2019 Housing Tax Credit Program Procedural Manual

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An equal opportunity employer.

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

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Chapter 1 – 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 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). This document – the Housing Tax Credit Program Procedural Manual – and all forms and attachments, along with the Self-Scoring Worksheet(s), are a part of Minnesota Housing's Qualified Allocation Plan (QAP). The QAP is subject to modification or amendment to ensure the provisions conform to the changing requirements of Section 42 and applicable state statutes.

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) following the conclusion of the compliance period.

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, suitability, feasibility or marketability of the housing to be constructed or rehabilitated. If any information submitted to Minnesota Housing by the applicant 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 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 tax credits.

Chapter 2 – Policies and Procedures

A. Application Cycle

Minnesota Housing has two annual HTC funding cycles, Round 1 and Round 2, to allocate the state's tax credit volume cap. Applications for tax credits in association with tax exempt bonds are accepted year round on a pipeline basis.

Round 1 uses a forward selection process, with selections taking place in the fall of the year proceeding the allocation year of the credits. 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.

Round 2 makes available for allocation any tax credits remaining or returned since Round 1. Additionally, Round 2 establishes a waiting list for credits that may be returned. In Round 2, all projects located in suballocator jurisdictions may apply directly to Minnesota Housing.

B. Multiple Buildings

Projects may include multiple buildings having similarly constructed housing units, provided the buildings are located on the same tract of land, have the same owner 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 allocated from the states' tax credit volume cap 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 the fostering of low-income housing as one of its exempt purposes 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 requires 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 may 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.
7. 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 3 and 4 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 will be recorded as a covenant on the land that will apply to all subsequent owners.

D. Rural Development/Small Project Set-Aside

Eligible projects must have either:

1. A Rural Development (RD) financing commitment or,
2. A site located in an RD service area and consisting of 12 or fewer units.

First priority will go to projects with applications for financing or a commitment from RD. A developer may have a maximum award of two projects within this set-aside each allocation year. Applicants to the set-aside first compete in the general pool, and if not competitive, then move to the $300,000 RD/Small

Project set-aside for consideration. 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$1,200,000 in cumulative tax credits may be awarded to any one development.

At the sole discretion of Minnesota Housing, these limits may be waived for projects that involve Planned Community Development, historic preservation, preservation of existing federally assisted buildings, and 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

For the long term viability of quality housing, Minnesota Housing's position is that 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 member, or change in a nonprofit partner will be considered a material change in the project and will be subject to Minnesota Housing's approval

Owners wishing to change or transfer ownership must submit a completed Request for Action Form, Transfer Agreement if prior to issuance of 8609 (HTC 20), a transfer of ownership fee if the transfer occurs prior to a date five years after the project's new construction/rehabilitation placed in service date (see Chapter 8), and any other documentation that Minnesota Housing deems necessary.

G. Unacceptable Practices

Unapproved Transfer of Ownership

Any unapproved change or transfer of ownership from selection or preliminary determination letter 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:

1. First transfer (-10 points on each application submittal)
2. 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, 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 10 years.

Failure to Meet Requirements of Points Awarded under Cost Containment Preference Priority
If a project receives points under this preference priority, failure to keep project costs under the applicable cost threshold through 8609 final cost certification will be considered an unacceptable practice and result in negative four points being awarded in all of the applicant's tax credit submissions in the next funding round in which submissions are made. The applicable cost threshold will be determined by the Revised Cost Containment Methodology located under the Application Reference Materials.

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.

1. Minnesota Housing has agreed to partner with the local HUD area office to determine if tenants of rehabilitation projects:
    a. Were displaced prior to application
    b. Are displaced after rehabilitation has been completed
2. 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:
    a. Reduce or rescind the reservation/allocation of the tax credits to the project prior to issuance of 8609
    b. 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. This also applies to tax-exempt tax credit projects, owners and managers

Changes to Project
The allocation 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 or design features required for preference points) as submitted in the application require written notification to and approval from Minnesota Housing. Any changes require approval by Minnesota Housing and 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.

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 10 years.

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 IRS 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 IRS that 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 10 years. This applies to credits issued by Minnesota Housing, suballocators and in conjunction with tax-exempt bonds.

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 are 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. This also applies to tax-exempt tax credit projects, owners, and managers.

H. Minimum Underwriting Standards

A development selected for a reservation or preliminary determination of tax credits is selected based upon underwriting standards, including but not limited to, acquisition costs, maintenance and operating expenses and permanent financing as approved by Minnesota Housing (see Chapter 5), the Minnesota Housing Multifamily Underwriting Standards and the Multifamily Request for Proposal Guide). 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 standards.** Not complying with these standards 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 Workbook 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 HTC 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(s), or any federal program(s)
3. At the sole discretion of Minnesota Housing, significant parties who have serious and persistent compliance monitoring violations may not be eligible
4. At the sole discretion of Minnesota Housing, significant parties having an identity of interest with persons or entities falling into any of the above categories may not be eligible.

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 acquisition costs, developer fees, and 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 10-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 allocated 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 an allocation 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 2.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.

For 9% tax credit projects 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 Workbook, 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 an application for additional tax credits for developments initially awarded tax credits from a suballocator or that have a tax credit allocation 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.

For 4% tax credit projects to receive an additional credit amount, the owner must submit an application at the time of the 8609 application.

All 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 9% 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 Workbook (all changes from the initial application must be clearly identified)
3. Any new or revised documentation obtained since the previous application
4. An updated and revised Self-Scoring Worksheet, including all documentation that clearly supports the points claimed
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, Difficult Development Areas and State Designated Basis Boosts

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 one 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 QCTs, go to Minnesota Housing's website under HTC Reference Materials or go directly to the Qualified Census Tract Table Generator or Qualified Census Tract Map).
2. **Difficult development areas (DDA)** designated by HUD as having high construction, land, and utility costs relative to area median income. For DDA information, reference the same website for QCT above.
3. **State Designated Basis Boost.** Buildings Designated by State Housing Credit Agency [pursuant to 42(d)(5)(B)(v)]*

   It is the goal of Minnesota Housing to optimize the use of all available sources of funding for multifamily developments, including private investor equity, amortizing loans and deferred loans, to produce the maximum number of affordable rental units in the most sustainable, quality, cost effective and geographically diverse developments possible that meet Minnesota Housing's strategic priorities. Consistent with this goal, the following criteria will be used to determine if, when, and in what amount, Minnesota Housing will provide a basis boost for housing tax credit developments on a building by building basis to obtain financial feasibility.

   a. Development must meet state identified housing priorities as evidenced by a competitive tax credit score and at least one of the following:

      i. The development receives an award of points in the Self-Scoring Worksheet in one or more selection priority areas for the following:

         1. Historic preservation – Points must be awarded through the Federal/Local/Philanthropic Contributions priority for inclusion of historic tax credits.
         2. Preservation – Points must be awarded through the Preservation priority subcategory of Existing Federal Assistance or the subcategory of Critical Affordable Units at Risk of Loss for existing tax credit units.
         3. Permanent Supportive Housing for Households Experiencing Homelessness.
         4. Economically integrated housing providing at least 25 percent but not greater than 80 percent of the total units in the project as qualified tax credit low-income units (not including full-time manager or other common space units). (See Chapter 3.O.)

      ii. The development, as determined by Minnesota Housing, will be affordable to households at or below 30 percent of area median income. As part of its application, the applicant must provide detailed and credible supporting evidence of financial feasibility.

      iii. The development, as determined by Minnesota Housing, responds to significant proposed expansions in area employment. As part of its application, the applicant must

provide detailed and credible supporting evidence of such significant proposed expansions in area employment.

iv. The development, as determined by Minnesota Housing, is part of Planned Community Development.

v. The development, as determined by Minnesota Housing, responds to natural disaster recovery efforts when a qualifying natural disaster is declared/certified (by presidential, governor and/or Minnesota Housing board designation) and as provided for in the QAP. As part of its application, the applicant must provide detailed and credible supporting evidence of such response to natural disaster recovery efforts.

b. The application must demonstrate that without the basis boost, a significant funding gap will remain for the proposed development.

c. The application must demonstrate that any tax credits allocated in connection with the basis boost must be no more than needed to achieve financial feasibility.

*Requests by applicants or developers to Minnesota Housing to apply the 30 percent state designated basis boost must be formally made in writing. The request should clearly outline the reasons supporting the request and clearly demonstrate how the proposal meets the criteria established by Minnesota Housing for receiving boost considerations.

O. Reservations

Once staff has ranked applications and determined allowable credit amounts for each application, staff will make recommendations to Minnesota Housing's board for final approval of the reservation of 9% tax credits. After the 10-day adjustment period (referenced below), the selected applicant will have 20 days to acknowledge selection by returning the appropriate reservation fee (see Chapter 8).

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 HTC 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 must 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 the election must be made and the completed election form received by Minnesota Housing no later than 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 tax credit units. If the required owner-executed forms with all elections made by the owner are not submitted to Minnesota

Housing by a date no later than the placed in service date, 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 manual.

P. Administrative Errors/Appeals Process

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. The applicant's appeal must be written in letter form containing an original signature and stating that the communication is an appeal under Chapter 2.P of the Housing Tax Credit Program Procedural Manual. The appeal letter may be submitted through email to mhfa.htc.appeals@state.mn.us or to:

Minnesota Housing
Housing Tax Credit Administrator
400 Wabasha Street, Suite 400
St. Paul, MN 55102

An applicant is not permitted to contest the scores of other applicants. 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. A project on the waiting list that is awarded its credit request through the subsequent Round 1 will no longer be eligible to receive credits through the waiting list and will be removed from the list. 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 viability prior to receiving consideration for a tax credit allocation. A project must satisfy 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 one year 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:

1. The amount of the reasonably expected basis at the end of the second year after the initial reservation
2. The carryover basis expended by the later of:
    a. The date which is one year after the date that the allocation is made, or
    b. The close of the calendar year in which the allocation is made

If the final CPA certified carryover basis and expenditure 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 6.B of this manual. Failure to comply with the submission dates will result in significant penalties as outlined in Chapter 8.E. Additional carryover requirements are given in Chapter 6.B.

Minnesota Housing's HTC program 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. For an 8609 to be issued by Minnesota Housing prior to year end, the tax credit application for issuance of such 8609s must be submitted to Minnesota Housing on or before November 1 of that year.

A project that has neither received a Carryover Allocation nor has been placed in service and issued appropriate 8609s before December 31 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 the Minnesota Housing Tax Credit Program 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/preliminary determination 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 IRS 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 will perform such duties in accordance with its Housing Tax Credit Compliance Manual.

1. All tax credit recipients must 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, compliance report, including demographic data on households and 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.
2. A periodic review of tenant certifications including the tenant applications and verification of income and income from assets, as well as an inspection of the physical condition using HUD's Uniform Physical Conditions Standards, will be conducted in accordance with the Housing Tax Credit Compliance Manual. 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 during the 15-year compliance period. Less frequent inspections may be

conducted after the 15-year compliance period has expired. 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 must 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 $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

All properties will be subject to a Declaration of Land Use Restrictive Covenants (Declaration) with a term of 30 years or longer. 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 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, subject to a three-year period following its termination where existing low income tenants cannot be evicted or tenancy terminated for other than good cause and rents cannot exceed the allowable tax credit rent limits.

Owners of properties that receive 9% credits are required by Minnesota Housing to waive the right to request a qualified contract for the full term of the Declaration and commit to at least thirty years of operation as low-income rental housing. Owners of properties that receive 4% credits are required to agree to maintain the duration of low-income use for a minimum of 20 years, which means the request for presentation of a qualified contract may not occur until after year 19. Some owners of properties that receive 4% credits have agreed to maintain the duration of low-income use for a minimum of 25 years, which means the request for presentation of qualified contract may not occur until after year 24. Owners of properties that receive 4% credits and committed to maintain the duration of low-income use for 30 years or longer also agreed to waive the right to request a qualified contract for the full term of the Declaration. Owners should review the respective QAP, development tax credit application, carryover agreement, and the Declaration to determine whether the development is eligible 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's tax credit team or reference the Qualified Contract Guide.

V. Tenant Selection Plan

Minnesota Housing requires that a Tenant Selection Plan (Plan) be 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. See Minnesota Housing's Tenant Selection Plan Guidance.

W. Other Conditions

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

X. Revisions to the Manual and Allocation Plan

To the extent necessary to facilitate the award of tax credits that would not otherwise be awarded, this Procedural Manual and associated 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 Minnesota Housing 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 QAP may be amended for substantive issues at any time following public notice and public hearing. Public hearings are held at Minnesota Housing's main offices in St. Paul, Minnesota. Any substantive amendments will require approval of the Minnesota Housing board and the governor.

To the extent that anything contained in the Housing Tax Credit Program Procedural Manual and the QAP does not meet the minimum requirements of federal law or regulations, such law or regulation will take precedence.

Chapter 3 – 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.

Section 42(b)(2)(A) and (B) of the Internal Revenue Code established a temporary minimum credit rate for non-federally subsidized buildings. In the case of any new building which is placed in service by the taxpayer after July 30, 2008 and before December 31, 2013, and which is not federally subsidized for the taxable year, the applicable percentage shall not be less than 9 percent. On December 18, 2015, the Protecting Americans from Tax Hikes (PATH) Act of 2015 was signed into law. The Act permanently extended the fixed 9 percent LIHTC credit rate.

The Act amended Subparagraph (A) of section 42(b)(2) which established a temporary minimum credit rate for non-federally subsidized new buildings. The Act as amended provides, in the case of any new building — (A) which is placed in service by the taxpayer after the date of the enactment of this paragraph [42(b)(2)(A)], and (B) which is not federally subsidized for the taxable year, the applicable percentage shall not be less than 9 percent.

Applicants are strongly advised to consult closely with their tax credit professionals (legal and tax) for guidance with respect to structuring a project to use either the 9 percent or the 4 percent tax credit.

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. Are equal to the greater of:
    a. An average qualified basis amount per low-income unit for a building which meets the inflation adjusted amount published by the IRS annually in accordance with Section 42(e)(3)(D); or
    b. An amount that is not less than 20 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 the date it was last placed in service.

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 10-Year Rule

Exceptions to the 10-year rule are provided in Section 42(d)(6) for federal or state 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 10-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
4. Single family residences that had no use during the prior 10-year period except, as an owner-occupied principal residence will not be treated as being placed in service for purposes of the 10-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, the proceeds of which were used (directly or indirectly) in the building or its operation.

Federal grants are not to be taken into account in determining eligible basis. The eligible basis of a building must not include any costs financed with the proceeds of a federally funded grant.

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.

G. Review of Federally Assisted Projects

Minnesota Housing will review projects using Rural Development Section 515 Rural Housing Loan funds in accordance with Minnesota Housing's currently approved underwriting practices and procedures. So as to achieve a coordinated underwriting to the extent reasonably possible, it is the responsibility of the applicant to provide Minnesota Housing with available underwriting requirements and other requirements for the project that have been established by Rural Development. Prior to issuance of the IRS Form 8609, the applicant must submit to Minnesota Housing a copy of RD Form 3560-51, Multiple Family Housing Obligation – Fund Analysis for reference 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 a 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 ensuring 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:

1. Metropolitan Housing Opportunity Program (MHOP)
2. U.S. Housing and Urban Development (HUD)Risk Share Insurance
3. Section 8 Project-Based Rental Assistance
4. Home Investment Partnership (HOME)
5. National Housing Trust Fund (NHTF)

At a minimum, the following documents must be submitted:

1. Partnership (Syndication) Agreement, spelling out the equity contributions and dates of disbursement; and
2. Copy of the Multifamily Workbook

I. Project Eligibility

Applicants must set aside a minimum number of units that meet both rent and income restrictions to qualify for tax credits for each year of the credit period. A project must, for a specific period of time, meet one of the following minimum tests:

1. **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 at or below the 50 percent Multifamily Tax Subsidy Project limits (MTSP income limits), as established for different geographical areas and published by the U.S. Department of Housing and Urban Development (HUD), adjusted for family size.
2. **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 at or below the 60 percent MTSP income limits, adjusted for family size.

Once made, the choice between the 20 percent at 50 percent and the 40 percent at 60 percent set-asides 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 application. Also, IRS defines each building as a separate project unless owner elects to treat certain buildings as a multiple-building project on IRS form 8609. See the instructions for making a multiple-building election on form 8609.

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.

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 HUD, 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, as amended) provides guidance relating to Utility Allowances and lays out options for establishing them.

The following is a summary of the sources of utility allowances:

1. USDA Rural Housing Service (RHS) financed projects, or units with tenants receiving RHS assistance, must use the RHS utility allowance.
2. HUD regulated buildings must use the HUD utility allowance (project based HUD financing).
3. Any individual apartments occupied by residents who receive HUD assistance (Section 8 Existing, etc.), must use the HUD utility allowance from the Public Housing Authority (PHA) administering the assistance.
4. For Section 42 buildings without RHS or HUD assistance, the following options may be used:
    a. A PHA utility allowance from the local housing authority administering section 8 vouchers for the area in which the property is located.
    b. A utility company estimate.
    c. An "Agency Estimate" based on actual utility usage data and rates for the building.
    d. A HUD Utility Schedule Model.
    e. An Energy Consumption Model using an energy and water and sewage consumption and analysis model.

The Housing Tax Credit Compliance Manual provides additional information and instructions for utility allowances.

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 the applicable MTSP income limits if the 20/50 test is elected or 60 percent of MTSP income limits if the 40/60 test is 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.

Section 42 does not allow households comprised of full-time students to qualify as low-income units unless certain exceptions are met. There are five exceptions to the limitation on households where all members are full-time students. Full-time student households that are income eligible and satisfy one or more of the following conditions are considered eligible:

1. Students are married and entitled to file a joint tax return. A married couple that is entitled to file a joint tax return, but has not filed one, still satisfies the exception.
2. The household consists of a single-parent with child(ren) and the parent is not a dependent of someone else, and the child(ren) is/are not dependent(s) of someone other than a parent;

3. At least one member of the household receives assistance under Title IV of the Social Security Act (formerly Aid to Families with Dependent Children (AFDC), now known as Temporary Assistance for Needy Families (TANF), or in Minnesota, the Minnesota Family Investment Program (MFIP)); or
4. At least one member of the household participates in a program receiving assistance under the Job Training Partnership Act (JTPA) or other similar federal, state, or local laws.
5. At least one member of the household was previously in foster care.

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:

1. The eligible basis may be increased for new buildings and rehabilitation to existing buildings that are located in designated qualified census tracts (QCT), difficult development areas (DDA) or in developments utilizing the state designated basis boost.
2. The cost of the non-low-income residential units in a building is included in eligible basis only if the quality of those 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.
3. 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, and 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.
4. The cost of a community service facility is included in basis only if the building is located in a QCT. The eligible basis of that facility must not exceed 25 percent of the first $15 million of eligible basis plus 10 percent of additional basis in the project. All community service facilities that are part of the same qualified low-income housing project will 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.
5. 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, DDA or developments utilizing the state designated basis boost 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

Project Economic Integration

Projects under common ownership and management that have tax credit units and market rate units are considered to be economically integrated. These projects receive priority points for selection and may be eligible for the State Designated Basis Boost. (See Areas of Opportunity selection category #3, Self-Scoring Worksheet(s), and Chapter 2.N of the Manual) 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 have comparable applicable fractions with necessary variations due to building size. Tax credit selection points will generally be based upon the characteristics of only the tax credit units.

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.

Community Economic Integration
Projects located in certain higher income communities (outside of rural/tribal designated areas) that are close to jobs are also considered to promote economic integration and may be eligible for points in the Self-Scoring Worksheet.

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 ensure 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 3.B.)

Q. Declaration of Land Use Restrictive Covenants

As a condition of receiving 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:

1. Foreclosure of the building (or deed in lieu of foreclosure) unless the Secretary determines that such acquisition is part of an arrangement with the taxpayer a purpose of which is to terminate such period; or
2. During the extended use period and, unless waived or conditioned in the Declaration, 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 its 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 must not evict or terminate the tenancy of an existing tenant of any low-income unit other than for good cause and must not increase the gross rent above the maximum allowed under the Code with respect to such low-income unit.

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 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 that could result in a ban on future allocations of tax credits being made to the owner entities.

R. Ineligible Properties

Any residential rental unit that is part of a hospital, nursing home, sanitarium, life care facility, manufactured housing park or intermediate care facility for the mentally and physically handicapped is not for use by the general public and is not eligible for credit under section 42. Projects with buildings having four or fewer residential units must comply with 42(i)(3)(c).

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. An estimate of Minnesota's annual per capita volume limit is published each April.

Projects with tax-exempt bond financing, which are subject to a separate volume limitation, are not counted against the state volume limit. (See Article 8 of the QAP and Chapter 7 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 project schedule (submitted at initial application and updated 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 (refer to the Market Study Guidelines on Minnesota Housing's website).

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. Minnesota Housing requires that developments proposing an Eventual Tenant Ownership (ETO) component must have 100 percent of the development's tax credit units specified for this ownership component. (See also Chapter 6.A.)

X. Contract Compliance, Equal Opportunity and Fair Housing Policy

It is the policy of Minnesota Housing to practice affirmative action to provide equal opportunity in all of our projects, 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 Minnesotans. This policy applies to all Minnesota Housing employees and Minnesota Housing's external partners.

Purpose
The purpose of this policy is to make Minnesota Housing's commitment to act affirmatively to achieve equal opportunity in all facets of its operation, clear to both internal staff and outside parties with whom we do business.

Goals
Our goal is to ensure minority and female contractors and subcontractors equal access to business opportunities on Minnesota Housing financed projects and to encourage the presence of minorities and women at all levels, including on the staffs of the program participants having contractual agreements with Minnesota Housing. Minnesota Housing's goal is to ensure that the workforces on the projects and programs we finance reflect demographically the area in which they are located. These goals will apply for the length of the contract or the life of the mortgage. Minnesota Housing, at its discretion, may set numerical or percentage goals dependent on the location and size of a given project. Current goals will be determined by staff based on the location of the project.

Requirements
Minnesota Housing is required to comply with all applicable local, state, and federal laws. These requirements are passed on to everyone that Minnesota Housing does business with, either by contractual agreement or as a Minnesota Housing policy.

Sanctions
Minnesota Housing has the contractual authority to demand full payment of any loan or grant, stop proceeding with any project at any stage, and cease to do business with any entity or individual that fails to follow its affirmative action policies or fails to meet its/his/her contractual equal opportunity obligations.

Fair Housing Policy
It is the policy of Minnesota Housing to affirmatively further fair housing in all its programs so that individuals of similar income levels have equal access to Minnesota Housing programs, regardless of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, familial status, sexual orientation, or gender identity.

Minnesota Housing's fair housing policy incorporates the affirmative fair housing marketing practices addressed in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendment Act of 1988, which states that it is unlawful to discriminate in the sale, rental, and financing of housing based on race, color, religion, sex, handicap, familial status or national origin; as well as the fair housing protections provided by the Minnesota Human Rights Act, which adds creed, marital status, status with regard to public housing, and sexual orientation.

In part, regarding rental housing issues, Title VIII and the Human Rights Act makes it unlawful to: (i) discriminate in the selection/acceptance of applicants in the rental of housing units; (ii) discriminate in terms, conditions or privileges of the rental of a dwelling unit; (iii) engage in any conduct relating to the provision of housing that otherwise make unavailable or denies the rental of a dwelling unit; (iv) make or publish (or have anyone else make or publish) advertisements that indicate preferences or limitations

based on race, etc.; (v) tell a person that because of race, etc., a dwelling unit is not available when it is; and (vi) deny access to, or membership or participation in, associations or other services organizations or facilities relating to the business of renting a dwelling or discriminate in the terms or conditions of membership or participation.

Minnesota Housing has a commitment to affirmatively further fair housing for members of the disabled communities by promoting the accessibility requirements set out in the Fair Housing Amendment Act of 1988, which establish design and construction mandates and provide for the residents' right to make reasonable accommodations under certain conditions. (Applicable to covered multifamily dwellings, which are buildings consisting of 4 or more units if such buildings have one or more elevators. It is also applicable to ground floor dwelling units in other buildings consisting of 4 or more dwelling units.)
All Minnesota Housing programs require owners to market affirmatively, using specific steps geared to the particular program. These steps include:

1. Outreach to all groups protected by the Civil Rights Act of 1968, as amended in 1988, and those protected by the Minnesota Human Rights Act
2. Affirmative marketing strategy that reaches protected groups
3. Self-analysis to make sure all steps are non-discriminatory
4. Upon request by Minnesota Housing, the submission of reports and documents that confirm the owner's fair housing efforts

Affirmative Fair Housing Marketing Regulations, held as centrally important by Minnesota Housing, require that each applicant carry out an affirmative marketing program to attract prospective buyers or tenants in the housing market area who are least likely to apply, regardless of race, creed, color, religion, sex, national origin, marital status, status with regard to public assistance, disability, sexual orientation, gender identity, or familial status. At the time of 8609, all applicants must submit an Affirmative Fair Housing Marketing Plan documenting an acceptable plan to carry out an affirmative marketing program.

Y. Occupancy Restrictions

Under the HTC general public use regulations, residential rental units must be for use by the general public, which incorporates HUD housing policy governing non-discrimination. Residential units provided only for a member of a social organization or provided by an employer for its employees are not considered for use by the general public are examples of restrictions not allowed under the HTC program. Minnesota Housing has an obligation to affirmatively further fair housing, and occupancy restrictions must comply with the Fair Housing Act and the Minnesota Human Rights Act. Projects must also comply with any occupancy limitations imposed by any additional source of funds provided by Minnesota Housing. Age-related occupancy restrictions or preferences will be approved only if set out in the QAP or if the property qualifies as housing for older persons under the Fair Housing Act and the Minnesota Human Rights Act.

Chapter 4 – Development Standards

All applications to Minnesota Housing for tax credits will be evaluated according to the following standards (small projects, local Planned Community Development 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 the proposed costs are not comparable or reasonable.

Minnesota Housing will use its predictive cost model to test cost reasonableness for all projects. The model uses cost data from tax credit properties, industry cost data from RSMeans and regression analysis to predict total project costs. Based on a project's characteristics (building type, building characteristics, project size, project location, population served, financing, etc.), the model predicts the total development costs.

Minnesota Housing will evaluate the cost reasonableness of proposed acquisition costs through an as-is appraisal. The as-is appraisal will be ordered by Minnesota Housing and all costs will be the responsibility of the applicant. (See Chapter 6 A and Chapter 8). Appraisals will be considered expired by Minnesota Housing one year after the effective date of the report. (Refer to the Multifamily Underwriting Standards for additional details.)

The Agency reserves the right to reject applications that appear, at Minnesota Housing's sole discretion, to have excessive costs, or to size its award based on the lesser of the option/purchase agreement purchase price or the appraised value of the property.

B. Eligible Basis Tax Credit Fees

Minnesota Housing will limit the amount of developer fees and general contracting fees (Contractor's Profit, General Requirements, Contractor's Overhead) based on the requirements contained in the Multifamily Underwriting Standards for the purposes of calculating eligible basis to determine the amount of tax credit.

Syndication related consultant fees are not to be included in the eligible basis of the project.

C. 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 of the Multifamily Workbook.

D. 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 allocated.

E. Property Standard

Minnesota Housing encourages sustainable, healthy housing that optimizes the use of cost effective durable building materials and systems and that minimizes the consumption of natural resources during construction, and in the long-term, maintenance and operation.

All completed developments **must** comply with the Minnesota Overlay to the Enterprise Green Communities Criteria and Minnesota Housing's Rental Housing Design/Construction Standards.

Additional design requirements will also be imposed if a developer claims and is awarded Large Family or Universal Design Points on the Self-Scoring Worksheet. To satisfy the Large Family Points on the Self-Scoring Worksheet, all of the units included in the application/development must meet the following minimum dimensions:

1. Living room: 11 feet 6 inches
2. Bedrooms: 9 feet 6 inches, and 100 sq. ft. in area

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

Chapter 5 – Project Selection

A. First Round - Application Requirements

All applicants statewide must meet one of the minimum threshold types as defined in Article 5 of the QAP. Greater Minnesota projects should also refer to the sample Threshold Letter in the Housing Tax Credits Application Reference Materials section on Minnesota Housing's website for a suggested format relating to evidencing thresholds. 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 the 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 5 of the QAP.

B. Strategic Priority Policy Threshold

To be eligible for tax credits, from the state's volume cap under Minnesota Housing's QAP and non-competitive tax credits, a developer must demonstrate that the project meets at least one of the Strategic Priority Policy Thresholds defined in Article 9 of the QAP.

C. Scoring

Minnesota Housing will first rank proposals in accordance with the Selection Priorities and Preference Points contained in the Self-Scoring Worksheet and, if necessary, Chapter 5.D 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 E through K of this chapter. Minnesota Housing reserves the right to reject applications not meeting these project selection requirements or to revise proposal features, and decrease associated scoring, to ensure the project meets the requirements. Lower ranking proposals will only be processed further if tax credit volume cap remains available after the higher-ranking proposals are processed.

D. 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 Financial 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.

See Article 10.1 and 10.2 of the QAP for additional information on which scoring criteria qualify as selection and preference priorities.

E. 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 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 market feasibility at the time of application. 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.

F. Design Review

The proposed owner and architect must certify compliance with all the required development features outlined in Chapter 5 of the Minnesota Housing Rental Housing Design/Construction Standards before the project will be scored and ranked. (Refer to Chapter 4.E. Property Standard of this manual.)

G. 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.

H. Site Review

Minnesota Housing staff will conduct a site inspection for each project passing all the project selection requirements described in parts A through G of this chapter for consistency with the principles of sound, affordable housing developments. Site inspections will be conducted to analyze physical characteristics; the surrounding property and community; the 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:

1. **Linkage**: Housing development should be part of a comprehensive community development effort that links housing, jobs, transportation, recreation, retail services, schools, and social and other services.
2. **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 growth.
3. **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 developments, housing that maximizes the efficient use of land and infrastructure and minimizes the loss of agricultural and green space.
4. **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 and lead based paint

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

I. Underwriting Standards

Proposals must meet all Multifamily Underwriting Standards to receive an allocation of tax credits.

All operating assumptions, including for rent, vacancy, operating expenses, reserves, inflation assumptions and debt coverage ratios, must be consistent with the requirements of the Underwriting Standards. The structure of the development budget, including acquisition price; architect, general contracting, and developer fees; sales tax and energy rebates; as well as construction contingency, must also meet the Underwriting Standards.

Refer to the Minnesota Housing Multifamily Underwriting Standards and Multifamily Consolidated RFP Guide for additional information and requirements.

J. Financial Feasibility

Proposals that meet the Project Selection Requirements in paragraphs B through I and K will be evaluated for financial feasibility as required by Section 1.42-17(a)(3) and Chapter 2K of this Procedural Manual. Projects determined not to be financially feasible will not be processed further in the current funding cycle.

An application's structuring may be revised by Minnesota Housing during this review to ensure financial feasibility or to meet required components of the Underwriting Standards, as applicable, and a reduction to the application's scoring may occur as a result of these revisions.

K. Development Cost Review

Minnesota Housing will review project costs based on comparability and reasonableness. Minnesota Housing may, at its sole discretion, reject applications that appear to have excessive project costs. (Also refer to Chapter 4.A Project Cost Reasonableness)

Chapter 6 – 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. **Any submissions not meeting the requirements below will be returned to the applicant and fees paid will not be refunded.**

A. Application Requirements

Required Housing Tax Credit application materials are incorporated into the Minnesota Multifamily Rental Housing Common Application, including the Intent to Apply, which is due in advance of the application. The Multifamily Request for Proposal Guide and Scoring Guide provide comprehensive resources for these application materials and submittal instructions. The Multifamily and Housing Tax Credit application materials can be found on the Multifamily Common Application and Tax Credits web page.

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 a tax credit application package must follow the stacking order outlined in the Multifamily Rental Housing Common Application Checklist.

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.

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 tax credit project and provide an opportunity for the local unit of government to comment on the project.

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

Self-Scoring Worksheet Documentation

In addition to the application materials outlined in the Multifamily Rental Housing Common Application, applicants must include documentation supporting all points claimed, including but not limited to the following. No application, documentation will be accepted after the application due date unless requested by Minnesota Housing.

The Self-Scoring Worksheet(s) and the Scoring Guide provide comprehensive resources for the documentation materials and submittal instructions.

Threshold Evidence

For Round 1, provide evidence of meeting one of the threshold types defined in Article 5 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. 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.

Location Efficiency Map
When required as supporting documentation for points claimed on the Self-Scoring Worksheet in the Location Efficiency section of the Areas of Opportunity selection category, at the time of application, the applicant must submit a map identifying the location of the project with exact distances to the eligible public transit station/stop and routes and include a copy of the route, span and frequency of service schedules. For more detailed information refer to requirements contained in the Self-Scoring Worksheet.

Also, when required as supporting documentation for points claimed on the Self-Scoring Worksheet in the Location Efficiency criterion, provide documentation of the project's Walk Score.

For developments in Greater Minnesota, if required as supporting documentation for points under the Location Efficiency section of the Areas of Opportunity scoring criterion in the Self-Scoring Worksheet, provide documentation of access and availability of dial-a-ride service, and describe how the service is a viable transit alternative that could be used for transportation to work, school, shopping, services and appointments.

Planned Community Development
To be considered Planned Community Development, an applicant must provide a narrative and backup documentation. The narrative must address the items below and include page numbers to directly where the information is located in the documentation. The applicant must document the following about a community plan or initiative:

1. The local community is **actively working on implementation steps** identified in the plan, or the plan includes a timeline of implementation activities that runs past the date when the Minnesota Housing Board of Directors would make its initial commitment decision regarding the funding request. Plans that have been superseded by more current plans do not qualify.

   This includes a list of various stakeholders. The milestones or steps completed, planned or underway, including key dates and stakeholders.

2. Geographic boundaries of a targeted geographic area are identified by the plan or initiative. Qualifying plans in small communities may encompass the entire geography of the community or region, although the plan's targeted geographic area should be a subset of the community or region.

3. The plan or initiative responds to a crisis or opportunity pursuing various community, economic, educational or transit oriented development objectives for the target geography, aimed at creating a more vibrant, livable, sustainable and equitable community or, reversing historic underinvestment or decline in the area.

4. The plan or initiative includes the rehabilitation or production of affordable housing as a key strategy to meet identified objectives.

5. The plan or initiative identifies specific activities and investments by which the local community is pursuing and implementing the objectives. This includes key investment, in-kind or other financial commitments that have been made, or pending, including dates.

A qualifying plan can be created and approved by a wide variety of public and private local community development partners such as cities, counties, private foundations and public housing authorities. Plans local entities are required to produce, such as comprehensive plans in the Seven County Metropolitan Area, are not by themselves considered evidence of Planned Community Development. In addition to submission of evidence of Planned Community Development, evidence must be provided that a specific project contributes to the goals of the plan.

Preservation
Dual application and preliminary determination of eligibility required:

1. **Dual Application:** For developments containing 40 or more units, applicants claiming points under this section must submit dual applications, as defined in the Multifamily Consolidated RFP Guide.
2. **Preliminary Determination of Eligibility:** All applicants claiming points under this section will be required to submit a pre-application. If the project is determined to be eligible for Preservation points, the applicant will receive a Preliminary Determination of Preservation Eligibility letter from the Agency to be submitted with the application that details the Preservation Threshold and points claimed. Applicants **must** submit all required pre-application documentation 30 days prior to the application deadline for HTC Round 1 or Round 2 in order for staff to make a preliminary determination of eligibility. Failure to submit all required pre-application materials will result in rejection of the pre-application.

Applicants must choose one of three thresholds: Risk of Loss Due to Market Conversion, Risk of Loss Due to Critical Physical Needs or Risk of Loss Due to Ownership Capacity/Program Commitment. See required submittals for each below.

1. **Risk of Loss Due to Market Conversion**
   a. Completed Multifamily Workbook
   b. Evidence that 15 or more years have passed since the award of the existing federal assistance and the tax credit placed in service date (if applicable) for projects claiming points under Existing Federal Assistance, or 15 years must have passed since the closing of the loan that created rent and income restrictions or the most recent tax credit placed in service date for projects claiming points under Critical Affordable Units. Include documentation of existing rent and income restrictions.
   c. Evidence of property's ability to convert to market within five years by submitting:
      i. Current financing documents including but not limited to Section 8 Housing Assistance Payment Contracts, Rural Development Mortgages/Rental Assistance Contract, Declarations, Regulatory Agreements, Use Agreements, Land Use Restriction Agreements (LURAs) that describe the expiration of the relevant contract terms or use restrictions AND/OR
      ii. Current financing documents and contracts that show the owner's ability to pre-pay or opt-out, including required approvals and penalties. For tax credit projects

eligible to exercise the option to file for a Qualified Contract, submit the relevant Qualified Allocation Plan, original tax credit application, Carryover Agreement, and Declaration of Land Use Restrictive Covenants; AND

iii. If a property has existing Minnesota Housing financing, provide the date of expiration of the Minimum Rent Subsidy Period (MRSP).

d. Provide a Market Study. Market study should document a low physical vacancy rate (4% or lower) for market rate comparable units and that the subject property could convert to market rate given its current amenities and condition.

e. Market for conversion evidenced by one or more of the following:

i. An appraisal commissioned by Minnesota Housing within a year of the application date where the as-is unrestricted value is equal to or greater than the as-is restricted value; OR

ii. For properties with Section 8 contracts, a Rent Comparability Study acceptable to Minnesota Housing staff and reviewers which was completed within a year of the application date that shows current rents are below comparable market rents; OR

iii. A market study commissioned by Minnesota Housing completed within a year of the application date that shows current rents are below comparable market rents and that the property has comparable location, amenities and condition to convert to market rate; AND

iv. Documentation of current rents.

NOTE: Minnesota Housing, at its sole discretion, must agree that a market exists for a conversion to market rate housing.

2. Risk of Loss Due to Critical Physical Needs

a. Completed Multifamily Workbook

b. Evidence that 15 or more years have passed since the award of the existing federal assistance and the tax credit placed in service date (if applicable) for projects claiming points under Existing Federal Assistance, or 15 years must have passed since the closing of the loan that created rent and income restrictions or the most recent tax credit placed in service date for projects claiming points under Critical Affordable Units. Include documentation of existing rent and income restrictions.

c. Physical Needs Assessment Template

d. 20-Year Capital Expenditure Template

e. Complete the Three Year Critical Needs Model

f. Documentation of current project reserves and audited financial statements with current updates.

g. Describe and provide evidence that the repair and replacement of major components will support at least 15 years of operations.

h. Copies of recent site inspection reports

NOTE: Minnesota Housing will conduct an inspection of the development and must agree with applicant on work scope, severity levels and cost estimates.

3. **Risk of Loss Due to Ownership Capacity/Owner Commitment**
   a. Completed Multifamily Workbook
   b. Evidence that 15 or more years have passed since the award of the existing federal assistance and the tax credit placed in service date (if applicable) for projects claiming points under Existing Federal Assistance, or 15 years must have passed since the closing of the loan that created rent and income restrictions or the most recent tax credit placed in service date for projects claiming points under Critical Affordable Units. . Include documentation of existing rent and income restrictions.

   c. Document one of four conditions:
      i. Existing conditions created by the current owner such as bankruptcy, insolvency, default, foreclosure action, unpaid taxes and assessments, on-going lack of compliance with lenders or terms of federal assistance, or self-determination by non-profit board (as documented by a board resolution) to evidence that current ownership will put property at significant risk of not remaining decent, safe and affordable. Ownership must be transferred to an unrelated party; OR
      ii. The property has been or will be acquired from an unrelated party within three years of the application date after being offered for sale on the open market after an opt-out notice for the HAP contract had been submitted to Minnesota Housing; OR
      iii. The property has been or will be acquired from an unrelated party within 3 years of the application date as a result of a PARIF Right of First Refusal being exercised; OR
      iv. The acquisition of a property with USDA Rural Development rental assistance has occurred or will occur when the current or previous owner intends or intended to allow the existing USDA Rural Development mortgage to mature, and has turned down offers from USDA Rural Development to reamortize the mortgage. Application must be within five years of maturity date and within three years of acquisition.

NOTE: Minnesota Housing, at its sole discretion, must agree that a change in ownership is necessary for units to remain decent, safe or affordable.

Applicants meeting one of the three thresholds may claim points under Existing Federal Assistance or Critical Affordable Units at Risk of Loss.

1. **Existing Federal Assistance:** All applicants claiming points under Existing Federal Assistance must provide documentation of the federal assistance.
   - Definition: Any housing receiving project-based rental assistance or operating subsidies under a U.S. Department of Housing and Urban Development (HUD), U.S. Department of Agriculture Rural Development (RD), NAHASDA or other program that is not scheduled to sunset or expire. Properties that have converted their type of federal rental

assistance through the Rental Assistance Demonstration program, Component 2 (RAD 2) are eligible.

- **Critical Affordable Units at Risk of Loss:** Applicants claiming points under Critical Affordable Units at Risk of Loss must provide documentation to support eligibility, such as a current recorded deed restriction that imposes rent or income restrictions at or below the greater of 80 percent of statewide median income or area median income. Includes existing public housing units, including converting through Rental Assistance Demonstration Program, Component 1 (RAD 1), tax credit units, Rural Development funded units without rental assistance and Existing Federal Assistance not described in paragraph 1. above (e.g., 202, 236) or other programs limiting income and rent restrictions as stated above.

Tenant Ownership Plan
If applicable, provide a detailed proposal for Eventual Tenant Ownership (ETO). Only detached single-family units are eligible for homeowner conversion. The project owner must submit a preliminary conversion plan with their application that is consistent with the requirements of Minnesota Housing's ETO Guide. The plan must address the transfer of 100 percent of the tax credit unit ownership after the 15-year compliance period from the initial ownership entity of the project (or Minnesota Housing approved Transfer of Ownership entity) to tenant ownership.

The unit purchase price at the time of sale must be affordable to incomes meeting tax credit eligibility requirements. To be eligible, the buyer must have an HTC qualifying income at the time of initial occupancy (tax credit rental tenant). The final conversion plan, to be submitted by the 15th year of initial compliance, must incorporate an ownership exit strategy, a third party Property Capital Needs Assessment report and a budget for capital improvements and services, including home ownership education and training. A final conversion plan complying with all of the requirements of the ETO Guide must be submitted to, and approved by, Minnesota Housing prior to commencing the conversion.

The Declaration of Land Use Restrictive Covenants will contain provisions ensuring compliance with these ETO commitments by the owner, including a right of first refusal allowing tenants to purchase their units.(Refer also to Chapter 3.W of this Manual for additional information.)

Until the time the HTC units are purchased by qualified tenants or in the event that not all HTC units are acquired by qualified tenants, the owner will extend the duration of low-income use for the full extended use period (at least 30 years).

Evidence for People with Disabilities
To receive points under People with Disabilities, the proposal must meet all of the following conditions:

1. The applicant must complete and submit the supportive housing application materials, including the People with Disabilities narratives, forms and submittals identified in the Multifamily Request for Proposal Guide and the Multifamily Rental Housing Common Application Checklist.
2. The applicant must complete the required People with Disabilities Narrative and provide a signed Service Agreement.

a. People with Disabilities Narrative: Complete the required narrative that demonstrates the applicant meets the following threshold criteria including: the target population of people with disabilities; the income limit restrictions for the units to households with incomes at or below 30% Multifamily Tax Subsidy Project (MTSP) income limits; rent levels; outreach efforts; referral processes; verification of applicant disability; types of services provided to tenants; how the service entity communicates with property management; and plans for crisis intervention, eviction prevention and lease mitigation.
b. Signed service agreement: Applicants can either complete the signature page (must be completed by both parties) attached to the People with Disabilities Narrative, or submit a separate signed service agreement.

3. 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.
4. The application must meet the following threshold criteria:
    a. Target population: The target population(s) of people with disabilities must be clearly defined in the narrative (e.g., mental illness, developmental disability, physical disability).
    b. Units are restricted to households with incomes at or below 30% MTSP income limits.
    c. Rent levels must be underwritten to the Supportive Housing Units underwriting standards outlined in the Multifamily Underwriting Standards if no rent assistance is available.
    d. Service Agreement: The property owner must have an agreement with the county or tribal human services office OR a designated service provider specifying:
        i. How they will provide outreach to the target population
        ii. How eligible applicants will be referred to the property management agent
        iii. That verification of applicant disability will be provided to the owner
        iv. The types of services appropriate to the population that will be made available with the goal of housing stability
        v. How services will be provided to tenants
        vi. How the service entity will communicate and coordinate with property management
        vii. Plans for crisis intervention, eviction prevention and lease mitigation
    e. Units for individuals with disabilities must be provided in an integrated setting.

Performance Requirement Relief Revisions
Specific performance requirement relief provisions are available for projects receiving points under the People with Disabilities selection category of the People with Disabilities Selection Criterion of the Self-Scoring Worksheet for PDSC Units.

If, for a particular unit meeting the criteria and receiving points under the People with Disabilities Selection Criterion (PDSC Unit(s)), the necessary rental assistance or operating support (collectively PDSC Unit subsidy) is (i) withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; (ii) such withdrawal or termination materially adversely impacts the financial feasibility of the project; (iii) alternative funding is unavailable; and (iv) the project is otherwise in full compliance with all the terms of the funding for the project, the owner may petition Minnesota Housing to eliminate its requirements for the affected PDSC Unit(s). Such petition shall contain all material facts

and supporting documentation substantiating owner's request including, but not limited to, items (i), (ii) and (iii) above. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, owner shall no longer be required to treat such PDSC Unit(s) as PDSC Unit(s) but must convert the rents of those units to the 50 percent tax credit rent limit; **provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply**. If such conversion occurs, in order to retain the tax credit allocation, the above described 50 percent 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 and extended use periods.

If, for a particular PDSC Unit(s), the necessary tenant support services funding is (i) withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; (ii) alternative funding or an alternative service provider is unavailable; and (iii) 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 for the provision of such tenant services for the affected PDSC Units(s). Such petition shall contain all material facts and supporting documentation substantiating owner's request including, but not limited to, items (i) and (ii) of this paragraph. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, owner shall modify its provision of such tenant support services for the affected PDSC Unit(s) in a manner consistent with Minnesota Housing's modified requirements for the provision of tenant services for the PDSC Unit(s), **provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply.**

If Minnesota Housing shall, at any time thereafter, in its sole discretion, determine that a PDSC Unit Subsidy may be available for the remainder of the tax credit compliance and extended use periods, that would not adversely affect the full availability of the tax credit allocation and would permit the PDSC Unit(s) to again serve People with Disabilities households, then at Minnesota Housing's request the owner shall promptly apply for such PDSC Unit subsidy for the PDSC Unit(s), upon terms reasonably acceptable to such owner, and if such PDSC Units subsidy is obtained, shall again set aside such PDSC Unit(s), when and to the extent then available, people with disabilities needs qualifying individuals.

In addition, if Minnesota Housing shall, at any time thereafter, in its sole discretion, determines that PDSC Unit tenant support services funding may be available for the remainder of the tax credit compliance and extended use periods, that would not adversely affect the full availability of the tax credit allocation and would permit the affected PDSC Unit(s) to again provide tenant support services to households targeting People with Disabilities, then at Minnesota Housing's request, the owner shall promptly apply for such PDSC Unit tenant support services funding for the affected PDSC Unit(s), upon terms reasonably acceptable to such owner, and if such PDSC Unit tenant support services funding is obtained, shall resume providing PDSC Unit tenant support services, when and to the extent then available, to people with disabilities needs qualifying individuals.

Evidence of targeting units for Permanent Supportive Housing for High Priority Homeless
In accordance with Minnesota's Plan to Prevent and End Homelessness, 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:

1. Proposals must set aside a minimum of 5 percent of the total units, but no fewer than four units are set aside and rented to High Priority Homeless who are households prioritized for permanent supportive housing by the Coordinated Entry System (HPH units).

   The Coordinated entry system is defined by the Statewide Coordinated entry standard and protocol as adopted by the local Continuum of Care, or such successor system as determined by Minnesota Housing.

2. The applicant must complete and submit the supportive housing application materials, including the narratives, forms and submittals identified in the Multifamily Request for Proposal Guide and the Multifamily Rental Housing Common Application Checklist, and;

3. The application must meet the Supportive Housing Threshold criteria:

   a. Supportive Services: On-site service coordination and tenant engagement must be made available to all supportive housing residents. The level and type of services offered should be appropriate for the needs of the target population, with a minimum of tenant service coordination for an average of two hours per household per week.

   b. Service Provider: Experienced service provider with demonstrated outcomes:

      i. At a minimum, the service provider has experience providing services to a similar population to maintain housing over a period of time and has sufficient capacity to deliver the services proposed.

   c. Service Funding Commitments: At a minimum, a portion of service funding is secured with a viable plan for securing the remaining resources, as approved by Minnesota Housing. Must provide evidence in application narrative and commitment letters or other documentation.

      i. Developments with 5% to 9.99%HPH units must have secured at least 75% of service funding

      ii. Developments with 10% to 49.99% HPH units must have secured at least 20% of service funding

      iii. Developments with 50% to 100% HPHunits must have secured at least 5% of service funding

   d. Coordinated Entry and Serving Highest Need Households: The property owner must agree to accept high priority households for the HPH supportive housing units through Coordinated Entry.

4. 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.

Performance Requirement Relief Revisions:
If, for a particular Homeless unit(s) the necessary rental assistance or operating support (collectively "Homeless unit subsidy") is (i) withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; (ii) such withdrawal or termination materially adversely impacts the financial feasibility of the project; (iii) alternative funding is unavailable; and (iv) the project is otherwise in full compliance with all the terms of the funding for the project, the owner may petition Minnesota Housing to eliminate its requirements for the affected Homeless unit(s). Such petition shall contain all material facts and supporting documentation substantiating owner's request including, but not limited to, items (i), (ii) and (iii) above. Upon confirmation of such facts, which such confirmation shall not be

unreasonably withheld or delayed, owner shall no longer be required to treat such Homeless unit(s) as Homeless unit(s) but must convert the rents of those units to the 50 percent tax credit rent limit; provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply. If such conversion occurs, in order to retain the tax credit allocation, the above described 50 percent 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 and extended use periods.

If Minnesota Housing shall, at any time thereafter, in its sole discretion, determine that a Homeless unit subsidy may be available for the remainder of the tax credit compliance and extended use periods, that would not adversely affect the full availability of the tax credit allocation and would permit the Homeless unit(s) to again serve households experiencing homelessness, then at Minnesota Housing's request the owner shall promptly apply for such Homeless unit subsidy for the Homeless unit(s), upon terms reasonably acceptable to such owner, and if such Homeless unit subsidy is obtained, shall again set aside such Homeless unit(s), when and to the extent then available, to households experiencing homelessness.

If, for a particular Homeless unit(s), the necessary tenant support services funding is (i) withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; (ii) alternative funding or an alternative service provider is unavailable; and (iii) 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 for the provision of such tenant services for the affected Homeless unit(s). Such petition shall contain all material facts and supporting documentation substantiating owner's request including, but not limited to, items (i) and (ii) above. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, owner shall modify such tenant support services for the affected Homeless unit(s).

Rental Assistance

Further restricted Rental Assisted Units – Performance Requirement Relief Revisions

Specific performance requirement relief provisions are available for projects receiving points under the Rental Assistance selection criterion for Further restricted Rental Assistance of the Self-Scoring Worksheet for FRRA Units.

If, for a particular unit meeting the criteria and receiving points under the Rental Assistance selection criterion for Further Restricted Rental Assisted units (FRRA Unit(s)), the necessary rental assistance or operating support (collectively FRRA Unit subsidy) is (i) withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; (ii) such withdrawal or termination materially adversely impacts the financial feasibility of the project; (iii) alternative funding is unavailable; and (iv) the project is otherwise in full compliance with all the terms of the funding for the project, the owner may petition Minnesota Housing to eliminate its requirements for the affected FRRA Unit(s). Such petition shall contain all material facts and supporting documentation substantiating owner's request including, but not limited to, items (i), (ii) and (iii) above. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, owner shall no longer be required to treat such FRRA Unit(s) as FRRA Unit(s) but must convert the rents of those units to the 50 percent tax credit rent limit; **provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply**. If such conversion occurs, in order to retain the tax credit allocation, the above described 50 percent 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 and extended use periods.

If Minnesota Housing shall, at any time thereafter, in its sole discretion, determines that an FRRA Unit subsidy may be available for the remainder of the tax credit compliance and extended use periods, that would not adversely affect the full availability of the tax credit allocation, and would permit the FRRA Unit(s) to again serve 30 percent income households, then at Minnesota Housing's request, the owner shall promptly apply for such FRRA Unit subsidy for the FRRA Unit(s), upon terms reasonably acceptable to such owner, and if such FRRA Units subsidy is obtained, shall again set aside such FRRA Unit(s), when and to the extent then available, to income qualifying individuals.

Universal Design
Provide Tax Credit Design Standards/Review Process Certification certifying that design features, which allow points for the benefit of a development's selection, will be delivered in the final project.

Smoke Free Building(s)
If applicable, provide the written policy prohibiting smoking in all the units and all common areas within the building(s) of the project for the term of the declaration. The project must include a non-smoking clause in the lease for every household.

The written policy must be submitted with the application and should include procedures regarding transitioning to smoke-free for existing residents and establishment of smoking areas outside of units and common areas if applicable. Consequences for violating the smoke-free policy are determined by owner but must be included in the written policy.

B. Carryover Requirements

Several changes to Section 42 of the Internal Revenue Code were included in legislation passed by Congress in July 2008 as part of the Housing and Economic Recovery Act of 2008. 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. on 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 8). All required carryover application materials should be submitted through the Multifamily Customer Portal.

NOTE: Requests by applicants/developers to Minnesota Housing to apply the 30 percent state designated basis boost at time of carryover application must be formally made in writing. The request should clearly outline the reasons supporting the request and clearly demonstrate how the proposal meets the criteria established by Minnesota Housing for receiving boost considerations.

Multifamily Workbook
As part of your Carryover application package, an updated Workbook for Tax Credits must be submitted in electronic form. Please refer to Minnesota Housing's Multifamily Customer Portal 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 if applicable, the nonprofit partner. For material changes, refer to Manual Chapter 2.G. An electronic version of the Excel version of the submitted application and a PDF of the signed and updated application form must be submitted to Minnesota Housing at the same time the application package is submitted.

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

Project Schedule
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:

1. 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 the application and the reservation letter.
2. 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.
3. The name, legal designation and Tax Identification Number (TIN) of the ownership entity that will receive the tax credits and the legal designation of the party that signed the application.
4. 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.
5. Identification and copies of any waivers required by Section 42 obtained from the IRS.

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

1. The amount of the reasonably expected basis, the carryover basis and the percent of the expenses incurred.
2. More than 10 percent of the reasonably expected basis on the project must be expended by the later of the date, which is one year 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, 2020. If May 1 is not a business day, then certification will be due the next calendar business day. Minnesota Housing will consider an extension to this deadline via written request by the owner/applicant. The request for extension must also include information explaining why the extension is required. Minnesota Housing will issue a written response to all extension requests. An extension until October 1, 2020 will be the maximum allowable. If October 1 is not a business day then the certification will be due the next calendar business day.

3. A statement of non-affiliation with the developer and/or owner.

Sources of Funds
Identify the sources of construction, interim and permanent financing. 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:

1. Be in writing
2. Specify the consideration for the transaction and pertinent terms
3. Be signed by both the lender and the borrower (for RD Projects, Form 1944-51)
4. Be current and state both the effective and expiration dates

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. (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 fully executed form(s) with all elections made by the owner are not submitted to Minnesota Housing by a date no later than the date the project is placed in service, 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 Minnesota Housing to take affirmative action to provide equal opportunity in all of its endeavors. Complete, execute and return the following forms:

1. 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 protected classes under federal fair housing law: race, color, religion, sex, national origin, disability or familial status; or under Minnesota law: marital status, status with regard to public assistance, creed and sexual orientation.
2. Equal Employment Opportunity Policy Statement.

Tenant Selection Plan

Provide a written tenant selection plan describing the tenant selection policy that an owner will use. The tenant selection plan must be submitted and reviewed by Minnesota Housing prior to the issuance of the 8609. See Minnesota Housing's Tenant Selection Plan Guidance.

Smoke Free Building(s)*
If applicable, provide the written policy prohibiting smoking in all the units and all common areas within the building(s) of the project for the term of the declaration. The project must include a non-smoking clause in the lease for every household.

The written policy must be submitted with the application and should include procedures regarding transitioning to smoke-free for existing residents and establishment of smoking areas outside of units and common areas if applicable. Consequences for violating the smoke-free policy are determined by owner but must be included in the written policy.

Identity of Interest
Provide a written disclosure as to any and all Identity of Interest parties (see Chapter 2 I and J).

Allocation Fee
Submit the nonrefundable Allocation Fee based on the annual tax credit reservation amount (see Chapter 8 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 the 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 tax credit 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 must not be created by any other entity. The owner/agent must not file a Form 8609 with the IRS in advance of the owner/agent's receipt of the Minnesota Housing signed version of the approved Form 8609. In addition, the owner/agent must not electronically file a Form 8609 with the IRS that does not accurately reflect the information contained on the Minnesota Housing signed version of the approved Form 8609. (Also refer to Chapter 2.G Unacceptable Practices.) A condition to this effect will be added to the Carryover Agreement.

If Minnesota Housing is the credit allocating agency, all required 8609 application materials should be submitted through the Multifamily Customer Portal.

If your credit allocating agency is a suballocator, please contact the suballocator for additional filing instructions.

To optimize timely processing of requests for issuance of Form 8609, it is recommended the owner make every effort to submit the complete Application for 8609 to Minnesota Housing no later than 30 days following completion of the project.

If a complete 8609 application package is not received within 15 days of the last day of the first year of the credit period the application will be considered late.

Transmittal Letter
Provide 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 legally 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, an Agency Estimate, a HUD utility Schedule Model, an Energy Consumption Model). Include a breakdown of the utilities that a tenant pays directly (heat, electricity, etc.), the utility allowance for each type of utility (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. (See Chapter 3 J)

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 owner's schedule of total project costs.

All costs of projects with five or more units owned by all entities 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 fewer units must submit a sworn construction statement and/or certification by owner, as appropriate.

Multifamily Workbook
As part of your 8609 application package, an updated Workbook for Tax Credits must be submitted in both printed and electronic form. A printed and fully signed/executed version of the Multifamily

Workbook, 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 if applicable, the nonprofit partner. For material changes, refer to Manual Chapter 2.G. An electronic Excel version of this updated application form must be submitted to Minnesota Housing at the same time the printed application package is submitted.

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:

1. 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 the application, the reservation letter and the carryover agreement (if one was issued for the project).
2. 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.
3. The name, legal designation and Tax Identification Number (TIN) of the ownership entity that will receive the tax credits, the legal designation of the party that signed the application and the business remains in good standing and duly authorized in Minnesota.
4. 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.
5. 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 Declaration of Land Use Restrictive Covenant
Provide a copy of the completed but unrecorded Minnesota Housing Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits (Declaration) for review well in advance of its required filing deadline. 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 an executed copy of the final Syndication, Private Placement, or Individual Investment Agreements disclosing terms and conditions.

Multifamily Intended Methods Worksheet
Provide the Minnesota Housing Multifamily Intended Methods Worksheet for compliance with the MN Overlay and Enterprise Green Communities.

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

1. 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.
2. Compliance with all applicable design requirements.
3. 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 executed permanent loan and/or grant documents for all sources of funds (loan/grant agreements, mortgage and note) that support the amount, terms and conditions stated on the Multifamily Workbook. 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.

15-Year After-Tax Cash Flow Pro Forma
Provide a 15-year after-tax cash flow pro forma. 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 the 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.)

Transfer Ownership
If the ownership entity has changed, provide a copy of the 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, and Release of Information Authorization Form (HTC 17) (see Chapter 2.F and G) and the Transfer of Ownership Fee (see Chapter 8).

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 for each building. . The applicable fraction on the building map must be the same applicable fraction for each respective BIN on Exhibit B of the Declaration.

Identity of Interest
A written disclosure as to any and all Identity of Interest parties (see Chapter 2.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 its endeavors. Complete, execute and return the following forms:

1. 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 protected classes under federal fair housing law: race, color, religion, sex, national origin, disability or familial status; or under Minnesota law: marital status, status with regard to public assistance, creed and sexual orientation.
2. Equal Employment Opportunity Policy Statement.

Tenant Selection Plan
Provide a written tenant selection plan describing the tenant selection policy that an owner will use. The tenant selection plan must be submitted and reviewed by Minnesota Housing prior to the issuance of the 8609. See Minnesota Housing's Tenant Selection Plan Guidance.

Smoke Free Building(s)*
If applicable, provide the written policy prohibiting smoking in all the units and all common areas within the building(s) of the project for the term of the declaration. The project must include a non-smoking clause in the lease for every household.

The written policy must be submitted with the application and must include procedures regarding transitioning to smoke-free for existing residents and establishment of smoking areas outside of units and common areas if applicable. Consequences for violating the smoke-free policy are determined by owner but must be included in the written policy.

Allocation Fee
Submit the non-refundable, allocation fee based on the annual tax credit allocation amount (if not already paid at carryover). (See Chapter 8 Complete an Application Fee Remittance Form, and attach with the payment to the top of the application package.)

Chapter 7 – 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 8 of the State of Minnesota Housing Tax Credit Qualified Allocation Plan.

Section 42 (m)(1)(D) provides that in order for a project to receive an allocation of tax credits through the issuance of tax exempt bonds, the project must satisfy the requirements of the QAP applicable to the area in which the project is located. The Minnesota Housing QAP applies to all projects for which Minnesota Housing is the issuer of the bonds and all other projects for which the issuer is not located within the area covered by a suballocator QAP. The project must comply with the QAP that is in effect for the calendar year in which the tax-exempt bonds that require an allocation of the state's volume cap for private activity bonds were first issued. If those tax-exempt bonds are issued on a short-term basis, the year the tax-exempt bonds are issued on a long-term basis may occur any time after the year the tax-exempt bonds were first issued. The effective QAP will always be the QAP for the year in which the tax-exempt bonds were first issued.

If, however, the principal amount of the tax-exempt bonds first issued is not sufficient to finance at least 50 percent of the aggregate basis of the building and the land it is located on, the project would not be eligible to apply for tax credits in connection with the initial bond issue. In that event these requirements would apply when tax-exempt bonds are issued in a principal amount that, together with the first issue of tax-exempt bonds, is sufficient to finance at least 50 percent of that aggregate basis of building and land.

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

Applicants may receive a predictive model and scoring determination prior to requesting preliminary determination via the pre-application process. Pre-application is strongly encouraged in order to receive a determination prior to seeking an allocation of bonding authority.

Preliminary Predictive Model Determination: Predictive model analysis and board approval can be pursued earlier than the submission of the 42M application. Applicants must submit the predictive model determination document and will receive a determination letter upon approval. The determination letter will consist of agency approval, expiration date of approval, the project's current percentage of the predictive model, and project cap beyond which a Board waiver for per unit costs will be required. Developments with costs above the predictive model will be informed and, if requested by the developer, will be presented to the Minnesota Housing board to determine if a waiver will be granted.

Preliminary Scoring Determination: Applicants **must** submit all required pre-application documentation a minimum of 30 days prior to the 42(m)(1)(D) application submittal in order for staff to make a

preliminary determination of eligibility. Failure to submit all required pre-application materials will result in rejection of the pre-application.

Pre-application Documents:

- Workbook
- Self-Scoring Worksheet – should be the year in which bond issuance is anticipated
- Scoring Documentation

Submit to the Multifamily Customer Portal.

If the project is determined to be eligible for the required minimum points, the applicant will receive a Preliminary Scoring Determination letter from the Agency that details the points awarded. This letter is to be submitted with the complete 42(m)(1)(D) application. The 42(m)(1)(D) application may only be submitted following an allocation of bonds.

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 QAP for additional detail]. The developer must submit to Minnesota Housing all documents required for an application for tax credits under Chapter 6.A of the Housing Tax Credit Program Procedural Manual and any additional information requested by Minnesota Housing. For projects in which Minnesota Housing is the allocating agency, the developer must submit an application fee (review fee). (See Chapter 8) In addition, if the issuer of the bonds is not Minnesota Housing, the initial submission must include evidence from the issuer that the project received an approval of an allocation of tax-exempt bond volume cap from the state of Minnesota and 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 QAP 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 QAP. A Preliminary Determination fee must be submitted to Minnesota Housing prior to release of the letter (See Chapter 8). **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 a Building Identification Number (BIN) for each of the proposed buildings in the development. Minnesota

Housing will assign all BINs. An address or other specific legal description is needed to identify with each BIN. The address and BIN 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 by a date no later than the date the project is placed in service. If no election is made and/or no form(s) received by Minnesota Housing by a date no later than 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, in addition to any other submissions deemed necessary by Minnesota Housing. For projects for which Minnesota Housing is the allocating agency, the developer must submit a Form 8609 fee based upon the requested annual tax credit amount. (See Chapter 8)

G. Tax Exempt Placed in Service

Placed in service dates for tax credit 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. It is highly recommended that owners/developers of projects financed with the proceeds of tax-exempt bonds 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 of 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 must not be created by any other entity. The owner/agent must not file a Form 8609 with the IRS in advance of the owner/agent's receipt of the Minnesota Housing signed version of the approved 8609. In addition, the owner/agent must not electronically file a Form 8609 with the IRS that does not accurately reflect the information contained on Minnesota Housing's signed version of the approved Form 8609. (Also refer to Chapter 2.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
If the issuer of the bonds is not Minnesota Housing, 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), an Agency Estimate, a HUD utility Schedule Model, an Energy Consumption Model). Include a breakdown of the utilities that a tenant pays directly (heat, electricity, etc.), the utility allowance for each type of utility (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. (See Chapter 3 J)

Final Cost Certification (HTC 9)
Provide a Final Cost Certification when construction has been completed that evidences the CPA's audit report and cost certification based upon an audit of the owner's schedule of total project costs.

Multifamily Workbook
Provide an updated Multifamily Workbook signed by at least one general partner involved in this project and if appropriate, nonprofit partner. Highlight all changes from the Preliminary Determination Application, re-date and initial the revised pages. For material changes, refer to Chapter 2.G. 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 that 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 ensure 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 made by the issuer based upon review of the submission items required in Chapter 6.C of the manual.

Attorney's Opinion Letter

Provide an attorney's opinion letter in a Minnesota Housing approved form verifying:

1. 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 the application, the preliminary determination letter issued by Minnesota Housing and the legal description of the property financed with the tax exempt bonds.
2. 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.
3. The name, legal designation and Tax Identification Number (TIN) of the ownership entity that will receive the tax credits, the legal designation of the party that signed the application and that the business is in good standing and duly authorized in Minnesota.
4. 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.
5. Identification and copies of any waivers required by Section 42 obtained from the IRS.
6. 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 the Underwriting Standards.

Minnesota Housing Declaration of Land Use Restrictive Covenants
Provide 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 8609s to the owner. 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 executed 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:

1. 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.

2. **It is highly recommended that owners/developers of projects financed with the proceeds of tax-exempt bonds seek the appropriate legal and bond professional advice on these matters.**
3. Compliance with all applicable design requirements.
4. Compliance with all requirements of the Preliminary Determination letter issued by Minnesota Housing on the project and the requirements of Article 8 of the State of Minnesota Housing Tax Credit QAP.

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

Multifamily Intended Methods Worksheet
Provide the Minnesota Housing Multifamily Intended Methods Worksheet for compliance with the MN Overlay and Enterprise Green Communities.

15-Year After-Tax Cash Flow Pro Forma
Provide a 15-year after-tax cash flow pro forma. The proforma must reflect required payments of any deferred developer fees.

Transfer Ownership
If the ownership entity has changed, submit a copy of the assignment, a revised Transfer Agreement (HTC 20), 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 2 F and G), and the Transfer of Ownership Fee (See Chapter 8).

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 its endeavors. Complete, execute and return the following forms:

1. 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 protected classes under federal fair housing law: race, color, religion, sex, national origin, disability or familial status; or under Minnesota law: marital status, status with regard to public assistance, creed and sexual orientation.
2. Equal Employment Opportunity Policy Statement.

Tenant Selection Plan
Provide a written tenant selection plan describing the tenant selection policy that an owner will use. The tenant selection plan must be submitted and reviewed by Minnesota Housing prior to the issuance of the 8609. See Minnesota Housing's Tenant Selection Plan Guidance.

Smoke Free Building(s)
If applicable, provide the written policy prohibiting smoking in all the units and all common areas within the building(s) of the project for the term of the declaration. The project must include a non-smoking clause in the lease for every household.

The written policy must be submitted with the application and should include procedures regarding transitioning to smoke-free for existing residents and establishment of smoking areas outside of units and common areas if applicable. Consequences for violating the smoke-free policy are determined by owner but must be included in the written policy.

8609 Fee
Submit a non-refundable 8609 fee based upon the annual tax credit amount (see Chapter 8) along with a completed Fee Remittance Form.

Chapter 8 – 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. Supplemental Application Fee

The application fee for projects requesting supplemental tax credits is $350. 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 2.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 2.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. An additional 3.5 percent reservation fee must also be paid for any additional credits awarded and allocated through carryover and must be paid following issuance of the Carryover Agreement. A reservation 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 that 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.

NOTE: See section C. above for fee information relating to additional credits allocated at carryover.

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; or
3. Do not submit the carryover CPA final certification by the established due date

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

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 3.5 percent 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 3.5 percent 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 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. 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 2.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 associated with producing and delivering Minnesota's Housing Tax Credit Program.

L. Appraisal Fee

The appraisal fee will be determined based on fees charged by the appraiser to complete Minnesota Housing's requirement for an as-is appraisal. These fees are subject to change at Minnesota Housing's sole discretion based upon changes in fee structures found in the appraisal marketplace and on the type of appraisal required by Minnesota Housing for a particular application type. For estimates of appraisal fees, please reference the current Multifamily Request for Proposal Guide. Minnesota

The as-is appraisal will be ordered by Minnesota Housing, and all costs will be the responsibility of the applicant. This fee is non-refundable. Appraisals will be considered expired by Minnesota Housing one year after the effective date of the report. (Refer to the Multifamily Underwriting Standards for additional details.)

Chapter 9 – Tentative Allocation Schedule of Critical Dates

A. 2019 Allocation Dates

A list of important 2019 allocation dates can be found on the Tax credit webpage on Minnesota Housing's website.

B. Previous Years Allocation of Credits

Placed in Service Allocation: To optimize timely processing of requests for issuance of Form 8609, it is recommended the owner make every effort to submit the complete Application for 8609 to Minnesota Housing no later than 30 days following completion of the project.

At the latest, complete 8609 application 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 must elect the first year of the credit period in the year the project is placed in service or the year following.

C. Compliance Dates

Owners Certifications, compliance report and monitoring fees are due February 15th (or next business day) of each year .

When filed with IRS: Completed first year 8609 with Part II completed.

Chapter 10 – Alphabetical Index of HTC Forms

A. Application Materials

All HTC Application Forms are identified in the Multifamily Request for Proposal Guide and are available on Minnesota Housing's Multifamily website and in the Multifamily Customer Portal.

B. Post Application Materials

All Post Application materials are available on Minnesota Housing's Multifamily website and in the Multifamily Customer Portal.