tax credits is selected based upon many specific factors relating to the application including site location. **Reservations are site specific**. Changing a development's site could lead to the revocation of the tax credit reservation/allocation.

Minnesota Housing's tax credit program permits its owners to elect the applicable percentage either at reservation or placed in service. If the election is not made at the time the reservation letter is issued, the percentage will be fixed for the month in which the building is placed in service. The Owner must be sure to consider the best options for this election and make sure the election is made at the correct time. Once made, the election is irrevocable. Upon receipt of the required documents, Minnesota Housing will complete its reservation review and send reservation agreements to be executed by the owner. Each reservation shall be conditioned upon receipt of written certification, evidence of timely progress toward completion of the project acceptable to Minnesota Housing, and evidence of compliance with federal tax requirements.

Choosing the gross rent floor date as the date of allocation or the date of placed in service can be done at any time from reservation forward but must be done **prior to** the date the project is placed in service. If you choose to make the election as of the date of the reservation, submit a fully executed *Gross Rent Floor Election Form* (HTC 26) including each building of the development in which there are housing tax credit units. If the required form, fully executed, by the Owner, is not submitted to Minnesota Housing prior to the placed in service date, with all elections made by the owner, the gross rent floor date will be effective on the allocation date of the tax credits.

Minnesota Housing maintains the right not to reserve tax credits for any project if it determines, in its sole discretion, that a reservation for such project does not further the purpose and goals as set forth in Chapter 1 of this plan.

P. Administrative Errors

If the applicant believes that Minnesota Housing has misinterpreted, was not aware of a submission item, or miscalculated the applicant's selection points or credit amount at time of application/reservation, the applicant must submit in writing evidence supporting their position within five business days of Minnesota Housing's notification of application status. Notification will be in the form of a selection or non-selection letter. The first business day after the date on this letter will be the first day of the notification period.

If the evidence provided by the applicant is accepted and the selection points of the project are affected, Minnesota Housing will re-rank all projects in the order of descending selection points. After an additional five-business day period, Minnesota Housing's rankings will stand and reservations for selected projects will be distributed.

Q. Waiting List

In Round 2, eligible applications will be maintained on a waiting list until the end of the year in the event Minnesota Housing receives National Pool credits or returned credits. The waiting list will follow Minnesota Housing's selection point ranking. Generally, projects will be chosen in order; however, depending on time and funds available, Minnesota Housing reserves the right to make modifications to the waiting list. Projects placed on the waiting list must be fully evaluated for underwriting, market and financial viabilities prior to receiving consideration for a tax credit allocation. A project must pass these reviews to be eligible for selection from the waiting list. If an application is not selected for a reservation of tax credits by the end of the calendar year, there will be no further consideration. An applicant currently on the waiting list must submit a completely new application packet in the next funding round, which is a new tax credit year, to receive consideration for a tax credit allocation.

R. Carryover Allocations

Federal law (IRS Regulations 1.42-06 Carryover Allocation) provides that Minnesota Housing may give a carryover allocation to certain qualified building(s), which are to be placed in service no later than December 31 of the second year after the allocation year for which the reservation was issued. To receive a carryover allocation, the owner must submit a complete carryover application package to Minnesota Housing no later than November 1 of the allocation year for which the reservation was issued.

Federal law requires that more than 10 percent of the expected basis in the project (including land) must be expended by the later of the date which is six months after the date that the allocation is made or the close of the calendar year in which the allocation is made. A written certified public accountant's (CPA) certification must be submitted verifying the owner has incurred required expenditures. As decided by the owner, submission of the CPA certification may be made at the time of carryover application or at a later date as provided for by Section 42 and by the Minnesota Housing Tax Credit Program Procedural Manual. However, the carryover allocation agreement must be executed prior to December 31 of the allocation year for which the reservation was issued. For a carryover agreement to be valid it must include, among other things, the amount of the reasonably expected basis at the end of the second year after the initial reservation and the carryover basis expended by the later of the date which is six months after the date that the allocation is made or the close of the calendar year in which the allocation is made. If the final CPA certified carryover basis

and expenditures information is not available at the time the carryover application is due, an estimate of the expenditure of greater than 10 percent of the expected basis must be performed by the owner and submitted to Minnesota Housing no later than November 1 of the allocation year for which the reservation was issued. The final CPA certifications must be submitted to Minnesota Housing prior to the deadlines established by Section 42 and by no later than Minnesota Housing's submission deadlines identified in Chapter 7.B of this manual. Failure to comply with the submission dates will result in significant penalties as outlined in Chapter 9.E. Additional carryover requirements are given in Chapter 7.B.

Minnesota Housing's Housing Tax Credit carryover procedures are intended to conform to the federal laws and are based upon the limited guidance received from the IRS. At any time, additional IRS guidance may be issued that will require further adjustments to the QAP and additional reviews of developments relating to carryover.

S. Final Allocations

Except for carryover allocations, no allocation of tax credits will be made until a building or project is placed in service, and the proper documentation and fees have been received. The final amount of credits is determined when the project is placed in service.

Final allocations (Form 8609) may be requested when all eligible buildings are placed in service and the proper documentation and fees have been received. Minnesota Housing may establish, at its sole discretion, required deadlines prior to year-end for final allocation requests in order to permit timely processing of documents. If an owner of a tax credit development does not intend to obtain a carryover allocation, but instead intends to take a project from credit reservation directly to placed-in-service status, an allocation via issuance of 8609 must be obtained prior to year-end of the allocation year for which the reservation was issued. The tax credit application for issuance of such 8609's must be submitted to Minnesota Housing on or before November 1 of the allocation year for which the reservation was issued.

A project that has neither received a Carryover Allocation nor has been placed in service and issued appropriate 8609's before December 31st of the year of allocation will lose its entire allocation of credits.

The tax credit amount that will be allocated is based on Minnesota Housing's final determination of the qualified basis for the building or project and a review of the project costs as outlined in this Procedural Manual. The allocation may be reduced to comply with federal law based on the final review of the project.

Prior to final allocation the project owner is required to execute and record a Declaration of Land Use Restrictive Covenants.

Non-compliance with the terms of a reservation of credits or a carryover allocation will result in a loss of credits.

T. Monitoring for Compliance

Federal law requires that Minnesota Housing provide a procedure to be used in monitoring for compliance with Section 42 and for notifying the Internal Revenue Service of noncompliance. Minnesota Housing is required to apply the monitoring procedure to all tax credit projects developed within Minnesota Housing's jurisdiction including tax credits issued with tax-exempt bonds since the inception of the HTC Program. Minnesota Housing shall perform such duties in accordance with its Housing Tax Credit Compliance Manual. Copies are available upon request.

1. All tax credit recipients shall submit an annual certification to Minnesota Housing in a manner, form, and time established by Minnesota Housing. The certification will include, but is not limited to, the submission of completed IRS forms and compliance monitoring fees. Owners are required to certify whether or not the property is in compliance with Section 42 regulations and also whether or not the property complies with the restrictions and/or set-asides under which the allocation was awarded.

   In addition to the annual owner certification requirements, for the first year of the credit period owners shall submit a copy of the Characteristics of Tenant Household report (HTC 30), which details demographic data on households initially occupying units in the development from the placed in service date to the end of the first year of the credit period.

2. A review of tenant certifications including the tenant applications, third party verifications and supporting documentation of income, as well as general project appearance will be conducted in accordance with Minnesota Housing's Compliance Manual. The compliance report including tenant name(s), household information, amount and sources of income, rents, utility allowance or cost, and other unit information is required to be maintained at all times and will be submitted annually. All tax credit recipients will also maintain, as part of the official project records, the tenant applications, income certifications and verification of tenants' income. If a property received its credit allocation based on serving specific targeted population(s), the tenant files must also contain supporting documentation showing that the unit is serving such population(s).

3. Minnesota Housing will conduct its first monitoring inspection no later than the end of the second year of the credit period. Such inspection will include, but is not limited to, a review of tenant files and physical inspection of 20 percent of the low-income units.

4. Minnesota Housing will conduct a compliance inspection of each development at least once every three years. Such inspection will include, but is not limited to, a review of tenant files and physical inspection of 20 percent of the low-income units.

5. Minnesota Housing shall have access to all official project records, including IRS reporting forms, upon reasonable notification. All official project records or complete copies of such records must be made available to Minnesota Housing upon request.

6. To accomplish its compliance monitoring responsibilities, Minnesota Housing will charge a fee of the greater of $50 per project or $25 for each unit in the project annually. The fee for properties covered by the Memorandum of Understanding by and between Minnesota Housing and USDA Rural Development is $15 per unit per year. Minnesota Housing reserves the right to adjust the annual fee to offset administrative costs.

7. Minnesota Housing will promptly notify the IRS of any project noncompliance within its responsibility as contained in Section 42. Minnesota Housing has no jurisdiction to interpret or administer Section 42, except in those instances where specific delegation has been authorized.

8. Properties that received a credit allocation in 1990 and later are subject to a minimum 15-year Extended Use Period. Minnesota Housing has defined compliance requirements and monitoring procedures during the Extended Use Period in the Housing Tax Credit Compliance Manual.

U. Qualified Contract

Section 42(h)(6)(E)(i)(II) of the Internal Revenue Code created a provision that housing credit agencies respond to the request for presentation of a qualified contract for tax credit developments with expiring compliance periods. The request for presentation of a qualified contract may occur after year 14 of the compliance period. The request for presentation of a qualified contract is a request that the housing credit agency find a buyer (who will continue to operate the property as a qualified low-income property) to purchase the property for a "qualified contract" price pursuant to IRS regulations. If the housing credit agency is unable to find a buyer within one year, the extended use period is terminated.

Many owners have chosen to waive the right to request a qualified contract and have committed to thirty years or more of operation as low-income rental housing. Owners should review the respective QAP, development tax credit application, carryover agreement, and Declaration of Land Use Restrictive Covenants to determine whether the development has waived the right to request a Qualified Contract prior to contacting Minnesota Housing.

A Request for Qualified Contract may be submitted only once for each development. If an owner rejects an offer presented under the Qualified Contract or withdraws its request at any time after the Notification Letter and Application Materials have been received by Minnesota Housing, no other opportunity to request a Qualified Contract will be available for the development in question.

Owners who are contemplating requesting the presentation of a Qualified Contract should directly contact a member of Minnesota Housing tax credit team for reference to the Qualified Contract Guide.

V. Tenant Selection Plan

Minnesota Housing requires that a Tenant Selection Plan (Plan) is readily available to anyone interested in such Plan for review and/or retention. Minnesota Housing will not develop or provide such a Plan to owners or management companies.

Federal, State and local fair housing laws should be consulted when owners/managers are developing a Plan. It is the responsibility of the owner/manager to have a thorough understanding of the basis under which discrimination is prohibited.

A Plan developed for the purpose of objectively selecting potential residents should have a focus on demonstrating an ability to live in harmony with others in a respectful manner. Factors to consider of persons interested in the available housing should include but not be limited to income eligibility, ability to pay the required rent, deposits, and applicable tenant paid utilities; previous rental history; references, expectations of all residents to management, neighbors, visitors to the development, etc. (Also see related items in Chapter 7 B and C, and Chapter 8 G.)

W. Other Conditions

No member, officer, agent, or employee of Minnesota Housing shall be personally liable concerning any matters arising out of, or in relation to, the allocation and monitoring of Housing Tax Credits.

X. Revisions to the Manual and Allocation Plan

To the extent necessary to facilitate the award of Housing Tax Credits that would not otherwise be awarded, this Procedural Manual and attached QAP may be modified by Minnesota Housing from time to time. Minnesota Housing may make minor administrative modifications deemed necessary to facilitate the administration of the HTC Program or to address unforeseen circumstances. Further, the Board is authorized to waive any conditions that are not mandated by Section 42 on a case-by-case basis for good cause shown.

A written explanation will be made available to the general public for any allocation of a housing credit dollar amount that is not made in accordance with Minnesota Housing's established priorities and selection criteria.

The attached QAP may be amended for substantive issues at any time following public notice and public hearing. Said hearing will be held at the main offices of the Minnesota Housing Finance Agency in St. Paul, Minnesota. Any substantive amendments will require approval of Minnesota Housing Board of Directors and the Governor.

To the extent that anything contained in the Manual and QAP does not meet the minimum requirements of federal law or regulations, such law or regulation shall take precedence.

Chapter 4 – Federal Program Requirements

A. Eligible Activities

Eligible activities for tax credits include new construction, rehabilitation, or acquisition with rehabilitation.

B. Applicable Percentage

There are two levels of applicable percentage, depending upon whether the building is new or existing, whether there are rehabilitation expenditures and whether the buildings are federally subsidized.

1. New Buildings and Qualifying Rehabilitation Expenditures (if neither is federally subsidized):

   With respect to new buildings or qualifying rehabilitation expenditures which are not subsidized, the applicable percentage is an amount resulting in aggregate credits having a present value of 70 percent of qualified basis. Traditionally, this has resulted in a credit percentage of approximately 9 percent.

2. New Buildings and Qualifying Rehabilitation Expenditures that are Federally Subsidized and Existing Buildings:

   With respect to new buildings and qualifying rehabilitation expenditures which are federally subsidized, and the acquisition of existing buildings that are rehabilitated, the applicable percentage is an amount which results in aggregate credits having a present value of 30 percent of qualified basis. Traditionally, this has resulted in a credit percentage of approximately 4 percent.

   The 9 percent and 4 percent credit percentage represents the maximum potential rate. For the current rate, you may contact Minnesota Housing or visit http://www.irs.gov/taxpros/lists/0,,id=98042,00.html.

C. Qualifying Rehabilitation

Rehabilitation expenditure requirements are established both by state and federal law.

Under Section 42(e), rehabilitation expenses qualify for the credit if the expenditures for each building:

1. Are able to be allocated to one or more low income units or substantially benefit low income units; and

2. Equal the greater of:

   a. An average of $3,000 in qualified basis per low income unit for a building; or

   b. An amount that is not less than 10 percent of the adjusted basis of the building, as determined pursuant to Section 42(e)(3).

In addition to the Section 42(e) requirements, Minnesota Statutes Section 462A.221, Subdivision 5, requires rehabilitation expenditures for the project of an average of $5,000 per unit.

It is necessary to acquire an existing building in order to incur qualifying rehabilitation expenditures with respect to that building. In such a case, the costs of acquiring the existing building may be eligible for the 30 percent present value credit and the rehabilitation expenditures may be eligible for the 70 percent present value credit.

D. Existing Buildings

In order for an existing building to qualify for the 30 percent acquisition credit in connection with rehabilitation, there must have been a period of at least 10 years between the date the building was acquired and

1. The date it was last placed in service; or

2. The date of its most recent nonqualified substantial improvement, whichever is later. See Section 42(d)(2).

Please note that the 10-year rule also applies to existing tax credit projects applying for a new allocation of acquisition credits at the end of the original 15-year compliance period.

E. Exception to the Ten-Year Rule

Exceptions to the ten-year rule are provided in Section 42(d)(6) for federally assisted buildings, certain low-income buildings subject to mortgage prepayment, and buildings acquired from insured financial institutions in default. Certain other situations are exempt from the ten-year rule, such as:

1. A person who inherits a property;

2. A government unit or qualified nonprofit group if income from the property is exempt from federal income taxation;

3. A person who gains a property through foreclosure (or instrument in lieu of foreclosure) of any purchase money security interest, provided the person resells the building within 12 months after placing the building in service following foreclosure; or

4. Single family residences that had no use during the prior ten-year period except, as an owner-occupied principal residence will not be treated as being placed in service for purposes of the ten-year holding period. Note that although the 10-year rule does not apply, the property must still be rehabilitated to claim the acquisition costs of such a property.

F. Federal Subsidies

The determination of whether a building is federally subsidized is addressed in Section 42(i)(2). In general, a building is treated as federally subsidized if there is financing which is tax exempt under Section 103 or there is a “below market federal loan,” the proceeds of which were used (directly or indirectly) in the building or its operation.

Section 42(i)(2) states that certain types of assistance are below market federal loans and provide for certain exceptions. In addition, there have been Revenue Rulings in this area.

HOME Investment Partnership Program (HOME) or the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996 dollars are not considered a federal subsidy as long as at least 40 percent of the units in the proposed property are occupied by individuals whose income is 50 percent or less of area median gross income (AMGI). In high cost areas, at least 20 percent of the units in the proposed property must be occupied by individuals whose income is 50 percent or less or area median gross income (AMGI).

Assistance derived from federal grants such as HODAG or UDAG will not be treated as a federal subsidy, but must be subtracted from the qualifying basis.

Section 8 rental "housing choice voucher" subsidies and funds received through the Community Development Block Grant Program (CDBG) are not considered federal subsidies.

Under the Federal Home Finance Board (FHFB) Affordable Housing Program, established in 1989, Federal Home Loan Banks are able to make subsidized advances to member banks that are in turn to be used for affordable housing projects in its area. The Treasury Department has ruled that for tax credit purposes, loans provided by the FHFB will not be considered as federal loans. Thus a FHFB below-market rate loan with an interest rate lower than the Applicable Federal Rate (AFR) will be eligible for the 70 percent tax credit percentage rate for new construction or rehabilitation expenditures rather than the 30 percent rate.

Rural Development (RD) Section 515 loans are considered a federal subsidy.

Federal grants are excluded from basis in determining the amount of credit, but do not otherwise affect the availability or amount of the credit.

Owners of a property receiving a federal subsidy have the option of treating the subsidy amount as if it were a federal grant and deducting the amount of the subsidy from the qualified basis or costs against which the amount of the credit is calculated.

Any type of tax-exempt financing provided by state or local governments where the interest is exempt from Federal taxation under the Internal Revenue Code, is also considered a federal subsidy.

G. Review of Federally Assisted Projects

Minnesota Housing will review those projects using RD Section 515 Rural Housing Loan funds in accordance with RD Instruction 1944-E Exhibit A-10. No application will be reviewed without the inclusion of a RD Form AD-622, Notice of Pre-application Review Action. It is the responsibility of the applicant to provide Minnesota Housing with any additional information or clarification of funding sources as may be necessary. Prior to issuance of the IRS Form 8609, the applicant must submit to Minnesota Housing a copy of RD Form 1944-51, Multiple Family Housing Obligation-Fund Analysis. This form will be used in the determination of the final allocation of tax credits to a project.

H. Federal Subsidy Layering Review

Section 911 of the Housing and Community Development Act of 1992 requires that specific procedures be followed for subsidy laying review when tax credits and HUD assistance are combined in a single project. Sponsors of projects that combine HUD assistance and tax credits should be aware that subsidy layering review must be completed for their projects, and should contact Minnesota Housing to receive additional information prior to submitting their application.

Suballocators are responsible for assuring that subsidy layering reviews are completed for developments within their jurisdiction where they are the housing credit allocating agency.

Subsidy layering review is required for the following programs, but not limited to:

- Metropolitan Housing Opportunity Program (MHOP),
- U.S. Housing and Urban Development (HUD) Insurance
- Section 8 project-based rental assistance, etc.

At a minimum the following documents must be submitted:

1. Rental Housing Project Income analysis and appraisal, signed and dated by HUD (Form 2264a);

2. A line item sources and uses statement,

3. Partnership (Syndication) Agreement, spelling out the equity contributions and dates of disbursement; and

4. Copy of Multifamily Rental Housing Common Application Form.

I. Project Eligibility

The purpose of the housing tax credit is to assure that a sufficient number of rental units are available on an affordable basis to low income persons. Applicants should be cautioned that this set-aside represents the minimum number of units that must meet both rent and income restrictions to qualify for tax credits for each year of the credit period. A development must, for a specific period of time, meet one of the following minimum tests:

- 20/50 Test:

To meet the 20/50 Test, a minimum of 20 percent of the residential units must be both rent restricted and occupied by individuals whose income is 50 percent or less of area median gross income (AMGI) (as established for different geographical areas by the U.S. Department of Housing and Urban Development) adjusted for family size.

Or

- 40/60 Test:

To meet the 40/60 Test, a minimum 40 percent of the residential units must be both rent restricted and occupied by individuals whose income is 60 percent or less of AMGI adjusted for family size.

Once made, the choice between the 20 percent at 50 percent formulation and the 40 percent at 60 percent formulation is irrevocable.

Note: The actual number of restricted units within the project must be consistent with the initial applicable fraction selected at the time of reservation.

J. Affordable Rents

The rent restrictions for the units are governed by Section 42 and regulations, rulings and other announcements by the IRS. The following summary is not intended to be comprehensive. A violation of the tenant income or rental restrictions in Section 42 may result in project ineligibility or a reduction in basis and/or credit amount.

Rent Restriction: For a unit to count as a low-income unit, the gross rent may not exceed 30 percent of the imputed tenant income limitation. The imputed income limitation applicable to a unit equals the permissible income limitations that would apply if the number of individuals occupying the unit were:

1. One individual in the case of a studio apartment; and

2. 1.5 individuals per bedrooms in the case of a unit with one or more separate bedrooms.

Therefore, the rent restrictions applicable to a low-income unit are determined by which test is elected and how many bedrooms are contained in the unit. Current income limits, as derived from the Department of Housing and Urban Development, for Minnesota counties are described in the *Rent and Income* tables found in the Multifamily Common Application Reference Materials section.

For tax credit compliance purposes, "gross rent" means all payments by the tenant, including non-optional charges and payments for utilities other than telephone and cable. If the tenant pays utilities directly, the maximum rent that can be paid to the landlord is reduced by a utility allowance determined in accordance with rules under Section 8 of the U.S. Housing Act of 1937 (Section 8). IRS Regulations (Section 1.42-10 Utility Allowance) provides guidance relating to Utility Allowances and lays out options for establishing them. The options, depending on assistance or regulation characteristics of the project or the tenant, may require use of an RD utility allowance, a HUD utility allowance, a PHA/HRA utility allowance or a utility allowance produced with information obtained through a local utility company in a manner consistent with Section 1.42-10. Utility allowances must be updated at least annually.

Federal, state and local rental assistance payments (such as Section 8 payments) made on behalf of the tenant are not included in gross rent.

Additional rent restrictions may apply if the award of tax credits was made based on such additional restrictions.

K. Tenant Eligibility

To be a low income unit for purposes of determining the qualified basis, the tenant must have income at or below 50 percent of AMGI if the 20/50 Test is elected, or 60 percent of AMGI if the 40/60 Test if elected. The unit must be rent restricted as set forth above, and the unit must be suitable for occupancy.

The combined household income of all tenants occupying a tax credit eligible unit must be less than or equal to the elected income requirements as shown on *Rent and*

Income Limits. Median income for non-metro counties is the higher of the statewide non-metro median or county median income.

Section 42 does not allow households comprised of full time students to qualify as low-income units unless certain exceptions are met. The student exceptions are found in Section 42 (i)(3)(D):

CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.-A UNIT SHALL NOT FAIL TO BE TREATED AS A LOW-INCOME UNIT MERELY BECAUSE IT IS OCCUPIED

1. by an individual who is

    I. A student and receiving assistance under title IV of the Social Security Act, or
    II. enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State or local lows, or
2. entirely by full time students if such students are

    I. single parents and their children and such parents and children are not dependents (as defined in IRC § 152) of another individual, or

    II. married and file a joint tax return

See Chapter 17 of the Guide for *Completing Form 8823, Low-Income Housing Credit Agency's Report of Noncompliance or Building Disposition*, for additional guidance.

L. Eligible Basis

In general, the eligible basis of a building is equal to the building's adjusted basis for acquisition, rehabilitation or construction costs for the entire building, subject to certain conditions and modifications set forth in Section 42(d). As a general rule, the adjusted basis rules of Code Section 1016 apply, with the exception that no adjustments are made for depreciation. Some of the special provisions for determining eligible basis under Section 42(d) are:

The eligible basis may be increased for new buildings and rehabilitation to existing buildings that are located in designated qualified census tracts (QCT) and difficult development areas (DDA).

The cost of the non-low income residential units in a building is included in eligible basis only if the quality of these units does not exceed the average quality of the low-income units. If the cost of a non-low income unit exceeds the cost of a low-income unit (using the average cost per square foot and assuming the same size) by more than 15 percent, the entire cost of the non-low income unit must be excluded from the building's eligible basis. If the excess cost is not more than 15 percent, the owner may make an election to exclude only the excess cost of the non-low income unit(s) from eligible basis.

The cost of depreciable property used in common areas or provided as comparable amenities to all residential units (e.g., carpeting and appliances) is included in determining eligible basis. The cost of tenant facilities (e.g., parking, garages, swimming pools) may be included in eligible basis if there is no separate charge for use of the facilities and they are available to all tenants in the project.

The cost of a community service facility is included in basis only if the building is located in a qualified census tract. The eligible basis of that facility must not exceed 10 percent of the total eligible basis in the project. All community service facilities that are part of the same qualified low-income housing project shall be treated as one facility. A community service facility is defined as a facility that is part of the qualified low-income housing project designed to serve primarily individuals including tenants and non-tenants whose income is 60 percent or less of area median income. **Only limited guidance has been issued by the IRS regarding these changes. No assurances can be given that additional IRS guidance will not require further adjustments to the QAP and additional reviews of selected developments.**

Eligible basis is reduced by federal grants, residential rental units that are above the average quality standard of the low-income units, historic rehabilitation credits, and nonresidential rental property. Buildings located in areas designated as a QCT or DDA may be eligible for an increase in allowable basis.

M. Qualified Basis

Qualified basis is the portion of the eligible basis applicable to low income housing units in a building. Qualified basis is the product of a project's eligible basis multiplied by the applicable fraction.

N. Applicable Fraction

The applicable fraction is the lesser of:

1. The unit fraction, which is the number of low-income units in a building divided by the total number of residential rental units; or

2. The floor space fraction is the total floor space of the low-income units in the building divided by the total floor space of the residential rental units in the building.

A full time resident manager's unit is not considered a residential unit and must not be included in the numerator or denominator for calculating the applicable fraction.

Throughout the planning, construction and placed in service periods, the applicable fraction has different nuances. At initial application and at carryover, the **"estimated project applicable fraction"** will be used. It is an approximate goal that the developer is striving to attain. It is calculated by project in order to obtain a rough estimate of the percentage of eligible units and square footage needed and an estimate of the total amount of tax credits necessary for a particular project.

At the time that the placed in service application for 8609 is made, the **"targeted applicable fraction" for each building** is calculated. The targeted applicable fraction is determined on a building-by-building basis. Each building in a multiple building development could have a different applicable fraction. Because the estimated project applicable fraction is approximate, the targeted applicable fraction calculated by building will frequently differ unless the project has a 100 percent applicable fraction. The targeted applicable fraction is also listed as part of the extended use criteria in the *Declaration of Land Use Restrictive Covenants*, which is recorded and remains with the property.

O. Economically Integrated Projects

Projects under common ownership and management that have tax credit units and market rate units are termed economically integrated projects. These projects receive priority points for selection. (See Selection Priority #5, *Self-Scoring Worksheet*.) In an economically integrated project each building must have an applicable fraction of less than 100 percent. Unless otherwise approved by Minnesota Housing, all buildings must be expected to have comparable applicable fractions with necessary variations due to building size. The number of tax credit units will be determined by the developer. A complete application for the entire project will be necessary at the time of application. HTC selection points will generally be based upon the characteristics of only the tax credit units, with the exception of economic integration points.

Note: The actual number of restricted units within the project must be consistent from selection, through carryover and to approval of an 8609 and maintained throughout the term of the declaration.

P. Annual Credit Amount

The tax credit is available each year for 10 years. The amount of tax credit awarded is based on the Qualified Basis multiplied by the applicable percentage. However, Section 42(m)(2) requires Minnesota Housing to limit the amount of credit to the amount necessary to assure project feasibility under rules established by the IRS. Therefore, the actual amount of tax credits awarded could be less than the maximum allowable if the analysis reveals the project would still be feasible with fewer tax credits.

The IRS publishes the applicable percentages on a monthly basis. These figures are used to calculate the maximum allowable annual credit amount for which the project will be eligible. (Also see Chapter 4.B)

Q. Declaration of Land Use Restrictive Covenants

Prior to an allocation of Section 42 tax credits, a project will be subject to a *Declaration of Land Use Restrictive Covenants* (Declaration) between the owner and Minnesota Housing through which the owner commits the building(s) to low income use for an extended use period of at least 15 years after the conclusion of the 15-year compliance period (a total of 30 years).

The Declaration terminates upon: (a) foreclosure of the building (or deed in lieu of foreclosure); or (b) during the extended use period, upon failure of Minnesota Housing to find a purchaser by the end of one year after a request by the owner to Minnesota Housing to find a purchaser for the low income portion of the building, at a statutory minimum purchase price, unless the owner has waived it's right to exercise their option. Throughout the term of the Declaration and for a three year period after the termination of the Declaration, the Owner shall not evict or terminate the tenancy of an existing tenant of any low-income unit other than for good cause and shall not increase the gross rent above the maximum allowed under the Code with respect to such low-income unit. Beginning with the 2007 tax credit program, Tax Credits (non-competitive credits, 4%) allocated in association with issuance of Tax Exempt Bonds will not be subject to the waiver of rights to request a Qualified Contract. Beginning with the 2006 tax credit program, owners applying for the 9 percent credits (competitive credits, 9%) must commit their developments to Section 42 income and rent restrictions for a period of 30 years beginning with the first day of the compliance period in which the building is part of a qualified low income housing project.

The Declaration must be recorded in accordance with 42(h)(6) as a restrictive covenant and submitted to Minnesota Housing prior to Minnesota Housing issuing the allocation (IRS Form 8609). The Declaration will set forth the commitments made by the owner to Minnesota Housing in obtaining points including any additional rent restrictions and occupancy requirements placed upon the building at the time of reservation. Non-compliance with these additional conditions may result in serious penalties being applied to the owner entities which could result in a ban on future allocations of tax credits being made to the owner entities.

R. Ineligible Properties

Life care facilities and manufactured housing parks are not eligible. Projects with buildings having four or fewer residential units must comply with 42(i)(3)(c).

Any building that receives Section 8 Moderate Rehabilitation Assistance at any time during the minimum 15-year compliance period is ineligible for tax credits. Projects that receive assistance under the Stewart B. McKinney Homeless Assistance Act are eligible for tax credits, as provided in Section 42(c)(2)(B) of the Internal Revenue Code.

Acquisition and/or Rehabilitation projects with a pre-existing subsidy (any building substantially assisted, financed, or operated under HUD Section 8, Section 221(d)(3), (d)(4), Section 220, Section 8 existing, Moderate Rehabilitation, or the Section 236 program or under the Farmer's Home Administration Section 515 program) will be eligible to apply for tax credits only under the following conditions:

1. It preserves assisted low income housing which, due to mortgage prepayments or expiring rental assistance, would convert to market rate use. This must be demonstrated to the satisfaction of Minnesota Housing; or

2. It has been demonstrated to the satisfaction of Minnesota Housing that the building qualifies as a "troubled property." In order to qualify as such, a responsible official of a governmental lender, such as Minnesota Housing, HUD, or RD, must provide a written explanation and documentation that the property is troubled. Generally, the property must be in default or foreclosure.

S. Passive Loss Restrictions

There is a limit on the amount of credit any individual may effectively use due to passive loss restrictions and alternative minimum tax provisions. Consult your tax attorney or accountant for clarification of this regulation.

T. State Volume Limits

Each state is limited to the amount of tax credits it may allocate annually. Minnesota's 2009 per capita volume limit is expected to be approximately $10,395,242.

Projects with tax-exempt bond financing, which are subject to a separate volume limitation, are not counted against the state volume limit. (See Article 9 of the *QAP* and Chapter 8 of the Manual for further details.)

U. Recapture

Minnesota Housing reserves the right to recapture tax credits from projects that do not provide evidence satisfactory to Minnesota Housing of progress toward completion of the project in accordance with the construction schedule provided at carryover or noncompliance with the terms of the allocation.

Part of the credit will also be recaptured if the qualified basis at the close of any year is less than the amount of such basis at the close of the preceding taxable year, or if the minimum number of qualified low-income units is not maintained for the complete extended use period.

V. Market Study

Internal Revenue Code Section 42(m)(1)(A)(iii) requires that a comprehensive market study of the housing needs of low-income individuals in the area to be served by a developer's housing credit project must be conducted by a disinterested party, at the developer's expense, who is approved by the housing credit agency.

W. Tenant Ownership

Minnesota Housing will review projects incorporating tenant ownership provisions in accordance with Sec. 42 (h)(6), IRS Revenue Ruling 95-49 and Minnesota Housing's requirements. It is the responsibility of the applicant to provide Minnesota Housing with any additional information or clarification as may be necessary. Minnesota Housing requires that developments proposing an eventual tenant ownership component must have 100 percent of the development's tax credit units specified for this ownership component. (See also Chapter 7.A.)

All applications to Minnesota Housing for Housing Tax Credits will be evaluated

X. Fair Housing and Contract Compliance Policy

1. It is the policy of Minnesota Housing to administer and provide fair and equal housing opportunity in all Minnesota Housing programs to ensure all residents of Minnesota of similar income levels in the same housing market area have equal access to Minnesota Housing programs in a manner that affirmatively furthers fair housing. Further, it is the policy of Minnesota Housing to prohibit discrimination in the sale, rental, financing, or other services related to housing on the basis of race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to receipt of public assistance, disability, or familial status.

   The Policy exists to assist all persons involved with Minnesota Housing financed programs in providing fair housing opportunities. The Policy applies to Minnesota Housing staff and everyone doing business with Minnesota Housing.

   It is required that all Minnesota Housing programs are marketed affirmatively using specific steps for each program. These steps include but are not limited to:

   a. Conducting public information forums and other outreach activities geared toward informing and encouraging participation of protected groups.

   b. Marketing strategies that reach protected groups (groups of people that come under any of the categories on which bases discrimination is

prohibited as mentioned in the opening paragraph) using conventional methods such as print and electronic media, as well as personal contact, mailings, and use of consultants or Minnesota Housing staff.

c. Reviewing federal, state and/or local fair housing guidelines periodically to ensure compliance.

Failure to comply with Minnesota Housing's fair housing policies, procedures or requirements will prompt Minnesota Housing staff to report non-compliance matters to Minnesota Housing's Commissioner. Continued non-compliance may result in appropriate action by the Commissioner, including the assessment of up to -25 penalty points. (Refer to Chapter 3.G Unacceptable Practices.)

2. It is the policy of Minnesota Housing to take affirmative action to provide equal opportunity in all of our programs and other endeavors. Minnesota Housing's goal is to achieve a client and recipient mix that is representative of the people who live in our state and our communities, so that all employment and contractual benefits that develop as a result of our programs will be shared by all residents of Minnesota. This policy applies to all Minnesota Housing employees and everyone with whom we do business.

3. Memorandum of Understanding among the U.S. Department of the Treasury, the U.S. Department of Housing and Urban Development and the U.S. Department of Justice.

The parties to this agreement, among other measures, agree to share information with the appropriate state housing finance agency including the name of the low-income housing tax credit property owner, the address of the property and a summary of current actions, including, charges, lawsuits, settlement agreement or consent decree and other actions.

The U.S. Department of Housing and Urban Development (HUD) enforces the Fair Housing Act. Minnesota Housing will refer complainants to HUD for follow-up and/or investigation. Any finding of discrimination, adverse final decision by HUD, adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a federal court is a violation that Minnesota Housing must report to the Internal Revenue Service

Chapter 5 – Development Standards

All applications to Minnesota Housing for Housing Tax Credits will be evaluated according to the following standards (Small projects, local redevelopment or revitalization projects, and projects developed in difficult-to-develop areas may be considered eligible for variances from these standards, if justified.):

A. Project Cost Reasonableness

Minnesota Housing will evaluate the costs of each proposed project in comparison to current comparable projects to determine whether the proposed costs are reasonable taking into consideration unique characteristics of the project and its comparability to similar projects. Additional documentation will be required if Minnesota Housing feels the proposed costs are not comparable or reasonable. Current Minnesota Housing tax credit project comparables will continue to be the driving factor in approving project costs.

B. Minimum Underwriting Standards for Amortizing Debt and Maintenance and Operating Expenses Benchmarks

Minnesota Housing has established Minimum Underwriting Standards and Management and Operating Expenses (M&O) Benchmarks based upon Minnesota Housing's existing portfolio of developments and the recommended Best Practices for HTC Underwriting adopted by the National Council of State Housing Agencies (NCSHA) in 1998. These Minnesota Housing *Minimum Underwriting Standards* are described in the Multifamily Consolidated Request For Proposal Guide.

Comparisons will be made to M&O data available from Minnesota Housing's maintenance data based on comparable projects. Determinations on whether proposed budgets are reasonable will also be based upon Minnesota Housing's management, maintenance and operating experience. M&O numbers will be evaluated on an expense per room/per year basis; the M&O number will not include reserves, taxes and other tax assessments.

Minnesota Housing requires all first mortgage lenders to use minimum underwriting standards including; maintenance and operating expense estimates, which are not less than the benchmarks contained in *Maintenance and Operating Expense Review & Underwriting Certification (HTC 29)* in their underwriting calculations. Written lender certification and supporting documentation is required.

C. Eligible Basis Tax Credit Fees

Developer Fees: Include developer overhead, developer processing fees, developer profit, and any other amounts received by the Developer. Minnesota Housing will limit the amount of developer fees for the purposes of calculating eligible basis to determine the amount of tax credit. The developer fee is calculated by Minnesota Housing as follows:

The maximum allowable developer fee is calculated on a percentage of the total development cost less the developer fee.

In some instances, the developer may want to delegate some of the responsibilities to a third party, such as a processing agent or consultant. In such cases, the delegated responsibilities must be thoroughly understood by all parties involved and the fee paid to the third party shall be included as part of the developer fee. The limits are subject to Minnesota Housing review. The following limits will be used by Minnesota Housing:

Project Type	Development Limits	Maximum Developer Fee
Rehabilitation	First 30 Units	15%
Rehabilitation	Units 31 and over	8%
New Construction or Substantial Rehabilitation	First 50 Units	15%
New Construction or Substantial Rehabilitation	Units 51 and over	8%

Consultant Fees: Consultant application processing fees will be included within the developer fee limitation and should not exceed 2 percent of total mortgageable costs. Syndication related consultant fees are not to be included in the eligible basis of the project.

Net Construction Cost: Construction costs and on-site work not including contractor profit, general requirements, and overhead. Minnesota Housing will limit the amount of contractor fees for the purpose of calculating eligible basis to determine the amount of tax credit.

Contractor Profit: The maximum contractor profit is 6 percent of net construction costs.

General Requirements: Items of costs to be considered in this allowance include: on-site supervision, signs, field office expenses, temporary sheds and toilets, temporary utilities, equipment rental, clean-up costs, rubbish removal, permits, watchmen's wages, material inspection and tests, all of the builder's insurance (except builder's risk), temporary walkways, fences, roads and other similar expenses. The maximum general requirements allowed is 6 percent of the net construction cost.

Contractor Overhead: Minnesota Housing allows a contractor an overhead allowance based on a percentage of the net construction cost. The permitted maximum allowance is 2 percent.

It is possible to exceed expenses in one area, if other areas are not at their maximum. Minnesota Housing will allow the collective balance of contractor profit, general requirements and contractor overhead to equal 14 percent.

Developer as Contractor: When the developer and the contractor are the same entity, in addition to the fee limits stated above, the combined balance of developer fee, contractor profit, contractor overhead and general requirements may not exceed 20 percent of the total development cost.

Total Mortgageable Cost: The following is a partial listing of cost items that are mortgageable within total development costs:

1. Construction costs, including material and labor costs for all residential structures site preparation, residential parking facilities and site

improvements, demolition, general requirements, general contractor's overhead, and profit;

2. Fees, including architectural design and construction administration, soils exploration, environmental analysis, survey, attorney, and other consultant fees, Housing Tax Credit Program syndication fees, developer's fees (subject to maximum amounts set by Minnesota Housing), reasonable marketing costs, and contractor's bond premium;

3. Financing and carrying costs, including interest during construction, insurance, real estate taxes, Minnesota Housing financing and inspection fees, title and recording costs, and where applicable, the Development Contingency fund;

4. Land and improvements, building acquisition, subject to Minnesota Housing property valuation policy;

5. Development Cost Escrow (DCE);

6. Furnishings and equipment; and

7. Cost of providing Letters of Credit.

D. Reserves/Contingencies

Minnesota Housing will require documentation of the amount and disposition of reserves/contingencies. If they revert back to the developer, general partner, or any ownership interest, Minnesota Housing will consider the reserves/contingencies as deferred developer fees and the above limits will apply. For letters of credit, bonds, etc., use the actual cost, not face value, when completing the Development Cost Section VI of the HTC application.

E. Comparative Analysis

Notwithstanding these Development Standards and the Selection Criteria within this manual and the QAP, each and every proposed project is analyzed on a comparative basis in a variety of categories to ensure the highest value for the tax credits awarded.

F. Property Standard

The purpose of design standards is to provide the best long-term affordable housing value for the resources that are invested and to further "best practice" designs that improve quality and control costs. To accomplish this, Minnesota Housing architects will emphasize providing technical assistance for these purposes. More detailed review and imposition of requirements will be reserved for those projects in which Minnesota Housing is a significant lender, when necessary for legal compliance, or to further a specifically articulated policy goal. In all instances, the goal will be to provide design review at the time and in the manner in which it can be most useful to further the goals of a project. The following sets forth more specific details:

All completed developments must comply with all applicable codes, rules and regulations, mandated by the funding sources including but not limited to:

- The Minnesota State Building Code (International Building Codes as have been adopted by the State, including the Minnesota Amendments), even in municipalities and cities where the State Building Code has been rescinded.

- Minnesota Housing Accessibility Requirements.

- Fair Housing Act (for accessibility) must be complied with as prescribed in the current edition of Fair Housing Act Design Manual, as published by U.S. Department of Housing and Urban Development.

Furthermore, when a tax credit proposal receives a Minnesota Housing first mortgage and/or a significant percentage of its funding from Minnesota Housing deferred funds, the development is subject to an additional Minnesota Housing design review for the compliance with the Minnesota Housing Multifamily Housing Design Standards. When a tax credit development receives a smaller percentage of funding from Minnesota Housing deferred funds without a Minnesota Housing first mortgage, the applicability of the Minnesota Housing Multifamily Housing Design Standards is solely determined by Minnesota Housing. The development must comply with any additional design requirements imposed pursuant to such review. The Standards can be found at: http://www.mnhousing.gov/housing/architects/multifamily/index.aspx .

When State funds are involved, additional design requirements shall include, but are not limited to, the state statutory requirement for single family homes, duplexes, triplexes and multilevel townhouses to comply with the Minnesota Visitability Requirements. The Visitability Standards are found at: http://www.mnhousing.gov/housing/architects/multifamily/index.aspx.

Additional design requirements will also be imposed if a developer is applying for Large Family Points. In order for the applicant to score Large Family Points, the following **minimum** room dimensions must be complied with:

a. For the living room - 11 feet 6 inches.

b. For the bedrooms – 9 feet 6 inches, and 100 sq. ft. in area.

The owner and architect must certify compliance with all required Minnesota Housing HTC Design Standards and where points have been awarded that all the applicable standards and development features have been incorporated into the final working plans.

Chapter 6 – Project Selection

A. First Round Application Requirements

All applicants statewide must meet one of the threshold types for the first competition as required by Statute and defined in Article 6.2 of the *QAP*. Greater Minnesota projects should also refer to the sample *Threshold Letter* in the Housing Tax Credits Reference Materials section for a suggested letter format relating to evidencing thresholds. Cautionary note: in meeting the requirements of thresholds, fractions of units are not counted as a whole unit. Where unit percentage calculations result in a fraction of a unit being required, the fraction of a unit must be rounded up to next whole unit.

In the final competition, projects that previously received an allocation of tax credits will receive priority in accordance with the provisions of Article 6.5 of the *QAP*.

B. Scoring

To efficiently and effectively process the large quantity of applications submitted, Minnesota Housing will first rank proposals in accordance with the Selection Priorities and Preference Points *(Self Scoring Worksheet)* and, if necessary, Chapter 6.C Tie-Breakers, below. The highest-ranking proposals based on the Selection Priorities and Preference Points will then be reviewed in accordance with the following Project Selection requirements described in D through J of this Chapter. Lower ranking proposals will only be processed further if tax credit volume cap remains available after the higher-ranking proposals are processed.

C. Tie Breakers

If two or more proposals have an equal number of points, the following will be used to determine selection:

1. First tie breaker: priority will be given to the project with the greater number of points in Preference Priority criteria; if a tie still remains;

2. Second tie breaker: priority will be given to a project located in a city that has not received tax credits in the last two years; if a tie still remains;

3. Third tie breaker: priority will be given to the project with the highest "Percentage of Funds Committed" as measured by the Selection Priority category of Readiness to Proceed; if a tie still remains;

4. Fourth tie breaker: priority will be given to the project with the lowest percentage of intermediary costs; if a tie still remains;

5. Fifth tie breaker will be by lot.

D. Market Review

Minnesota Housing will conduct a market review to determine the housing needs of low-income individuals in the area to be served by the project. Minnesota Housing will evaluate the completed HTC *Market Qualification Form*, the Market Study and in-house occupancy data to determine the marketability of the proposed project. For market consideration, applicants are responsible for providing evidence to document any new

employment in the community at the time of application. Minnesota Housing relies heavily on the applicant for current information regarding housing need and job/economic growth within city jurisdictions. Minnesota Housing may contact the applicant if there is a question as to the marketability of the proposed projects. The applicant may be given an opportunity to adjust the unit mix and/or number of units and resubmit prior to Minnesota Housing scoring of selection priority points.

Proposed projects that do not appear marketable and do not modify their proposal will not receive further consideration in the current funding round.

E. Design Review

The proposed owner and architect must certify compliance with all the required development features outlined in the *2009 Housing Tax Credit Design Standards* before the project will be scored and ranked. Minnesota Housing will review project costs based on comparability and reasonableness. Minnesota Housing may, as its sole discretion, reject applications that appear to have excessive project costs. (Also refer to Chapter 5.A Project Cost Reasonableness).

F. Development Team Review

Minnesota Housing will also consider the following factors when evaluating an application for a tax credit allocation.

1. The ability and capacity of the development team to proceed expeditiously to complete the proposed development.

2. The prior record of the development team in meeting Minnesota Housing and IRS reporting requirements.

3. The experience of the development team in developing and managing similar residential housing.

Proposed projects from applicants that do not appear to have the experience, capacity or ability will not receive further consideration in the current funding cycle.

G. Site Review

Minnesota Housing staff will conduct a site inspection for each project passing all the project selection requirements described in parts A through F for consistency with the principles of sound affordable housing development. Site inspections will be conducted to analyze physical characteristics, surrounding property and community, location of schools, shopping, public transportation, employment centers, community and housing service facilities, availability of utilities, water and sewage treatment facilities, and the suitability of the site for the proposed housing.

For purposes of Minnesota Housing's investment in affordable housing, the principles are as follows:

- Linkage: Housing development should be part of a comprehensive community development effort that links housing, jobs, transportation, recreation, retail services, schools, social and other services.

- Jobs: Housing is part of the infrastructure necessary to sustain economic vitality. New housing should be located near jobs and in areas of job growth and should address housing needs of the local work force. Preference will be given to

proposals that provide housing in communities with job and household population growth.

- Land Use: Housing must be developed to maximize the adaptive reuse of existing residential rental buildings and the use of existing infrastructure, where financially feasible. In cases of new development, housing that maximizes the efficient use of land and infrastructure and minimizes the loss of agricultural and green space.

- Transportation: Housing must be developed near regional and interregional transportation corridors and transit ways.

Minnesota Housing will consider, but is not limited to, the following environmental criteria when evaluating a proposed site.

1. Noise
2. Flood plains and wetlands
3. Site safety
4. Toxic and hazardous waste
5. Underground storage tanks
6. Asbestos

Minnesota Housing may, at its sole discretion, reject applications or recapture tax credits from projects that appear unsuitable for the housing proposed.

H. Maintenance and Operating Expense Review and Underwriting Certification

Minnesota Housing has established *Minimum Underwriting Standards and Management and Operating Expense Benchmarks* (Also refer to Chapter 5.B Minimum Underwriting Standards for Amortizing Debt and Maintenance and Operating Expense Benchmarks) based upon Minnesota Housing's existing portfolio of developments and the recommended Best Practices for HTC Underwriting adopted by the National Council of State Housing Agencies (NCSHA) in 2002. These *Minimum Underwriting Standards* are described in the Multifamily Consolidated Request For Proposal Guide on Minnesota Housing's web site.

Minnesota Housing will evaluate the completed *Multifamily Housing Application* and Lender Certification contained in the *Maintenance and Operating Expense Review and Underwriting Certification Form* (HTC 29) to determine the underwriting criteria used to calculate amortizing debt including but not limited to vacancy rates, debt coverage ratios, construction contingencies, management and operating expenses, reserve accounts, and inflation factors.

Minnesota Housing will contact the applicant if there are any questions regarding the maintenance and operating budget. While Minnesota Housing strongly encourages the use of the published minimum standards and benchmarks, the applicant will be given an opportunity to adjust the M&O budget and resubmit prior to Minnesota Housing scoring of selection priority points. At a minimum, the following information must be submitted with the HTC application.

1. Owner narrative summary supporting the proposed maintenance and operating number included in the application.

2. Copies of year-end operating information from three comparable developments that have been in operation at least five years.

3. Name and phone number of local building inspector or housing official who can be contacted concerning each comparable development and its physical condition.

The applicant should not assume this request will be automatically approved. If no supporting data is provided, the minimum underwriting standards and benchmarks will be used. Minnesota Housing also reserves the right to reject or adjust the maintenance and operating numbers based upon the information supplied, specific development type, circumstances and/or significant changes to the economics of the development's current marketplace.

I. Financial Feasibility

Proposals that meet the Project Selection Requirements in paragraphs B through H will be evaluated for financial feasibility as required by Section 1.42-17(a)(3) and paragraph IV.J. of this Procedural Manual. Projects determined not to be financially feasible will not be processed further in the current funding cycle.

Chapter 7 – Submission Requirements

It is the applicant's responsibility to be aware of the submission requirements needed to proceed to the next step in obtaining an allocation. If the applicant is unable to meet the submission requirements (financing, zoning, site control, syndication, construction start, etc.) in a timely manner, or if approvals have expired, the application will no longer be processed and the application fee will be forfeited.

The Multifamily and Housing Tax Credit application materials can be found through the Minnesota Housing website, www.mnhousing.gov/resources/apply/allocation/index.aspx. If a Minnesota Housing Multifamily first mortgage and/or deferred loan are sought in conjunction with the tax credit application, many HTC forms and submissions are identical to the forms and submissions required for other Minnesota Housing funding sources under the Consolidated Request for Proposals (RFP) or open pipeline. The submissions for an HTC application package must follow the stacking order outlined in the Multifamily Master Application Checklist. The checklist can be found by going to http://www.mnhousing.gov/resources/apply/multifamily/MHFA_004610.aspx

All submissions must be separated by tabs with an index listing each attached submission item. **DO NOT** submit applications in three ring binders or with plastic casing around the pages. Submissions should be bound only by staples, binder clips, or rubber bands.

The primary application method for requesting Minnesota Housing Multifamily Housing Resources is electronic. (See the Multifamily Consolidated Request For Proposal Guide at the above web address for details.) At a minimum, the following must be submitted to the Minnesota Housing to process your application:

- The Multifamily Rental Housing Common Application Form, web-based application, narratives and project schedule electronically submitted. Mail the completed application form to mhfa.app@state.mn.us;
- A printed web-based Multifamily Rental Housing Common Application Form with original signature plus three (3) copies, and
- One set of the original required attachments (with signatures, as necessary) plus three (3) copies of all attachments.

The Application for Tax Credits must be signed by one general partner (and the nonprofit partner if appropriate), officer, director or corporate officer stating that under penalties of perjury, all facts and statements contained in the application and all documents and attachments submitted are true to the best of their knowledge.

Any submissions not meeting the directions above will be returned to the applicant and fees paid not refunded.

A. Application Requirements

At a minimum, the following application submission items must be completed as applicable, based upon the specific housing proposal. . If a submission item within a specific subgroup identified below is not applicable to your application, list the item and indicate "not applicable". Asterisked (*) items below relate to HTC and/or Deferred Loan program selection criteria or funding priorities. If the application and required attachments are not legible and complete, the application will be returned. No application, attachments or documentation will be accepted after the application due date unless requested by Minnesota Housing.

1. Market Study:

A comprehensive market study of the housing needs of low-income individuals in the area to be served by the project conducted by a disinterested party at the developer's expense who is on the Minnesota Housing Authorized Contractor list must be submitted with the application.

Developers/owners will contact and hire the contractor of their choice from the Authorized Contractor list to perform the required market study in the form and format outlined in Minnesota Housing's Market Study Guidelines found at http://www.mnhousing.gov/housing/developers/allocation/index.aspx.

Schedules and fees will be arranged between the developer/owner and the Authorized Contractor. Minnesota Housing will not endorse or recommend any contractor on the Authorized Contractor list and will not be a party to the individual transactions.

2. Narratives and Project Schedule:

The Minnesota Multifamily Rental Housing Narrative Questions and Project Schedule must be submitted electronically as part of your complete application package for housing tax credits. The narrative must be specific to your housing proposal. For additional detail, reference the Narratives Required section as found on the Multifamily Master Application Checklist.

3. Forms:

Application Fee Remittance Form:
Complete form and attach with the payment to top of application packet. (See Chapter 9 Fees)

Multifamily Rental Housing Common Application Form:
Signed by at least one general partner involved in this project and the nonprofit corporation where a nonprofit set-aside is requested. An incomplete Multifamily Rental Housing Common Application Form will not be accepted and will be returned to the applicant. Complete and provide all required information for all team members listed on the Multifamily Rental Housing Common Application Form.

Notification of Local Official Form (HTC 18):
Minnesota Housing will ask the local official or suballocator for comments regarding any project that falls within their jurisdiction.

Local HRA/PHA Notice and Agreement Form* (HTC 11)**:**
Section 42(m)(1)(C) requires Minnesota Housing to consider the applicant's ability to utilize the local public housing authority's waiting list when filling vacant tax credit units. Complete in full and attach Letters of Intent (described in the following submittals section) as applicable.

Market Qualification Form:
Complete the Market Qualification Form and attachments as appropriate (See also Chapter 6.D).

Project Schedule:
Project Schedule has been incorporated into the Minnesota Multifamily Rental Housing Narrative Questions and Project Schedule Form.

Qualifications Forms:
Complete all of the following applicable Qualification forms for purposes of evaluating organizational capacity, as applicable:

- Qualifications of Developer – Form 203A
- Qualifications of Architect – Form 206A
- Qualifications of General Contractor – Form 209A
- Qualifications of Management and Marketing Agent – Form 210A
- Qualifications of Processing Agent – Form 205A
- Qualifications of Attorney – Form 208A
- Qualifications of Primary Service Provider – Form 215A
- Qualifications of Rental Assistance Administrator – Form 216A

Self-Scoring Worksheet Form:
Submit a completed original self-scoring worksheet and documentation supporting all points claimed signed by at least one general partner and nonprofit general partner if applicable.

Maintenance and Operating Expense Review and Underwriting Certification Form, (HTC 29):
See Chapter 6.H

Design Standards Certification, (HTC Form 33).

Release of Information Authorization Form (HTC Form 17)**:**
To be completed by the developer/owner and management firm, if known.

Determination of Tax Credit Form (optional) (HTC Form 8):
Complete to determine the maximum allowed tax credit amount (results on this form should be cross-reference with Section IX. H. of the Minnesota Multifamily Rental Housing Common Application form).

4. Submittals:

Threshold Evidence:
For Round 1, provide evidence of meeting one of the threshold types defined in Article 6.2 of the Minnesota Housing QAP. A copy of the QAP and Sample Letter Format are located in the Housing Tax Credit Allocation or Housing Tax Credits Reference Materials sections. Cautionary note: In meeting the requirements of thresholds, fractions of units are not counted as a whole unit. Where unit percentage calculations result in a fraction of a unit being required, the fraction of a unit must be rounded up to next whole unit.

Application Fee:
Submit a check for the appropriate application fee (See Chapter 9).

Evidence of Site Control:
Evidence of title or adequate site control must be submitted with the application. Acceptable evidence includes the following: warranty deed, contract for deed, purchase commitment, option, or letter of intent from governmental body for sole developer, etc. The evidence of site control must

be current, fully executed and extend to anticipated date of carryover allocation, placed in service or provide provisions for extension. For allocation, an attorney's opinion that the applicant has ownership of the property will be required in accordance with Section 42.

Owners should be cautioned that tax credit reservations are site specific and the entire described property is subject to the terms and covenants of the Minnesota Housing Declaration of Land Use Restrictive Covenants for Housing Credits.

Loss of site control will result in cancellation of Reservation or Carryover allocation.

Minnesota Housing will not accept applications from different applicants for the same site.

Legal description of land (not property Tax ID Number):
Submit on a separate 8½ by 11 sheet of paper labeled "Exhibit A, Legal Description".

Location map*:
Provide a legible map including major roads, cross streets and clear directions to the site. Do not use a zoning map for a location map. A complete city map is required for projects located outside the seven county metro area. Site maps must identify the location of:

- parks,
- elementary, secondary and high schools,
- sources of employment,
- shopping and retail services,
- public transit routes and stops,
- regional and interregional transportation corridors and transit ways,
- recreational facilities,
- social and special service institutions,
- hospitals and health clinics,
- day care centers, and
- competitive developments.

Also, provide a list with exact distances from the proposed housing to each of the items above.

Photographs:
Provide clear photographs of exterior and interior of building, if existing; or site and surrounding areas, if new construction.

Strategically Targeted Resources*:
If the proposal is for the rehabilitation of an existing structure, which is part of a community revitalization plan or stabilization effort, provide a letter from the city verifying that the proposed project is part of an approved community revitalization area as established by resolution or other legal action, or evidence from the applicable entity that the proposal has undergone a stabilization needs assessment.

If the proposal is for new construction, provide evidence the proposed housing development will utilize existing sewer and water lines without substantial extensions.

Planning and Development*:
Submit evidence showing that the housing proposal is in compliance with the local comprehensive plan or city or regional master plan.

Rent Assistance Payment Standards*:
If proposing use of project based rent assistance, or if project based rent assistance exists in the development, attach a copy of the Payment Standards or Payment Standard Exceptions for the community in which the housing is proposed.

Utility Allowance Schedule:
Provide a current utility allowance in a manner consistent with the options provided in IRC 1.42-10 (i.e. as appropriate, a utility allowance from RD, HUD, PHA/HRA, local utility company). Include a breakdown of the utilities that a tenant pays directly (i.e., heat, electricity, etc.), the utility allowance for each type of utility (i.e., gas, electric, etc.), for the various unit types (one bedroom, two bedroom, etc.) and housing types (apartments, townhomes, etc.). Also, include a list of each unit type, total tenant paid utilities, contract rent, and gross rent.

Letter of Intent to Produce a Cooperatively Developed Housing Plan*:
For developments proposing some form of non project-based rental assistance, such as Section 8, portable tenant based, formal recommendation for McKinney Vento funding, HUD operating subsidy or other similar rent assistance programs approved by Minnesota Housing, submit a letter of intent to produce a cooperatively developed housing plan/agreement which is signed by the applicant and the Local Housing Authority or other similar entity along with the completed Agreement to Utilize Public Housing and Section 8 Waiting Lists.

Commitment For Project Based Rental Assistance*:
For proposals including project-based rental assistance, at time of application the applicant must submit a fully executed binding commitment* for the project-based assistance (* binding Resolution/Letter of Approval from the governing body). As a condition of Carryover or 8609, the applicant must submit a fully executed copy of the contract for the project-based assistance to be included in the development. Various combinations of contract terms may apply. It is important that applicants also refer to the self-scoring worksheet for additional details/requirements.

Regulatory Cost Avoidance/Cost Reduction Documentation*:
Provide documentation of the terms and conditions of a regulatory cost avoidance/cost reduction measure from the contributor of the assistance or authorized local official. The documentation shall be in the form of a project specific letter of intent, city or council resolution, letter of approval, statement of agreement or eligibility, or memorandum of understanding. Also provide the calculation method and expected dollar amount of the cost savings for this proposal.

Preliminary Architectural/Construction Requirements for New Construction:
Design development quality scaleable presentation drawings (one set of construction documents, if available) containing at a minimum a site plan, elevations, unit plans, building plans, building section, and building materials certification (Multifamily Common Application Reference Materials, HTC Design Standards).

Scope of Work for Acquisition and/or Rehabilitation of Existing Building(s):
A scope of work must be submitted for each building. Housing credit properties must provide a minimum of 15 years, and often 30 years or more of affordable housing use. A capital needs assessment represents a qualified professional's opinion of a property's current overall physical condition and identifies significant deferred maintenance, existing deficiencies, and material building code violations that affect the property's use and its structural and mechanical integrity. Selected applicants receiving tax credits for rehabilitation are strongly encouraged to get a capital needs assessment by a competent third party, such as a licensed architect or engineer. The assessment should include a site visit and physical inspection of the interior and exterior of units and structures, as well as an interview with available on-site property management and maintenance personnel to inquire about past repairs/improvements, pending repairs, and existing or chronic physical deficiencies. The assessment should also consider the presence of hazardous materials on site.

Proposed Sources of Funds Including Local and Philanthropic Contributions*:
Provide a current form of documentation of proposed sources of funds including but not limited to a. through f. below, stating all terms and conditions (e.g. source dollar amount, term, amortization as applicable, interest rate, debt service coverage, etc.).

a. Construction financing;
b. Permanent financing (for RD Projects AD622 and letter of conditions);
c. Secondary financing;
d. Grants – letter from granting authority
e. Syndication proceeds; and
f. Other sources of funds and contributions, including any federal, state, local and private subsidies.

At the time of application, written documentation from the lender or contributor justifying the amount and the terms of the funds and/or contributions must be provided. Documentation for local and philanthropic contributions must be consistent with current market comparable costs. Within 6 months of the date of selection (Minnesota Housing Board selection date) the applicant must provide Minnesota Housing with documentation of a firm commitment (or authorization of approval) for each funding source and/or contribution. The documentation must state the amount, terms and conditions and be executed or approved at a minimum by the lender or contributor.

Documentation containing words synonymous with "consider" or "may," (as in "may award") regarding a commitment of funding, will not be considered acceptable. Lack of acceptable documentation will result in the reevaluation and adjustment of the tax credits or RFP award, up to and including the total recapture of tax credits or RFP funds.

Additionally, for tax credit developments using historic credits and tax abatement, there must be satisfactory documentation that the resource will provide additional investment capital to the development that will reduce the demands on the state and federal housing resources. For tax increment financing to qualify for points, there must be satisfactory documentation that the resource is committed to the development at the time of application.

Preservation of Federally Assisted Housing*:
If the proposal is for preservation of federally assisted housing, please provide a copy of all relevant documents such as, HAP Contract, Regulatory Agreement, Note, Mortgage, amortization schedules, restrictive covenants, copy of most recent REAC or RD inspection report.

Relocation Plan:
If temporary or permanent displacement or relocation of current tenants is necessary, include a relocation plan for minimizing relocation and displacement of tenants and a relocation budget.

Rent Roll:
If an existing development, provide the most recent rent roll.

Ten Year Rule Compliance:
For applications seeking acquisition credits, provide evidence that each building complies with the 10-year rule in 42(d) or an approved IRS waiver of the 10-year rule.

A 15-year after tax cash flow pro forma (for five or more units):
Must reflect required payments of any deferred developer fees

Nonprofit Proof of Status:
If nonprofit, proof of status (IRS approval) must be included: (See Chapter 3.C. for more details.)

a. A description of the nonprofit's intended participation in the development and operation of the project.

b. Articles of Incorporation.

c. Internal Revenue Service (IRS) documentation of status. A nonprofit must have IRS 501(c)(3) or (4) or appropriate approval from the IRS or expect to receive such designation prior to carryover allocation and meet requirements of Internal Revenue Code 42(h)(5).

Tenant Ownership Plan*:
If applicable, provide a detailed proposal for eventual tenant ownership. The proposal should incorporate a financially viable plan to transfer 100 percent of the HTC unit ownership after the 15-year compliance period from the initial ownership entity of the project (or Minnesota Housing approved "Transfer of Ownership") to tenant ownership.

The unit purchase price at the time of sale must be affordable to incomes meeting HTC eligibility requirements. To be eligible, the buyer must have an HTC qualifying income at the time of initial occupancy (HTC rental tenant) or time of purchase. The plan must incorporate an ownership exit strategy and the provision of services including home ownership education and training. The Declaration of Land Use Restrictive Covenants will contain provisions ensuring compliance with these home ownership program commitments by the Owner. (Refer also to Chapter 4.W of this Manual for additional information.)

Evidence of Supportive Services*:
To obtain points under the Special Populations Priority *(Self Scoring Worksheet)*, if a proposal sets aside a percentage of units for persons with disabilities, and if the project will be delivering supportive services to residents in these units, the applicant must complete and submit the Supportive Housing application materials, including the narratives, forms and submittals identified in the Common Application for Multifamily Rental Housing Resources.

Housing for Persons with Disabilities*:
The applicant must contact the human services department for the county where the project will be located to discuss the proposal. The applicant must submit a letter from the human services department indicating that its staff has reviewed the proposed project, and stating whether there is a need for such housing and if the project would be eligible for funds to assist with the social service needs of the residents.

Evidence of targeting units for Households Experiencing Long-Term Homelessness*:
In accordance Governor Pawlenty's Plan to End Long-Term Homelessness in Minnesota by 2010, Minnesota Housing, in cooperation with the Departments of Human Services and Corrections, and a broadly inclusive working group, has developed a business plan to achieve this goal. Tax credits represent one of several resources selected to attain this goal.

To receive points under this category, the proposal must meet all of the following conditions:

a. Proposals must set aside a minimum of 5% of the total units, but no fewer than 4 units serving households experiencing long-term homelessness as defined in Minnesota Rule, Chapter 4900.3705;

b. the applicant must complete and submit the Supportive Housing application materials, including the narratives, forms and submittals identified in the Common Application for Multifamily Rental Housing Resources. and;

c. the applicant agrees to pursue and continue renewal of rental assistance, operating subsidy, or service funding contracts for as long as the funding is available.

Minnesota Housing recognizes that rental assistance, or operating subsidies, and supportive services may be necessary to effectively serve households experiencing long-term homelessness. If the necessary rental assistance, operating support, or tenant service funding for the project is withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner, and alternative funding is unavailable, and the project is otherwise in full compliance with all the terms of the funding for the project, the owner may petition Minnesota Housing to modify its requirements. Minnesota Housing may (i) relax or eliminate the requirement for supportive services or (ii) relax or eliminate the requirement that the assisted units be occupied by households experiencing long-term homelessness. Should Minnesota Housing eliminate the requirement that the assisted units be occupied by households experiencing long-term homelessness, Minnesota Housing will permit the owner to phase out the targeting of tax credit units to households experiencing long-term

homelessness and convert the rents of those units to the 50% tax credit rent limit without jeopardizing the tax credit allocation, provided that more restrictive threshold, selection priority or funding requirements do not apply. If such conversion occurs, in order to retain the tax credit allocation, the above described 50% tax credit rent limit and the Section 42 minimum set aside elected for the project by the owner must be maintained for the remainder of the tax credit compliance period and extended use period.

A proposal which is awarded scoring points from this category and is selected to receive tax credits will be required to comply with the Long Term Homelessness reporting requirements as defined by Minnesota Housing. The Tax Credit Declaration of Land Use Restrictive Covenants, including a specific Rider to the Declaration, will contain performance requirements related to these long-term homelessness units and will be recorded with the property.

Other documents:
Instruments as are necessary and as may be required by Minnesota Housing.

B. Carryover Requirements

Several changes to Section 42 of the Internal Revenue Code were included in legislation passed by Congress in December 2000 as part of the Community Renewal Tax Relief Act of 2000. These amendments made certain changes to the Carryover Allocation requirements. Only limited guidance has been issued by the IRS regarding these changes. No assurances can be given that additional IRS guidance will not require further adjustments to the QAP and additional reviews of selected developments relating to carryover**.**

In addition to meeting requirements of federal law, the applicant of a selected project must provide no later than 5:00 p.m., **November 1 or the next calendar business day** of the year in which the reservation was issued, a complete carryover package in final form containing all the required documents in a form satisfactory to Minnesota Housing. Late fees will be enforced (See Chapter 9).

Minnesota Multifamily Rental Housing Common Application Form:
As part of your Carryover application package, an updated Minnesota Multifamily Rental Housing Common Application Form for Tax Credits must be submitted in both printed and electronic form. Please refer to Minnesota Housing's web site at www.mnhousing.gov/housing/tax-credits/allocation/MHFA_005165.aspx for additional important carryover information and related forms. A printed and fully signed/executed version of the application form, with all changes from initial credit reservation application highlighted and initialed, must be submitted with your application package. The updated application form must be signed by at least one general partner involved in the project and the nonprofit partner, if applicable. For material changes, refer to Manual Chapter 3.G.3 An electronic version of this updated application form should be submitted to Minnesota Housing by e-mail at the same time you submit your printed application package. This electronic application form must be emailed to: mhfa.app@state.mn.us.

Application forms containing incomplete revisions including those not highlighted, initialed and dated are not acceptable and will be returned to the applicant.

Project Schedule (Minnesota Housing Form 104):
Provide an Updated Project Schedule.

Owner Certification / Application for Carryover Allocation (HTC 4)**:**
Provide a signed and notarized Owner Certification/Application for Carryover Allocation Form for every building.

Building Information (HTC 5)**:**
Provide a completed Building Information Form.

Attorney's Opinion Letter:
Provide an Attorney's Opinion Letter in an approved Minnesota Housing Form verifying:

a. The legal description of the project property (to be attached to the opinion and labeled Exhibit A) and that it is correct and identical to the property identified in i) the application and ii) the reservation letter.

b. The name of the entity that will be/is the owner for tax purposes, and/or has demonstrated continued site control of the land and depreciable real property identified as the project in the application and the reservation letter.

c. i) The name, legal designation and Tax Identification Number (TIN) of the ownership entity that will receive the tax credits, ii) the legal designation of the party that signed the application.

d. The name, legal designation, and Tax Identification Number (TIN) of all the general partner(s), and the names of the managing partner(s), contact person(s) and the required authorized signatories. If the partners are an organized entity, such as a limited liability corporation, a limited liability partnership, or an organized partnership, provide the above information for each such entity.

e. Identification and copies of any waivers required by Section 42 obtained from the IRS.

Certified Public Accountant's Certification (HTC 6)**:**
Provide a written Certified Public Accountant's Certification in an approved Minnesota Housing Form verifying:

a. The amount of the reasonably expected basis, the carryover basis, and the percent of the expenses incurred.

b. More than 10 percent of the reasonably expected basis on the project must be expended by the later of the date which is six months after the date that the allocation is made or the close of the calendar year in which the allocation is made. If the final carryover basis and expenditures information is not available at the time the carryover application is due, the application must include a written estimate of this information prepared by the owner. Final CPA certifications of this information must be submitted to Minnesota Housing prior to the deadlines established by Section 42 and by no later than Minnesota Housing's submission deadline of May 1, 2010***.** (*If not a business day, then the next calendar business day.)

c. Also include a statement of non-affiliation with the developer and/or owner.

Sources of Funds:
Identify of the sources of construction, interim and permanent financing arrangements. Provide a firm letter of commitment in the form of a binding agreement as set forth in Minnesota Statutes Section 513.33. The agreement must:

a. Be in writing,

b. Specify the consideration for the transaction and pertinent terms,

c. Be signed by both the lender and the borrower (for RD Projects, Form 1944-51); and

d. Be current and state the effective and expiration date.

Maintenance and Operating Expense Review and Underwriting Certification (HTC 29):
Provide a completed and signed form by the primary lender (See Chapter 6.H).

Rental Assistance:
Provide a description of any governmental assistance and/or rental assistance. This includes copies of any contracts/agreements executed or any applications made for rental assistance for the project. This also includes copies of executed cooperatively developed housing plans/agreements between owner and local housing authority or other similar entity if Rental Assistance points were awarded to the development. (Refer to the Rental Assistance section of the *Self Scoring Worksheet*.)

Gross Rent Floor Election (HTC 26)**:**
If choosing to make the election at this time, supply a fully executed Statement of Election of Gross Rent Floor including each building of the development in which there are housing tax credit units. If the required form(s) is not submitted to Minnesota Housing prior to the in-service date, in fully executed condition, with all elections made by the owner, the gross rent floor will be determined to have been elected as the gross rent effective on the allocation date (the earlier of carryover or 8609) of the tax credits.

Fair Housing and Equal Employment Opportunity Forms:
It is the policy of the Minnesota Housing Finance Agency to take affirmative action to provide equal opportunity in all of our endeavors. Complete, execute and return the following forms:

a. **Affirmative Fair Housing Marketing Plan**
Describing the marketing strategies that an owner will use, including, but not limited to special efforts the owner will make to attract persons who are least likely to apply in addition to a broad cross section of the local population without regard to religion, sex, national origin or status as a recipient of public assistance.

b. **Equal Employment Opportunity Policy Statement**

Tenant Selection Plan:
Provide a written tenant selection plan describing the tenant selection policy that an owner will use must be submitted, reviewed and approved by Minnesota Housing prior to the issuance of the 8609. The written tenant selection plan must establish procedures that, at a minimum, meet the following applicable requirements:

a. Minimum and Maximum Household Size: While IRS regulations do not specifically address occupancy requirements, Minnesota Housing encourages maximum utilization of space for developments receiving priority for serving large families; therefore:

   1. The written occupancy policies should set a minimum of at least one person per bedroom and set maximum standards of at least two persons per bedroom. Owners should also comply with state and local laws, regulations and financing requirements (e.g., if Rural Housing Service, Use RHS regulations), and;

   2. Where two equally qualified households apply for a unit, preference should be given to the larger household that is most suitable to the unit size; and

b. Cooperatively Developed Housing Plan/Agreement to Provide Other Rental Assistance: Minnesota Housing requires a development receiving priority under the Rental Assistance category for entering into a cooperatively developed housing plan/agreement with the local Public Housing Authority or Redevelopment Authority or other similar entity to provide other rental assistance ; therefore:

   1. The written selection plan must include provisions to support and implement the cooperatively developed housing plan/agreement to provide other rental assistance between the owner and the local housing authority or other similar entity.

Identity of Interest:
Provide a written disclosure as to any and all Identity of Interest parties (See Chapter 3 I & J).

Allocation Fee:
Submit the nonrefundable Allocation Fee, based on the annual tax credit reservation amount (See Chapter 9 D and E) (Additional fees for additional credits secured at carryover will be collected following the award. Complete an Application Fee Remittance Form and attach with the payment to top of application package).

Project Design Certification Form:
Provide a completed form signed and dated by the Developer and the Architect.

Unit and Development Characteristics Profile Form:
Provide a completed form indicating the unit counts and the related funding sources.

C. Placed in Service Requirements

Generally, the placed in service date for HTC purposes, for a newly constructed building or for rehabilitation expenditures in an existing building, is the date when the first unit in the building is certified as available for occupancy. The placed in service date must occur for all buildings within a project within two years after the allocation year of tax credits.

An approved Minnesota Housing 8609 form must contain the signature of the authorized Minnesota Housing representative. Minnesota Housing will issue an approved IRS Form 8609 within 30 days after all the following items have been received by Minnesota Housing in a satisfactory form and substance. Issuance of the Minnesota Housing approved IRS Form 8609 is to be done only by Minnesota Housing or, as applicable, an authorized Suballocator. An approved Form 8609 shall not be created by any other entity. The owner/agent shall not file a Form 8609 with the Internal Revenue Service in advance of the owner/agent's receipt of the Minnesota Housing signed version of the approved Form 8609. In addition, the owner/agent shall not electronically file a Form 8609 with the Internal Revenue Service which does not accurately reflect the information contained on the Minnesota Housing signed version of the approved Form 8609. (Also refer to Chapter 3.G Unacceptable Practices.) A condition to this effect will be added to the Carryover Agreement.

If Minnesota Housing is the credit-allocating agency, filing a complete 8609 application package now involves certain documents being filed electronically. Please refer to Minnesota Housing's website at www.mnhousing.gov/housing/tax-credits/allocation/MHFA_004683.aspx for additional important information and forms for filing an 8609 application with Minnesota Housing. If your credit-allocating agency is a suballocator, please contact the suballocator for additional filing instructions.

Transmittal Letter:
Provide a transmittal letter indicating the project name, address and Minnesota Housing assigned number. The letter should request the issuance of IRS Form 8609 and list the following required documents. In the letter, please list the revised information and explain the basis for the changes. The letter must be dated and signed by the owner or authorized individual.

Placed in Service Evidence:
Provide evidence that all buildings have been Placed in Service. Submit a copy of the Certificate of Occupancy provided by the local governmental authority having jurisdiction for each building. If not available from the local government, a Certificate of Substantial Completion prepared by the architect will be accepted. For acquisition and rehabilitation, the developer must provide supporting documentation for the elected date.

Utility Allowance Schedule:
Provide a current utility allowance in a manner consistent with the options provided in IRC 1.42-10 (i.e. as appropriate, a utility allowance from RD, HUD, PHA/HRA, local utility company). Include a breakdown of the utilities that a tenant pays directly (i.e., heat, electricity, etc.), the utility allowance for each type of utility (i.e., gas, electric, etc.), for the various unit types (one bedroom, two bedroom, etc.) and housing types (apartments, townhomes, etc.). Also, include a list of each unit type, total tenant paid utilities, contract rent, and gross rent.

Final Cost Certification (HTC 9)**:**
Provide a final cost certification that evidences the CPA's Audit report and cost certification based upon an audit of the owners' schedule of total project costs.

All costs of projects owned by all entities for five or more units must be cost certified by a CPA when construction has been completed and before Minnesota Housing can complete its final evaluation.

Projects with four or less units must submit a sworn construction statement and/or certification by owner, as appropriate.

Multifamily Rental Housing Common Application Form:
As part of your 8609 application package, an updated Multifamily Rental Housing Common Application Form for Tax Credits must be submitted in both printed and electronic form. A printed and fully signed/executed version of the application form, with all changes from the most recent of your initial credit reservation application or as applicable your carryover application highlighted and initialed, must be submitted with your application package. In particular, check to ensure that changes in number of units, rents, utility allowance, source of funds (loans, grants, etc.), hard and soft cost changes and qualified basis are updated on the revised application pages. The updated application form must be signed by at least one general partner involved in the project and the nonprofit partner, if applicable. For material changes, refer to Manual Chapter 3.G.3. An electronic version of this updated application form should be submitted to Minnesota Housing by e-mail at the same time you submit your printed application package. This electronic application form must be e-mailed to mhfa.app@state.mn.us.

Application forms containing incomplete revisions including those not highlighted, initialed and dated are not acceptable and will be returned to the applicant.

Attorney's Opinion Letter:
Provide an Attorney's Opinion Letter in an approved Minnesota Housing Form verifying:

a. The legal description of the project property (to be attached to the opinion and labeled Exhibit A) and that it is correct and identical to the property identified in i) the application, ii) the reservation letter and iii) the carryover agreement (if one was issued for the project).

b. The name of the entity that is the owner for tax purposes of the property to be part of the project and which is described in Exhibit A of the opinion.

c. i) The name, legal designation and Tax Identification Number (TIN) of the ownership entity that will receive the tax credits, ii) the legal designation of the party that signed the application, iii) the business is in good standing and duly authorized in Minnesota.

d. The name, legal designation, and Tax Identification Number (TIN) of all the general partner(s), and the names of the managing partner(s), contact person(s) and the required authorized signatories. If the partners are an organized entity, such as a limited liability corporation, a limited liability partnership, or an organized partnership, provide the above information for each such entity.

e. Identification and copies of any waivers required by Section 42 obtained from the IRS.

Reserves, Contingencies, and any Cash Savings:
Provide a signed and dated statement documenting the amount and disposition of Reserves, Contingencies, and any cash savings. If any of the above reverts back to developer/owner, general partner or any ownership interest, Minnesota Housing will consider them deferred developer fees, and for purposes of tax credit allocation, restrict the developer fees as specified in this Procedural Manual.

Minnesota Housing Finance Agency Declaration of Land Use Restrictive Covenant:
Provide a copy of the unrecorded Minnesota Housing Declaration of Land Use Restrictive Covenants for Housing Tax Credits. The Declaration must be completed and recorded before the end of the first credit period to preserve the tax credits allocated to the project. Check with your tax advisor as to timing of filing and claiming of credits. HUD may require that certain Riders be attached to your tax credit Declaration if your development has primary financing via a HUD direct insured loan. Check with your financing and legal advisors to determine if this may be required of your development.

Final Tax Credit Proceeds or Receipts:
Documentation of the final amount of tax credit proceeds or receipts generated. Provide a copy of the final Syndication, Private Placement, or Individual Investment Agreements disclosing terms and conditions.

8609 Certification by Owner (HTC 3)**:**
Provide a completed, executed and notarized original 8609 Certification by Owner/Application, verifying:

a. The placed in service date as defined in IRS Notice 88-116 for each building and/or type of tax credit. Month and year should correspond with occupancy certificate. If the month and year do not correspond, submit a written statement indicating the reason.

b. Compliance with all applicable design requirements; and

c. Compliance with all requirements of selection, and additional or special conditions of reservation, commitment, or carryover.

Final Loan or Grant Documents:
Provide copies of final permanent loan or grant documents for all sources of funds (mortgage and note) that support the amount, terms and conditions stated on the Multifamily Rental Housing Common Application Form. Minnesota Housing must evaluate all final sources of funds to ensure the amount of tax credits allocated to a project do not exceed the amount necessary for financial feasibility. Therefore, Minnesota Housing will not issue an IRS Form 8609 prior to the execution of final permanent loan documents, or its equivalent, for all funding sources.

Maintenance and Operating Expenses Review and Underwriting Certification (HTC 29)**:**
See Chapter 6.H

15-Year After-Tax Cash Flow Pro Forma:
Provide a 15-year after-tax cash flow pro forma (for five or more units). Where applicable, the cash flow pro forma must reflect required payment of deferred developer fees.

Governmental Assistance and/or Rental Assistance:
If not previously provided as part of a carryover application, provide a description of any governmental assistance and/or rental assistance. This includes copies of any contracts/agreements executed or any applications made for rental assistance for the project. This also includes copies of Cooperatively Developed Housing Plans/Agreements between owner and local housing authority or other similar entity if Rental Assistance points were awarded to the development. (Refer to the Rental Assistance section of the scoring worksheet.)

Transfer Ownership:
If ownership entity has changed, provide a copy of assignment, a revised *Transfer Agreement* (HTC 20) and *Notice of Intent to Transfer Ownership* (HTC 27), and *Release of Information Authorization Form* (HTC 17) (See Chapter 3.F & G), and the Transfer of Ownership Fee (See Chapter 9).

Partnership Agreement:
Provide a copy of the executed final Partnership Agreement.

Photographs:
Provide clear photographs of completed building(s).

Building Map (HTC 28)**:**
Provide a completed Building Map for each building.

Identity of Interest:
A written disclosure as to any and all Identity of Interest parties (see Chapter 3.I and J).

Affirmative Action and Equal Opportunity Forms:
It is the policy of the Minnesota Housing Finance Agency to take affirmative action to provide equal opportunity in all of our endeavors. Complete, execute and return the following forms:

a. Affirmative Fair Housing Marketing Plan describing the marketing strategies that an owner will use, including, but not limited to special efforts the owner will make to attract persons who are least likely to apply in addition to a broad cross section of the local population without regard to religion, sex, national origin or status as a recipient of public assistance.

b. Equal Employment Opportunity Policy Statement

Tenant Selection Plan:
Provide a written tenant selection plan describing the tenant selection policy that an owner will use must be submitted, reviewed and approved by Minnesota Housing prior to the issuance of the 8609. The written tenant selection plan must establish procedures that, at a minimum, meet the following applicable requirements:

a. Minimum and Maximum Household Size: While IRS regulations do not specifically address occupancy requirements, Minnesota Housing encourages maximum utilization of space for developments receiving priority for serving large families; therefore:

1. The written occupancy policies should set a minimum of at least one person per bedroom and set maximum standards of at least two persons per bedroom. Owners should also comply with state and local laws, regulations and financing requirements (e.g., if Rural Housing Service, Use RHS regulations), and;

2. Where two equally qualified households apply for a unit, preference shall be given to the larger household that is most suitable to the unit size; and

b. Cooperatively Developed Housing Plan/Agreement to Provide Other Rental Assistance: Minnesota Housing requires a development receiving priority under the Rental Assistance category for entering into a cooperatively developed housing plan/agreement with the local Public Housing Authority or Redevelopment Authority or other similar entity to provide other rental assistance ; therefore:

1. The written selection plan must include provisions to support and implement the cooperatively developed housing plan/agreement to provide other rental assistance between the owner and the local housing authority or other similar entity.

Allocation Fee:
Submit the Non-refundable Allocation Fee, based on the annual tax credit allocation amount (if not already paid at carryover.) (See Chapter 9) Complete an Application Fee Remittance Form and attach with the payment to top of application package.)

Chapter 8 – Tax Exempt Projects Seeking Tax Credits

A. General

Section 42 of the Internal Revenue Code establishes a separate set of procedures to obtain housing tax credits through the issuance of tax-exempt bonds. Although the tax credits are not counted in the tax credit volume cap for the State of Minnesota, developers of projects should be aware of the information contained in Article 9 of the *State of Minnesota Housing Tax Credit Qualified Allocation Plan*.

The project must comply with the QAP that is in effect for the calendar year in which the tax-exempt bonds were first allocated by the Minnesota Department of Finance to the issuer. If the tax-exempt bonds are initially issued on a short-term basis, the year the tax-exempt bonds are reissued on a long-term basis may occur anytime after the year the tax-exempt bonds were allocated and the effective QAP will always be the QAP for the year in which the tax-exempt bonds were allocated. The application and all required submissions must be complete and legible or the application will be returned. Applications should be submitted to the:

Minnesota Housing Finance Agency
Housing Tax Credit Administrator
400 Sibley Street, Suite 300
St. Paul, MN 55101-1998

Developers should also be aware of the requirements of Minn. Stat. § 474A.047 including subdivision 1, which requires the extension of existing U.S. Department of Housing and Urban Development (HUD) Housing Assistance Payment (HAP) contracts to the full extent available.

B. Application for Issuance of Preliminary Determination Letter

Prior to Bond issuance, the developer must submit to Minnesota Housing a full and complete application for issuance of a Preliminary Determination by Minnesota Housing pursuant to Section 42(m)(1)(D) [also see the Qualified Allocation Plan for additional detail]. The developer must submit to Minnesota Housing all documents required for an application for tax credits under Chapter 7 of the Housing Tax Credit Program Procedural Manual and any additional information requested by Minnesota Housing. For projects for which Minnesota Housing is the allocating agency, the developer must submit an application fee (review fee). (See Chapter 9) In addition, if the issuer of the bonds is not Minnesota Housing, the initial submission must include a preliminary determination issued by the issuer of the bonds addressing the tax credit dollar amount and project costs pursuant to Section 42(m)(2)(D) of the Internal Revenue Code [also see the *Qualified Allocation Plan for additional detail*]. Based upon the submission of documents, Minnesota Housing will prepare a letter with its preliminary determination pursuant to Section 42(m)(1)(D) as to whether the project satisfies the requirements for allocation of a housing credit dollar amount under the *Qualified Allocation Plan*. A Preliminary Determination fee must be submitted to Minnesota Housing prior to release of the letter (See Chapter 9). **This process may take six weeks or more from the time the full application package is submitted. All applicants should develop their timelines and schedules accordingly.**

C. Election of Applicable Percentage

Section 42 of the Internal Revenue Code requires that the Owner elect the applicable percentage for the project. The election is made at the time the tax-exempt obligations are issued to fix the percentage for the month in which the building is placed in service or the month in which the tax-exempt obligations are issued. If the election is not made at the time the tax exempt obligations are issued, the percentage will be fixed for the month in which the building is placed in service. The Owner must be sure to consider the best options for this election and make sure the election is made at the correct time. Once made, the election is irrevocable.

D. Requests for Building Identification Numbers (BIN)

At the time of application for issuance of a Preliminary Determination letter, the applicant must obtain Building Identification Numbers (BIN) for each of the proposed buildings in the development. Minnesota Housing will assign all BIN numbers. An address or other specific legal description is needed for each BIN number to be identified with. The address and BIN numbers will be needed as part of an application for Form 8609.

E. Election of Gross Rent Floor

The Owner/Taxpayer of a qualified tax credit project financed with tax exempt bonds is permitted under IRS Revenue Procedure 94-57 to fix the date of the gross rent floor to be the date on which Minnesota Housing initially issues its Preliminary Determination letter to the building or the Placed in Service date (*Gross Rent Floor Election Form*). The election of one of the two timing options must be completed and the election form(s) received by Minnesota Housing prior to the date the project is placed in service. If no election is made and/or no form(s) received by Minnesota Housing prior to the date the project is placed in service, then the gross rent floor date will automatically be fixed by Minnesota Housing to be the initial issuance date of the Preliminary Determination letter for the building.

F. Application for Issuance of Form 8609

Subsequent to the project being placed in service and prior to a Form 8609 being issued for the project by Minnesota Housing, the Owner must submit an application for the issuance of Form 8609 to Minnesota Housing. The application must contain those items as identified in Section G below titled Tax Exempt Placed In Service. For projects for which Minnesota Housing is the allocating agency, the developer must submit an 8609 fee based upon the requested annual tax credit amount. (See Chapter 9)

G. Tax Exempt Placed in Service

Placed in service dates for HTC purposes must be established for all buildings using credits including acquisition credits (which are treated as a separate building for tax credit purposes). Generally, the placed in service date for a newly constructed building or for rehabilitation expenditures in an existing building, is the date when the first unit in the building is certified as available for occupancy. The placed in service date for acquisition credits is generally the date of the acquisition of the building. Except for buildings eligible to receive tax credits outside the state cap by virtue of the issuance of tax exempt financing, the placed in service date for all buildings of a credit project must occur within two years after the allocation year of the tax credits. It is highly recommended that Owners/Developers of tax-exempt projects seek the appropriate legal and bond professional advice on these matters.

An approved Minnesota Housing Form 8609 must contain the signature of the authorized Minnesota Housing Finance Agency representative. Minnesota Housing will issue an approved IRS Form 8609 within 30 days after all the following items have been received by Minnesota Housing in a satisfactory form and substance. Issuance of the Minnesota Housing approved IRS Form 8609 is to be done only by Minnesota Housing or, as applicable, an authorized Suballocator. An approved Form 8609 shall not be created by any other entity. The owner/agent shall not file a Form 8609 with the Internal Revenue Service in advance of the owner/agent's receipt of the Minnesota Housing signed version of the approved 8609. In addition, the owner/agent shall not electronically file a Form 8609 with the Internal Revenue Service which does not accurately_reflect the information contained on Minnesota Housing signed version of the approved 8609. (Also refer to Chapter 3.G Unacceptable Practices).

Transmittal Letter
A transmittal letter indicating the project name, address and Minnesota Housing assigned HTC number. The letter should request the issuance of IRS Form 8609 and list the following required documents. In the letter, please list the revised information and explain the basis for the changes. The letter must be dated and signed by the owner or authorized individual.

Placed in Service
Submit evidence that all buildings have been Placed in Service. Submit a copy of the Certificate of Occupancy provided by the local governmental authority having jurisdiction for each building. If not available from the local government, a Certificate of Substantial Completion prepared by the architect will be accepted. For acquisition and rehabilitation, the developer must provide supporting documentation for the elected date.

Evidence of Tax Exempt Bond
Submit evidence from the issuer of the bonds that the project received an approval of an allocation of tax-exempt bond volume cap from the state of Minnesota.

Utility Allowance Schedule
Provide a current utility allowance in a manner consistent with the options provided in IRC 1.42-10 (i.e. as appropriate, a utility allowance from RD, HUD, PHA/HRA, local utility company). Include a breakdown of the utilities that a tenant pays directly (i.e., heat, electricity, etc.), the utility allowance for each type of utility (i.e., gas, electric, etc.), for the various unit types (one bedroom, two bedroom, etc.) and housing types (apartments, townhomes, etc.). Also, include a list of each unit type, total tenant paid utilities, contract rent, and gross rent.

Final Cost Certification (HTC 9)
Provide a *Final Cost Certification* that evidences the CPA's Audit report and cost certification based upon an audit of the owners' schedule of total project costs.

a. All costs of projects owned by all entities for five or more units must be cost certified by a CPA when construction has been completed and before Minnesota Housing can complete its final evaluation.

b. Projects with four or less units must submit a sworn construction statement and/or certification by owner, as appropriate.

Multifamily Rental Housing Common Application Form
Provide an updated HTC *Multifamily Rental Housing Common Application Form* signed by at least one general partner involved in this project and nonprofit partner, if appropriate. Highlight all changes from Preliminary Determination Application, re-date and initial the revised pages. For material changes, refer to Chapter 3.G.3. Incomplete revisions or those not highlighted, initialed and dated are not acceptable and will be returned to the developer. In particular, check to ensure that changes in number of units, rents, utility allowance, source of funds (loans, grants, etc.), hard and soft cost changes and qualified basis are updated on the revised application pages.

Determination of Credits
Provide evidence that the governmental unit which issued the bonds (or on behalf of which the bonds were issued) made a determination that the amount of credits allocated to the project do not exceed the amount necessary to assure project feasibility pursuant to Section 42(m)(2)(A) and (B), including a copy of the final written determination (and the analysis on which it was based) that the credits allocated to the building did not exceed the maximum tax credit based upon the lesser of the eligible basis or the amount necessary to achieve financial feasibility. The issuer analysis and determination must address all of the items set forth in Section 42(m)(2)(B). The determination must be based upon the list of the submission requirements described in Chapter 7.C of the manual.

Attorney's Opinion Letter
Provide an Attorney's Opinion Letter in a Minnesota Housing approved form verifying:

a. The legal description of the project property (to be attached to the opinion and labeled as Exhibit A) and that it is correct and identical to the property identified in i) the application and ii) the preliminary determination letter issued by Minnesota Housing and iii) the legal description of the property financed with the tax exempt bonds.

b. The name of the entity that is the owner for tax purposes of the property to be part of the project and which is described in Exhibit A of the opinion.

c. The name, legal designation and Tax Identification Number (TIN) of the ownership entity that will receive the tax credits, ii) the legal designation of the party that signed the application, iii) the business is in good standing and duly authorized in Minnesota.

d. The name, legal designation, and Tax Identification Number (TIN) of all the general partner(s), and the names of the managing partner(s), contact person(s) and the required authorized signatories. If the partners are an organized entity, such as a limited liability corporation, a limited liability partnership, or an organized partnership, provide the above information for each such entity.

e. Identification and copies of any waivers required by Section 42 obtained from the IRS.

f. The buildings identified in the application qualify for an allocation of credits under Section 42(h)(4).

Reserves, Contingencies, and any Cash Savings
A signed and dated statement documenting the amount and disposition of Reserves, Contingencies, and any cash savings. If any of the above reverts back to developer/owner, general partner or any ownership interest, Minnesota Housing will consider them deferred developer fees, and for purposes of tax credit allocation, restrict the developer fees as specified in this Procedural Manual.

Minnesota Housing Finance Agency Declaration of Land Use Restrictive Covenants
A copy of the unrecorded Declaration of Land Use Restrictive Covenants for Housing Tax Credits.

(NOTE: A copy of a properly recorded Declaration, in final form and content as approved by Minnesota Housing following its review, must be provided to Minnesota Housing prior to the release of any 8609's to the Owner).

(NOTE: A Declaration must be completed and recorded before the end of the first credit period to preserve the tax credits allocated to the project. Check with your tax advisor as to timing of filing and claiming of credits).

Final Tax Credit Proceeds or Receipts
Documentation of the final amount of tax credit proceeds or receipts generated. Provide a copy of the final Syndication, Private Placement, or Individual Investment Agreements disclosing terms and conditions.

8609 Certification by Owner/Application Form
Submit a fully completed, executed and notarized original *8609 Certification by Owner/Application Form*, (HTC 3) verifying:

a. The placed in service date as defined in IRS Notice 88-116 for each building and/or type of tax credit. Month and year should correspond with occupancy certificate. If the month and year do not correspond, submit a written statement indicating the reason.

NOTE: It is highly recommended that Owners/Developers of tax exempt projects seek the appropriate legal and bond professional advice on these matters.

b. Compliance with all applicable design requirements; and

c. Compliance with all requirements of the Preliminary Determination letter issued by Minnesota Housing on the project and the requirements of Article 9 of the State of Minnesota Housing Tax Credit Qualified Allocation Plan.

Final Loan or Grant Documents
Provide copies of final loan or grant documents for all sources of funds (mortgage and note) that support the amount, terms and conditions stated on the HTC Application.

Maintenance and Operating Expenses Standards and Certification (HTC 29)
Provide a Maintenance and Operating Expenses Standards and Certification, (See Chapter 6.H).

15-Year After-Tax Cash Flow Pro Forma
Provide a 15-year after-tax cash flow pro forma (for five or more units) signed by the lending institution or source of credit enhancement, if any, signifying that they are aware of the figures presented on the HTC application. (must reflect required payments of any deferred developer fees)

Other Documents
Provide such documents and instruments as are necessary and as may be required by Minnesota Housing.

Transfer Ownership
If ownership entity has changed, a copy of assignment, a revised *Transfer Agreement* (HTC 20) and *Notice of Intent to Transfer Ownership* (HTC 27) an updated *Qualification Form* for all the new team members, a written disclosure as to any and all Identity of Interest parties and *Release of Information Authorization Form* (HTC 17) (See Chapter 3 F & G), and the Transfer of Ownership Fee (See Chapter 9).

Partnership Agreement
Provide a copy of the executed final Partnership Agreement.

Photographs
Provide clear photographs of completed building(s).

Building Map Form (HTC 28)
Provide a completed Building Map Form

Affirmative Action and Equal Opportunity Forms
It is the policy of the Minnesota Housing Finance Agency to take affirmative action to provide equal opportunity in all of our endeavors. Complete, execute and return the following forms:

a. Affirmative Fair Housing Marketing Plan describing the marketing strategies that an owner will use, including, but not limited to special efforts the owner will make to attract persons who are least likely to apply in addition to a broad cross section of the local population without regard to religion, sex, national origin or status as a recipient of public assistance.

b. Equal Employment Opportunity Policy Statement

Tenant Selection Plan
Provide a written tenant selection plan describing the tenant selection policy that an owner will use must be submitted, reviewed and approved by Minnesota Housing prior to the issuance of the 8609. The written tenant selection plan must establish procedures that, at a minimum, meet the following applicable requirements:

a. Minimum and Maximum Household Size: While IRS regulations do not specifically address occupancy requirements, Minnesota Housing encourages maximum utilization of space for developments receiving priority for serving large families; therefore:

   1. The written occupancy policies should set a minimum of at least one person per bedroom and set maximum standards of at least

two persons per bedroom. Owners should also comply with state and local laws, regulations and financing requirements (e.g., if Rural Housing Service, Use RHS regulations), and;

2. Where two equally qualified households apply for a unit, preference shall be given to the larger household that is most suitable to the unit size; and

b. Cooperatively Developed Housing Plan/Agreement to Provide Other Rental Assistance: Minnesota Housing requires a development receiving priority under the Rental Assistance category for entering into a cooperatively developed housing plan/agreement with the local Public Housing Authority or Redevelopment Authority or other similar entity to provide other rental assistance ; therefore:

1. The written selection plan must include provisions to support and implement the cooperatively developed housing plan/agreement to provide other rental assistance between the owner and the local housing authority or other similar entity.

8609 Fee.
Submit a non-refundable 8609 Fee based upon the annual tax credit amount. (See Chapter 9) along with a completed *Fee Remittance Form*.

Chapter 9 – Fees

A. Application Fee

An $800 application fee must be submitted with all applications. The fee is non-refundable. For multi-building projects, Minnesota Housing will require only one application and a single fee.

B. Supplement Fee

The supplement fee is $350.00. This fee is non-refundable and will be charged to projects that resubmit their proposals in Round 2 of the allocation year and were underwritten by Minnesota Housing in Round 1.

1. A non-selected project will be required to submit a new application package as described in Chapter 3.M.

2. A selected project (must have been selected in the same year) requesting additional credits will be required to submit a new application package as described in Chapter 3.L.

C. Reservation Fee

After the project has been selected, a reservation fee of 3.5 percent of the annual credit amount to be reserved must be paid to Minnesota Housing. The developer will have approximately 30 days in which to pay the reservation fee and maintain their tax credit selection/reservation. This fee is non-refundable and will not be adjusted if the final tax credit amount is reduced or the tax credits are returned or unused.

D. Allocation Fee

At the time the taxpayer/owner submits an application for a carryover allocation or for issuance of IRS Form(s) 8609 (whichever occurs earlier), an allocation fee will be due which is equal to 3.5 percent of the annual tax credit allocation amount. This fee is non-refundable and will not be adjusted if the final tax credit amount is reduced or the tax credits are returned or unused.

E. Allocation Late Fee

Developers submitting a carryover package or, if an owner has elected not to request a carryover, an 8609 package prior to the end of the year of allocation for which the reservation was issued that:

1. Do not submit a carryover/8609 application by the established due date; or

2. Submit a substantially incomplete carryover/8609 application by the established due date;

Must pay a $1,000 late fee plus a supplementary $200 for each business day from the original due date through the date on which Minnesota Housing receives the carryover/8609 application in a substantially complete form.

The fee will not be allowed as an eligible cost in carryover/8609 basis and must be paid at the time the carryover/8609 application is substantially complete.

F. Tax Exempt Credit Preliminary Determination Fee

A Preliminary Determination Fee must be submitted to Minnesota Housing prior to issuance of a Preliminary Determination letter. For projects for which Minnesota Housing is the allocating agency, the developer must submit a fee equal to three and one-half percent (3.5%) of the requested annual tax credit amount. This fee is non-refundable.

G. Tax Exempt Credit 8609 Fee

An 8609 Fee must be submitted at the time of application to Minnesota Housing for Form 8609. For projects for which Minnesota Housing is the allocating agency, the developer must submit an 8609 fee equal to three and one-half percent (3.5%) of the requested annual tax credit amount. This fee is non-refundable.

H. Monitoring Fee

Minnesota Housing will charge an annual monitoring fee of $25 per unit, based on the total number of units, with a minimum of $50 except for projects covered by the memorandum of understanding (MOU) between Minnesota Housing and the U.S. Department of Agriculture, Rural Housing Service. The compliance monitoring fee will be $15 per unit per year for projects covered by the MOU. This fee may be increased depending upon the requirements of the U.S. Treasury, IRS, or increased costs of Minnesota Housing. The fee will be due in a manner and time as prescribed by Minnesota Housing. Failure to pay the fee will result in Minnesota Housing notifying the IRS that the project is out of compliance.

During the extended use period required by Internal Revenue Code Section 42(h)(6), Minnesota Housing will charge a monitoring fee of $15 per unit per year. No HTC monitoring will be required during this time for properties with project-based Section 8, Rural Development or HUD Contract Administration since these properties are already subject to monitoring and consequences under those programs are in place, and no HTC monitoring fee will be charged. However, if a property is no longer subject to monitoring for HUD and/or Rural Development programs, then the owner must notify Minnesota Housing Tax Credit compliance staff immediately so that the property can be placed back on the monitoring schedule. At that time, the property will be subject to the $15 per unit per year monitoring fee.

I. Transfer of Ownership Fee

A non-refundable transfer of ownership fee of $2,500 must be submitted to Minnesota Housing along with updated materials of the new owner/management team for each project in which 50 percent or more of the ownership entity is new since reservation or carryover allocation. Prior to 8609, changes in ownership must be approved by Minnesota Housing. See Chapter 3.G. Unacceptable Practices for further details on Transfer of Ownership.

J. Check Cashing Procedure

Applicant's payments for fees (in the form of checks) will be held pending verification of the accuracy of the amount tendered and submitted materials.

K. Right to Adjust Fees

Minnesota Housing reserves the right to adjust fees due to changing circumstances in order to cover its costs associates with producing and delivering Minnesota's Housing Tax Credit Program.

Chapter 10 – Allocation Schedule of Critical Dates

2009 Allocation Dates

Public Hearing	Minnesota Housing – 3rd Floor – 400 Sibley Street, Saint Paul	February 28,2008
Request for Proposal	Publish RFP for Round 1 and 2 in State Register and Statewide Star Tribune	April 21, 2008
2009 HTC Webinar	TBA	May 8, 2008
2009 Round 1	Applications Due	June 17, 2008
	Selections Announced	October 23, 2008
	Reservation Materials & Fees Due	December 1, 2008
2009 Round 2	Applications Due	February 5, 2009
	Selections Announced	April 23, 2009
	Reservation Materials and Fees Due	May 15, 2009
2009 Carryovers Due	Applications Due – Complete Carryover packages and appropriate fees must be enclosed	November 1, 2009

2009 8609* ***Applicable when no Carryover Agreement completed for 2-year extension.	Applications Due – Complete 8609 packages for 2008 Allocations. Appropriate fees must be enclosed. When a Carryover Agreement is not executed, an IRS Form 8609 must be issued to the 2008 project before the end of the year to retain your tax credits.	November 1, 2009

2008 Allocation Dates

2008 Round 1	Applications Due	June 19, 2007
	Selections Announced	October 25,2007
	Reservation Materials & Fees Due	December 3, 2007
2008 Round 2	Applications Due	January 31, 2008
	Selections Announced	April 24, 2008
	Reservation Materials and Fees Due	May 19, 2008
2008 Carryovers Due	Applications Due – Complete Carryover packages and appropriate fees must be enclosed	November 1, 2008
2008 8609* ***Applicable when no Carryover Agreement completed for 2-year extension.	Applications Due – Complete 8609 packages for 2008 Allocations. Appropriate fees must be enclosed. When a Carryover Agreement is not executed, an IRS Form 8609 must be issued to the 2008 project before the end of the year to retain your tax credits.	November 1, 2008

Previous Years Allocation of Credits

Placed in Service Allocation	Packages are due no later than 15 days after the last day of the first year of the credit period. Section 42 states the owner shall elect the first year of the credit period in the year the project is placed in service or the year following.

2009 Compliance Dates

TBA	Compliance Training
February 15, 2009	Owners Certifications Due
When filed with IRS	Compliance – 1st year 8609, Schedule A, and 8586 due

Chapter 11 – HTC Forms and Reference Materials

Application Materials

ALPHA INDEX OF HTC FORMS AND REFERENCE MATERIALS

All HTC Application Forms and References are identified in the Multifamily Consolidated Request For Proposal Guide and are available on Minnesota Housing's Multifamily Web Site (www.mnhousing.gov).

Forms	**Form Location / Web Link (Below links updated as Minnesota Housing web site is updated)**	**HTC Form Number**
Building Identification Number (BIN) Request Form (Tax Exempt Bonds Only)	D. Tax Exempt Bond Forms http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002361.rtf	HTC Form 31
Determination of Tax Credit Form	B. MHFA Supplemental Forms/HTC http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002339.rtf	HTC Form 8
Election of Applicable Percentage Form (Tax Exempt Bonds Only)	D. Tax Exempt Bond Forms	HTC Form 34
Fee Remittance Form	A. Application Fees http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002349.rtf	HTC Form 25
Local HRA/ PHA Notice and Agreement Form	B. MHFA Supplemental Forms http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002401.rtf	HTC Form11 MHR Form 101
Maintenance & Operating Expense Review & Underwriting Certification	B. MHFA Supplemental Forms/HTC http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002323.rtf	HTC Form 29 MHR Form 329
Market Qualification Information Form	Common Application Forms http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002410.rtf	HTC Form 32 MHR Form 102
Notification of Local Official Form	B. MHFA Supplemental Forms http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002228.rtf	HTC Form18 MHR Form 103
Design Standards Certification	B. MHFA Supplemental Forms/HTC http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002337.rtf	*HTC Form 33*
Project Schedule	B. MHFA Supplemental Forms http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002233.rtf	*MHR Form 104*
Qualifications of Architect	Common Application Forms http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002255.rtf	*MHR Form 206A*

Qualifications of Attorney	Common Application Forms http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002257.rtf	*MHR Form 208A*
Qualifications of Developer	Common Application Forms http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002252.rtf	*MHR Form 203A*
Qualifications of General Contractor	Common Application Forms http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002258.rtf	*MHR Form 209A*
Qualifications of Management and Marketing Agent	Common Application Forms http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002259.rtf	*MHR Form 210A*
Qualifications of Processing Agent	Common Application Forms http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002254.rtf	*MHR Form 205A*
Qualifications of Primary Service Provider	F. Supportive Housing/Supplemental Forms/Submittals http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002260.rtf	*MHR Form 215A*
Release of Information Authorization	B. MHFA Supplemental Forms/HTC http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002239.rtf	HTC Form 17 MHR Form 317
Self Scoring Worksheet	B. MHFA Supplemental Forms/HTC http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002322.rtf	

Reference Materials

Reference	Form Location / Web Link (Below links updated as Minnesota Housing web site is updated)	HTC Form Number
Design Standards for HTC 2009	http://www.mnhousing.gov/housing/architects/multifamily/MHFA_004750.aspx	
IRS Regulations 1.42-06 Carryover	Search Internet for key words such as "Housing Tax Credits," "IRS," "Federal Regulations," etc.	
IRS Regulations 1.42-10 Utility Allowances	Search Internet for key words such as "Housing Tax Credits," "IRS," "Federal Regulations," etc.	
IRS Regulations 1.42-17 Qualified Allocation Plan	Search Internet for key words such as "Housing Tax Credits," "IRS," "Federal Regulations," etc.	
IRS Regulations 1.42-5 Monitoring Compliance	Search Internet for key words such as "Housing Tax Credits," "IRS," "Federal Regulations," etc.	
Minnesota Statutes (1999) Section 462A.22 et Sequa	www.revisor.leg.state.mn.us/stats/462A/221.html www.revisor.leg.state.mn.us/stats/462A/222.html www.revisor.leg.state.mn.us/stats/462A/223.html	
Qualified Allocation Plan for Minnesota Housing (Agency Qualified Allocation Plan)	HTC Allocation http://www.mnhousing.gov/idc/groups/public/documents/document/mhfa_005946.pdf	
Qualified Census Tract	http://www.huduser.org/datasets/qct.html	
Rent & Income Limits	Reference Materials http://www.mnhousing.gov/idc/groups/public/documents/document/mhfa_006723.pdf	
Rural Development Service Areas	www.rurdev.usda.gov/rhs/index.html - USDA http://www.rurdev.usda.gov/rhs/	
Section 42 Internal Revenue Code	Search Internet for key words such as "Housing Tax Credits," "IRS," "Federal Regulations," etc.	
Selection Points for Project Location (see project location table)	Reference Materials http://www.mnhousing.gov/idc/groups/public/documents/document/mhfa_006364.pdf	
Self Scoring Worksheet	B. MHFA Supplemental Forms / HTC http://mnhousing.gov/idc/groups/public/documents/document/mhfa_002322.rtf	
Statement/Election of Gross Rent Floor (see carryover or 8609 web site)	HTC Allocation / See Carryovers or 8609's http://www.mnhousing.gov/idc/groups/public/documents/document/mhfa_002372.rtf	HTC Form 26
Threshold Letter – Sample Format	Reference Materials http://www.mnhousing.gov/idc/groups/public/documents/document/mhfa_002370.rtf	
Underwriting Standards for Minnesota Housing Multifamily Loans	Multifamily Consolidated Request for Proposal Guide/see Section X http://www.mnhousing.gov/idc/groups/public/documents/document/mhfa_005887.pdf	

Post Application Materials

Forms	Form Location / Web Link (Below links updated as Minnesota Housing web site is updated)	HTC Form Number
8609 Certification by Owner/Application Exhibit A-Determination of Targeted Applicable Fraction and Qualified Basis by Building	HTC Allocation / 8609 http://www.mnhousing.gov/housing/tax-credits/allocation/MHFA_004683.aspx	HTC3 Exhibit A
Building Map	HTC Allocation / 8609 http://www.mnhousing.gov/housing/tax-credits/compliance/MHFA_004658.aspx	HTC28
Declaration of Land Use Restrictive Covenants Exhibit A Legal Description Exhibit B Applicable Fraction	HTC Allocation / 8609 http://www.mnhousing.gov/idc/groups/public/documents/document/mhfa_006841.rtf	
Final Cost Certification	HTC Allocation / 8609 http://www.mnhousing.gov/idc/groups/public/documents/document/mhfa_002371.rtf	HTC9
Gross Rent Floor Election Form (see carryover or 8609 web site)	HTC Allocation / See Carryovers or 8609's http://www.mnhousing.gov/idc/groups/public/documents/document/mhfa_002372.rtf	HTC26
Notice of Intent to Transfer Ownership or Change Owner Name or Status	HTC Allocation / Changes in Ownership http://www.mnhousing.gov/idc/groups/public/documents/document/mhfa_002373.rtf	HTC27
Transfer Agreement (Prior to Issuance of 8609(s)	HTC Allocation / Changes in Ownership http://www.mnhousing.gov/idc/groups/public/documents/document/mhfa_002377.rtf	HTC Form 20