# State of Minnesota
# Housing Tax Credit
# 2017 Qualified Allocation Plan (QAP)

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# Table of Contents

**Article 1 – Preparation of the Qualified Allocation Plan ..... 1**

**Article 2 – Definitions ..... 2**

**Article 3 – Geographic Distribution ..... 3**

**Article 4 – Set-Asides ..... 4**

**Article 5 – Application Rounds ..... 5**

**Article 6 – Application Process ..... 8**

**Article 7 – Additional Administrative Procedures ..... 9**

**Article 8 – Credits for Buildings Financed by Tax-Exempt Bonds ..... 10**

**Article 9 – Strategic Priority Policy Thresholds ..... 12**

**Article 10 – Project Scoring ..... 14**

**Article 11 – Minnesota Housing Compliance Monitoring ..... 15**

**Article 12 – Suballocator Procedures ..... 20**

**Article 13 – Amendments to the Qualified Allocation Plan ..... 23**

# Article 1 – Preparation of the Qualified Allocation Plan

Minnesota Housing was established by the State Legislature as the designated Low Income Housing Tax Credit (HTC) Allocating Agency for the State of Minnesota, with certain other cities and counties also designated as suballocators[1].

Federal law requires that Allocating Agencies adopt a Qualified Allocation Plan (QAP), and Minnesota Housing's QAP is developed in accordance with federal law and all applicable federal regulations are hereby incorporated by reference[2]. The QAP sets forth selection criteria that are appropriate to local conditions and priorities for allocating tax credits to housing projects.

[1] Minn. Stat §§ 462A.221 to 462A.225
[2] Section 42(m)

# Article 2 – Definitions

2.0 Metropolitan Area: The area over which the Metropolitan Council has jurisdiction, including the counties of Anoka, Carver, Dakota (excluding the city of Northfield), Hennepin (excluding the city of Hanover), Ramsey, Scott (excluding the city of New Prague) and Washington.

2.1 Substantial Rehabilitation: Rehabilitation of at least $5,000 per unit, as defined in Minn. Stat. § 462A.221, Subdivision 5.

2.2 Federally Assisted Building: The term "Federally Assisted Building" as defined by Section 42 of the Internal Revenue Code means any building which is substantially assisted, financed, or operated under section 8 of the United States Housing Act of 1937, section 221(d)(3), 221(d)(4), or 236 of the National Housing Act, section 515 of the Housing Act of 1949, or any other housing program administered by the Department of Housing and Urban Development or by the Rural Housing Service of the Department of Agriculture.

2.3 Internal Revenue Code (The Code or IRC): Title 26 of the United States Code.

2.4 Section 42 (Internal Revenue Code Section 42): Low-Income Housing Credit (26 USC § 42) as amended.

2.5 Housing Credit Agency (or Allocating Agency): Any entity authorized by the State of Minnesota and Section 42 to allocate tax credits in Minnesota.

2.6 Qualified Allocation Plan (QAP): As defined in Section 42 (m)(1)(B), and including the "Self-Scoring Worksheet," the "Minnesota Housing Tax Credit Program Procedural Manual" and all forms and attachments contained therein.

# Article 3 – Geographic Distribution

3.0 The state of Minnesota is divided into two general geographic pools: (1) the Metropolitan Pool, as defined in Section 1.0; and (2) the Greater Minnesota Pool, which consists of the balance of the state. Distribution of tax credits between the two general pools is based on the share of the state's public assistance recipients residing in each area, pursuant to Minnesota Statutes § 462A.222, subd. 1a. Greater Minnesota is 38 percent and the Metropolitan Pool is 62 percent.

3.1 Under Minnesota Statutes § 462A.222, certain cities and counties have been designated as suballocators to allocate and monitor tax credits to eligible projects in their cities or counties. Some suballocators have entered into a Joint Powers Agreement with Minnesota Housing under which Minnesota Housing will perform the credit allocation and compliance monitoring.

3.2 Except for the nonprofit set-aside, Minnesota Housing will not accept applications for developments located within the jurisdiction of suballocators in Round 1, unless the suballocator has entered into a Joint Powers Agreement with Minnesota Housing, or has returned all of their credits to Minnesota Housing. Minnesota Housing will administer the tax credits for all areas outside the jurisdiction of suballocators.

For a thorough discussion of nonprofit set-aside procedures, refer to Article 4.
For suballocator procedures, refer to Article 12.

3.3 The distribution of tax credits for Greater Minnesota is based on the housing needs assessment prepared by Minnesota Housing staff and comments from the Greater Minnesota Allocation and Need Analysis Task Force, as amended for the 2017 QAP to incorporate updated demographic data.[3]

3.4 The distribution of tax credits for the Metropolitan Area was developed by the Metropolitan Council, in consultation with Minnesota Housing and representatives of local government and housing and redevelopment authorities, as amended for the 2017 QAP to incorporate updated demographic data [4].

[3] in accordance with Minn. Stat. § 462A.222, subdivision 4
[4] in accordance with Minn. Stat. § 462A.222, subdivision 4

# Article 4 – Set-Asides

## Nonprofit Set-Aside of Funds

4.0 Ten percent of the total tax credits available in the state are set aside for allocation to nonprofit sponsored developments[5]. This set-aside is administered by Minnesota Housing.

In Round 1, the nonprofit set-aside is divided among the two Geographic Pools, with 38 percent for Greater Minnesota and 62 percent for the Metropolitan Area. In Round 2, any remaining nonprofit tax credit set-aside will be available statewide. On an annual basis, an additional five percent may be set aside if all suballocators and Minnesota Housing agree to set aside this amount from their respective allocations to the respective geographic pool.

In Round 1, nonprofit developers with projects located within the jurisdiction of a suballocator may apply for tax credits from Minnesota Housing, but only in the nonprofit set-aside. Nonprofit developments located in the allocating jurisdiction of a suballocator may apply simultaneously to the suballocator and to the Minnesota Housing nonprofit set-aside. Nonprofit developments not located in the allocating jurisdiction of a suballocator will compete for tax credits in the respective general Geographic Pool once the nonprofit set-aside has been exhausted.

## Rural Development/Small Projects Set-Aside of Funds

4.1 Rural Development (RD) financed projects, or small projects with a site located in a RD service area consisting of 12 or fewer units, will receive a special set-aside administered by Minnesota Housing until the end of Round 2, or until it is determined that there are no eligible applications for the set-aside.

[5] as required by Section 42(h)(5). Nonprofit must have a Section 501(c)(3) or (4) status or appropriate designation approval by the IRS

# Article 5 – Application Rounds

Minnesota Housing will hold two funding competitions each year for tax credits, Round 1 and Round 2.

## Round 1

a. **Distribution:** In Round 1, the distribution of credits in each Geographic Pool will be as follows:

   1. Greater Minnesota Pool (see definition in Article 3)

      i. RD/Small Project Set-Aside (25 percent, not to exceed $300,000 of Greater Minnesota tax credit total)

      ii. Three suballocators eligible to administer credits within their respective city limits:

         - Duluth
         - Rochester
         - St. Cloud

      iii. Balance of Greater Minnesota Area and nonprofit set-aside administered by Minnesota Housing

   2. Metropolitan Area Pool (see definition in Article 3)

      i. Four suballocators eligible to administer credits within their respective city or county limits:

         - Minneapolis
         - St. Paul
         - Washington County
         - Dakota County

      ii. Balance of Metropolitan Area and nonprofit set-aside administered by Minnesota Housing.

b. **Suballocator Jurisdiction**: In Round 1, applications for developments located within the jurisdiction of a suballocator are not eligible to apply to Minnesota Housing with the exception of the nonprofit set-aside, or if the suballocator has entered into a Joint Powers Agreement with Minnesota Housing or has returned all of their credits to Minnesota Housing (see Article 3).

c. **Preservation Ceiling**: In Round 1, Minnesota Housing will establish a preservation award ceiling of 2/3 for each Geographic Pool, Metropolitan and Greater Minnesota, but not including the RD/Small Project Set-Aside nor the Nonprofit Set-Aside. Minnesota Housing reserves the right to exceed the 2/3 ceiling if qualifying new construction proposals are not available or do not rank competitively.

d. **Minimum Threshold Requirements**: For applications submitted in Round 1, all applicants statewide must meet one of the following threshold types. The threshold type the applicant applies under will become part of the Tax Credit Reservation and Commitment. It will be secured by a restrictive use covenant on the land for the term of the compliance period and, as applicable, the extended use period. An Allocating Agency will allocate tax credits only to the following types of projects:

1. In the Metropolitan Area:

    i. New construction or Substantial Rehabilitation in which, for the term of the extended use period (term of the Declaration of Land Use Restrictive Covenants), at least 75 percent of the total tax credit units are single room occupancy, efficiency, or one bedroom units with rents affordable to households whose income does not exceed 30 percent of the area median income.

    ii. New construction or Substantial Rehabilitation family housing projects that are not restricted to persons 55 years old or older in which, for the term of the extended use period (term of the Declaration of Land Use Restrictive Covenants), at least 75 percent of the total tax credit units contain two or more bedrooms and at least one-third of the 75 percent contain three or more bedrooms.

    iii. Substantial Rehabilitation projects in neighborhoods targeted by the city for revitalization.

2. Outside the Metropolitan Area:

    i. Projects that meet a locally identified housing need and that are in short supply in the local housing market, as evidenced by credible data such as a local council resolution submitted with the application. (For "HTC Threshold – Sample Letter," see www.mnhousing.gov > Multifamily Rental Partners > Housing Tax Credits > HTC Application Reference Materials.)

3. Projects that are not restricted to persons of a particular age group and in which, for the term of the extended use period (term of the Declaration of Land Use Restrictive Covenants), a percentage of the units are set aside and rented to persons:

    i. With a serious and persistent mental illness as defined in Minnesota Statutes § 245.462, Subdivision 20, paragraph (c);

    ii. With a developmental disability as defined in Section 6001, paragraph 5 of the Code;

    iii. Who have been assessed as drug dependent persons as defined in Minnesota Statutes § 254A.02, Subdivision 5, and are receiving or will receive care and treatment services provided by an approved treatment program as defined in Minnesota Statutes § 254A.02, Subdivision 2;

iv. With a brain injury as defined in Minnesota Statutes § 256B.093, Subdivision 4, paragraph (a); or

v. With permanent physical disabilities that substantially limit major life activities, if at least 50 percent of the units in the project are accessible as provided under Minnesota Rules Chapter 1341.

4. Projects, whether or not restricted to persons of a particular age group, which preserve existing subsidized housing, if the use of tax credits is necessary to (1) prevent conversion to market rate use or (2) to remedy physical deterioration of the project which would result in loss of existing federal subsidies.
5. Projects financed by Rural Development, which meet statewide distribution goals.

## Round 2

a. **Distribution:** In Round 2, all remaining or returned tax credits will be combined into one unified pool for allocation by Minnesota Housing on a statewide basis, without regard to geographic distribution and with no set-asides[6]. All Round 2 applications are submitted to Minnesota Housing.

b. **Waiting List**: Minnesota Housing may, at its discretion, establish a waiting list following Round 2 if sufficient credits are not available. If a waiting list is established and additional credits later become available, all applications would be considered at the same time to determine selection. A project on the waiting list that is awarded its credit request through the subsequent year's Round 1 will no longer be eligible to receive credits through the waiting list and will be removed from the list. If the waiting list is exhausted, Minnesota Housing may accept additional applications.

c. **Supplemental Priority**: Projects that have previously received tax credits and have an annual tax credit shortfall of at least 5 percent, but not more than 33.33 percent of the total qualified annual tax credit amount, subject to Minnesota Housing approval, will have priority over other applicants at the start of Round 2. Suballocators may recommend one of their partially funded projects for additional credits, if more than one applicant applies to Minnesota Housing.

[6] In the event that the Minnesota RD office has not received a funding allocation in time for RD projects to be included in Round 1, the RD/Small Projects set-aside will be carried forward until the end of Round 2, or until it is determined that there are no eligible applications for the set-aside.

# Article 6 – Application Process

6.0 A complete application containing the submissions described in the "Housing Tax Credit Program Procedural Manual" must be submitted no later than each of the application due dates in order to be considered for selection, within the applicable competition.

a. Projects selected and approved by the Minnesota Housing Board in each selection competition will be approved as eligible to proceed toward commitment and allocation.

b. Projects not selected may, upon notification, choose to compete in subsequent competitions.

6.1 Eligible projects will be evaluated for the amount of allocation pursuant to Section 42(m)(2)(B). Such a determination shall not be construed to be a representation or warranty as to the feasibility or viability of the project. Minnesota Housing will conduct three evaluations prior to awarding the credit:

a. At the time of initial application/reservation.

b. At the time of commitment to allocate credits/carryover allocation.

c. At the time the building is placed in service.

For each evaluation, the applicant must submit the most recent financial information on the project. Misrepresentations of information will result in failure to award Internal Revenue Service (IRS) Form 8609, debarment from participation in the HTC Program and possible criminal penalties.

Selected applicants failing to place a project in service in the allocation year for which the reservation was issued may be awarded a carryover allocation by submitting the required carryover application submissions detailed in the "Housing Tax Credit Program Procedural Manual."

Minnesota Housing reserves the right not to allocate any tax credits.

## Article 7 – Additional Administrative Procedures

7.0 No individual application or project may receive more than $1 million in annual tax credits. No developer or general partner may receive tax credits in excess of 10 percent of the state's per capita volume in any calendar year. These limitations are subject to review and waiver by the Minnesota Housing Board. The applicant must provide justification for exceeding this limit for consideration by Minnesota Housing.

7.1 No project may be divided into two or more projects during a single funding round to receive credits. Multiple applications, determined by Minnesota Housing to be one project, will be returned to the applicant and all fees forfeited. Minnesota Housing will consider factors such as, but not limited to, ownership entities, general partnerships, sponsor relationships, and location of project, if contiguous site, to determine if a multiple application exists.

7.2 Minnesota Housing may elect not to give partial credits to a higher-ranking application but to give the credits to the next ranking application that can use the balance of the credits.

7.3 Minnesota Housing has no jurisdiction to interpret or administer Section 42, except in those instances where it has specific delegation.

7.4 Minnesota Housing may consult with local communities, Public Housing Authorities (PHAs), Housing and Redevelopment Authorities (HRAs), RD and HUD to determine the marketability of projects. If, in the opinion of Minnesota Housing, the issuance of the tax credits to a project could be detrimental to existing rental property, Minnesota Housing will not issue tax credits to the applicant.

7.5 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 HTC Program.

# Article 8 – Credits for Buildings Financed by Tax-Exempt Bonds

8.0 Section 42 establishes a separate set of procedures to obtain 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 that:

a. 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 were first issued. If the 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.

   The Allocating Agency (Minnesota Housing or appropriate suballocator) must make a determination that the above requirements are satisfied. After this determination, the Allocating Agency will issue a preliminary determination letter. Application for this determination must be made to the appropriate Allocating Agency **prior to the issuance of the bonds.**

   In order to qualify under Minnesota Housing's QAP, a developer must demonstrate that the project is eligible for no less than **30** points. The threshold requirements in Article 5 of the QAP and Chapter 5 (A) of the "Housing Tax Credit Program Procedural Manual" do not apply to tax-exempt bond financed projects using credits not counted in the state's volume cap.

   In order to receive the preliminary determination described above, the developer must submit to the Allocating Agency all documents required for an application for tax credits as established by the Allocating Agency's QAP and Procedural Manual and any additional information requested by the Allocating Agency. If Minnesota Housing is the Allocating Agency, these documents are those required for an application for tax credits under Chapter 6 of the "Housing Tax Credit Program Procedural Manual" and any additional information required by Minnesota Housing. The developer must also submit to the Allocating Agency the required application fees identified in the agency's QAP/Manual.

b. Section 42 (m)(2)(D) provides that in order for a project to receive an allocation of tax credits through the issuance of tax exempt bonds, the governmental unit that issues the bonds (or on behalf of which the bonds were issued) must make a determination that the credit amount to be claimed does not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified housing project throughout the credit period.

The determination by the issuer must be made in a manner consistent with the tax credit Allocating Agency's (Minnesota Housing or appropriate suballocator) QAP and "Housing Tax Credit Program Procedural Manual." Section 42 requires that the issuer evaluation must consider:

1. The sources and uses of funds and the total financing planned for the project.
2. Any proceeds or receipts expected to be generated by reason of tax benefits.
3. The percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries.
4. The reasonableness of the developmental and operational costs of the project.
5. A comprehensive market study of the housing needs of low-income individuals in the area to be served by the project, conducted before the credit allocation is made, and at the developer's expense by a disinterested party approved by the Allocating Agency.

This determination must be made **prior to the issuance of the bonds**.

c. Section 42 provides that in order for a project to be eligible for tax credits, the taxpayer/owner must enter into an extended use agreement (Declaration of Land Use Restrictive Covenants). Section 42(h)(6)(C)(ii) provides that the credit amount claimed for buildings financed by tax exempt bonds by the taxpayer/owner under Section 42 (h)(4) may not exceed the amount necessary to support the applicable fraction specified in the use agreement for the buildings.

d. After the project is placed in service, the development must submit to the Allocating Agency an application and appropriate fees for Form 8609 meeting the requirements of the Allocating Agency's QAP/Manual. The developer must also submit to the Allocating Agency any other related fees identified in the Allocating Agency's QAP/Manual.

# Article 9 – Strategic Priority Policy Thresholds

9.0 To be eligible for tax credits from the State's volume cap under Minnesota Housing's QAP, a developer must demonstrate that the project meets at least one of the following priorities:

a. **Access to Fixed Transit**: Projects within one-half mile of a completed or existing LRT, BRT, or commuter rail station.

b. **Greater Minnesota Workforce Housing**: Projects in Greater Minnesota documenting all three of the following:

   1. Need: Projects in communities with low vacancy (typically considered 4 percent and below, documented by a market study or other third party data) and:

      i. That that have experienced net job growth of 100 or more jobs,

      ii. With 15 percent or more of the workforce commuting 30 or more miles to work, or

      iii. With planned job expansion documented by a local employer

   2. Employer Support

   3. Cooperatively Developed Plan: Projects that are consistent with a community-supported plan that addresses workforce housing needs.

c. **Economic Integration**: Projects located in higher income communities outside of rural/tribal designated areas with access to low and moderate wage jobs, meeting either First or Second Tier Community Economic Integration as defined in Selection Priority 2 on the "Self-Scoring Worksheet."

d. **Tribal**: Projects sponsored by tribal governments, tribally designated housing entities, or tribal corporate entities.

e. **Planned Community Development**: Projects that contribute to Planned Community Development efforts, as defined in section 6.A of the "Housing Tax Credit Program Procedural Manual," to address locally identified needs and priorities, in which local stakeholders are actively engaged.

f. **Preservation**: Existing federally assisted or other critical affordable projects eligible for points under Selection Priority 11 on the "Self-Scoring Worksheet."

g. **Supportive Housing**: Permanent housing proposals with at least 5 percent of units (rounded up to the next full unit), with a minimum of 4 units either:

   1. Set aside and rented to households experiencing long-term homelessness targeted to single adults, or

   2. Set aside and rented to households experiencing long-term homelessness, at significant risk of long-term homelessness, or as prioritized for permanent

supportive housing by the Coordinated Entry System, targeted to families with children or youth.

# Article 10 – Project Scoring

10.0 Minimum Points Requirement (Competitive Round Tax Credits): To be eligible for tax credits from the State's volume cap under Minnesota Housing's QAP, a developer must demonstrate that the project is eligible for no less than 30 points in the "Self-Scoring Worksheet."

Minnesota Housing reserves the right to reject applications not meeting its project selection requirements as contained in the "Housing Tax Credit Program Procedural Manual," or to revise proposal features, and associated scoring, to ensure the project meets the requirements.

10.1 Selection Priorities: As defined and included in the "Self-Scoring Worksheet."

10.2 Preference Priorities: As defined and included in the "Self-Scoring Worksheet."

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

a. 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;

b. 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;

c. 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;

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

e. Fifth tie breaker will be by lot.

# Article 11 – Minnesota Housing Compliance Monitoring

11.0 Compliance monitoring by Minnesota Housing is required as a result of the Federal Budget Reconciliation Bill. All tax credit projects will be monitored by Minnesota Housing in accordance with Section 42(m)(1)(B)(iii).

11.1 Record keeping and record retention provisions:

a. Record keeping provision. The owner of a low-income housing project must keep records for each qualified low-income building (in the project) showing each year:

1. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet).
2. The number of occupants in each low-income unit and the number of minors. Housing information concerning ethnicity, elderly or family household and student resident status, and type and amount of rental assistance.
3. The percentage of residential rental units in the building that are low-income units, models, offices, and management units.
4. The rent charged on each residential rental unit in the building (including utility allowance). Documentation including rent rolls, leases, and utility allowances per IRS Notice 94-60 issued June 1994.
5. The low-income unit vacancies in the building and the rentals of the next available units.
6. The annual income certification of each low-income tenant on a Minnesota Housing Tenant Income Certification, HTC 14.
7. The annual student certification of each low-income tenant on a Minnesota Housing Annual Student Certification form, HTC 35.
8. Documentation to support each low-income tenant's income certification. Anticipated income of all adult persons expecting to occupy the unit must be verified and included on a Tenant Income Certification **prior** to occupancy and for mixed-income projects, **annually** recertified to determine whether the Available Unit Rule must be implemented.
9. The character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d) (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).
10. The eligible basis and qualified basis of the building at the end of the first year of the credit period.

11. Any additional records necessary to verify compliance with additional restrictions included in the Carryover Agreement or Declaration.

b. Record retention provision. The owner of a low-income housing project must retain the records described in 11.1(a) for each building in the project for at least six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

c. Inspection record retention provision. Under the inspection record retention provision, the owner of a low-income housing project must be required to retain the original local health, safety or building code violation reports or notices that were issued by the State or local government unit (as described in IRC 1.42-5 (c)(1)(vi)) for Minnesota Housing's inspection. Retention of the original violation reports or notices is not required once Minnesota Housing reviews the violation reports or notices and completes its inspection, unless the violation remains uncorrected.

11.2 Certification and Review Provisions:

a. Certification. The owner of a low-income housing project must certify to Minnesota Housing that the project meets the minimum requirements of:

1. 20/50 test under Section 42(g)(1)(A) of the Code; or
40/60 test under Section 42(g)(1)(B) of the Code.

2. There has been no change in the applicable fraction (as defined in Section 42 (c)(1)(B) of the Code) for any building in the project.

3. At initial occupancy the owner has received a Tenant Income Certification with supporting documentation and an Annual Student Certification from each low-income household. At annual recertification owner has received an Annual Student Certification and, where applicable, a Tenant Income Certification with supporting documentation from each low-income household.

4. Each low-income unit in the project has been rent-restricted under Section 42(g)(2) of the Code.

5. No tenants in low-income units were evicted or had their tenancies terminated other than for good cause and no tenants had an increase in the gross rent with respect to a low-income unit not otherwise permitted under Section 42.

6. All low-income units in the project are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42 (l)(3)(B)(iii) of the Code).

7. No finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601 - 3619, has occurred for this project. A finding of discrimination includes an

adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency 42 U.S.C. 3616a(a)(1), or an adverse judgment from a federal court.

8. Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the project.
9. There have been no changes in the eligible basis (as defined in Section 42(d) of the Code) of any building in the project since the last certification of submission.
10. All tenant facilities included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dyer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings.
11. If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented to tenants not having qualifying income.
12. If the income of tenants of a low-income unit in any building increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size in the building was or will be rented to residents having a qualifying income.
13. An extended low-income housing commitment as described in Section 42(h)(6) was in effect, including the requirement under Section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment (not applicable to buildings with tax credits from years 1987-1989).
14. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving “qualified nonprofit organizations” under Section 42(h)(5) of the Code and its nonprofit entity materially participated in the operation of development within the meaning of Section 469(h) of the Code.

15. There has been no change in the ownership or management of the project.

b. Review. Under the review provision, a monitoring procedure must require:

1. An owner of a low-income housing project to submit to Minnesota Housing a completed, Minnesota Housing signed copy of IRS Form 8609 for the first year of the credit period, together with the Schedule A and Form 8586.
2. Minnesota Housing will inspect low-income housing projects once every three years, and review the tenant income certifications for at least 20 percent of the tenants (and previous tenants, to the extent necessary) and the documentation the owner has received to support those certifications. All projects shall have their first compliance inspection no later than the year following the first credit period.
3. The low-income housing projects to be inspected must be chosen in a manner that will not give owners of low-income housing projects advance notice that their records for a particular year will or will not be inspected. Minnesota Housing may give an owner reasonable notice that an inspection will occur so that the owner may assemble records (e.g., 30 days notice of inspection).

11.3 Inspection Provision. Minnesota Housing has the right to perform an inspection of any low-income housing project at least through the end of the term of the Declaration of Land Use Restrictive Covenants. An inspection includes a physical inspection of any building(s) in the project, as well as a review of the records described in Article 11.1. The auditing provision of this paragraph is required in addition to any inspection of low-income certification and documentation under Paragraph 11.2(b).

11.4 Notification of Non-Compliance Provisions:

a. In General. Minnesota Housing will give the notice described in IRS Regulation Section 1.42-5(e)(2) to the owner of a low-income housing project and the notice described in Section 1.42-5(e)(3) to the IRS.

b. Notice to Owner. Minnesota Housing will provide prompt written notice to the owner of a low-income housing project if Minnesota Housing does not receive the certification described in 11.2(a) or 11.3 or discovers in an audit, inspection, or review, or in some other manner, that the project is not in compliance with the provisions of Section 42.

c. Notice to IRS. When required, Minnesota Housing will file Form 8823, Housing Credit Agencies Report of Non-Compliance, with the IRS no later than 45 days after the end of the correction period (as described in 11.5, including extensions permitted). Minnesota Housing must check the appropriate box on Form 8823 indicating the nature of the noncompliance or failure to certify and indicating whether the owner has corrected the noncompliance or failure to certify. If Minnesota Housing reports on Form 8823 that a building has gone entirely out of compliance and will not be in

compliance at any time in the future, Minnesota Housing need not file Form 8823 in subsequent years to report that building's noncompliance.

d. Project owners shall provide to Minnesota Housing any evidence of noncompliance correction and correspondence to or received from the IRS with respect to any reported noncompliance.

11.5 Correction Period. The correction period will be that period specified in the notice to the owner during which an owner will have the opportunity to supply any missing certifications and bring the project into compliance with the provisions of Section 42. The correction period will be set by Minnesota Housing and will not exceed 90 days from the date of the notice to the owner described in Paragraph 11.4(b). Minnesota Housing may extend the correction period for up to six months, but only if Minnesota Housing determines there is good cause for granting the extension.

11.6 Liability. Compliance with the requirements of Section 42 is the responsibility of the owner of the building for which the credit is allowable. Minnesota Housing's obligation to monitor for compliance with the requirements of Section 42 does not make Minnesota Housing liable for an owner's noncompliance.

# Article 12 – Suballocator Procedures

12.0 A city or county is eligible to receive a reserved portion of the state ceiling under this subdivision if it submitted a written request to Minnesota Housing within 45 days after June 2, 1987, to act as a designated Housing Credit Agency as provided in Section 42. A city or county may designate its housing and redevelopment authority as a suballocating agent to allocate low-income housing credits on behalf of the city or county. The city of Minneapolis or the city of Saint Paul may designate the Minneapolis/Saint Paul Housing Finance Board to allocate low-income housing credits on behalf of each city. Minnesota Housing will administer the tax credits for areas outside the jurisdiction of the suballocators.

12.1 Minnesota Housing, in consultation with the suballocators, will determine application competition deadlines as required by Statute. The application deadline for the suballocating agencies in Round 1 will be the same as Minnesota Housing's deadline. No Allocating Agency may award tax credits prior to the application closing date for Round 1.

12.2 Before the application deadline for Round 2, the suballocators must return all uncommitted and unallocated tax credits to Minnesota Housing, along with copies of the tax credit application and allocation or commitment agreements for all selected projects.

12.3 If a suballocator determines at any time before Round 2 that a project is no longer eligible for all or a portion of the tax credits committed or allocated to the project, the tax credits must be transferred to Minnesota Housing to be reallocated. If the tax credits for which the project is no longer eligible are from the current year's annual ceiling and the suballocator maintains a waiting list, the suballocator may continue to commit or allocate the credits until no later than the date of application for the Round 2. At that time, any uncommitted credits must be transferred to Minnesota Housing.

12.4 So that all of a project's tax credits are allocated by a single Allocating Agency, Minnesota Housing may apportion additional tax credits to a suballocator for a project that has already received a commitment or allocation of tax credits from the suballocating agency, if all of the suballocator's tax credits have been committed or allocated. These supplemental tax credits must be used only for the selected project and must be allocated to the project by a carryover allocation or IRS Form 8609 before November 15 of the year in which the selection was made. If at any time after the apportionment of the tax credits a suballocator determines the project cannot use or is no longer eligible for all or a portion of the tax credits apportioned to the project, the credits must be returned to Minnesota Housing within 10 business days for reallocation.

12.5 Suballocators are responsible for the issuance of the IRS Form 8609 for all projects for which they have allocated tax credits. In instances where both a suballocator and Minnesota Housing have allocated credits to a project, the Allocating Agency that first allocated tax credits to the project will prepare the IRS Form 8609.

12.6 As the primary and lead housing credit agency for the state of Minnesota, Minnesota Housing is responsible for collecting and filing the required form with the IRS each year on the last day of February. Minnesota Housing will prepare a comprehensive IRS Form 8610, incorporating all carryover and 8609 allocations made in the state of Minnesota for filing with the IRS. The local suballocators have agreed to submit the following information to Minnesota Housing no later than January 31 for all tax credit activity that has occurred in the preceding year:

a. A copy of all Reservation/Binding Agreements, an original of the Carryover Agreement, and copies of all IRS Form 8609s, completed and issued to all (including tax exempt) projects selected since February 28 of the preceding calendar year.

b. A completed tax credit application form ("Multifamily Workbook") for each development receiving an allocation through a reservation, carryover, or issuance of 8609 for tax credits issued from volume cap and through tax-exempt bonds.

c. A completed IRS Form 8610 Schedule A for each development receiving a carryover allocation.

d. A Suballocator Compliance Activity Report containing the results of inspection activity conducted during each monitoring year with copies of any forms 8823 filed with the IRS.

e. Any other information requested by Minnesota Housing necessary to meet federal and state reporting purposes.

12.7 Suballocators are responsible for the monitoring of tax credit projects for the term of the Declaration of Land Use Restrictive Covenants, in accordance with 42(m)(1)(B)(iii) (see Article 11) to ensure compliance with applicable federal, state and local requirements. Compliance records must be available upon request to Minnesota Housing from the suballocator or its monitoring agent. Projects that receive tax credits from Minnesota Housing that are apportioned to a Suballocating agency must incorporate Minnesota Housing restrictions that are a condition of the tax credit award (e.g., nonprofit set-aside, homeless households)

12.8 Before January 31, suballocators will submit to Minnesota Housing compliance staff a comprehensive updated report listing all HTC projects awarded tax credits by the suballocator. Include the following items in the report:

a. Project name

b. Address

c. Building identification numbers

d. Ownership entity and tax identification number

e. Total number of residential units

f. Number of tax credit units

g. Year of allocation

h. Amount of tax credits awarded

i. Other information as needed

In addition, suballocators will submit a list of the projects that have been in noncompliance, the year of noncompliance, inspection date and type of noncompliance, along with copies of the IRS Form 8823 and the report of noncompliance findings sent to the owner. Suballocators will also submit a copy of their monitoring requirements, procedural manual and forms, and, if applicable, a copy of the monitoring contract with an outside vendor.

12.9 A suballocator may elect to enter into a Joint Powers Agreement with Minnesota Housing. Under a Joint Powers Agreement, Minnesota Housing will perform certain functions related to the credit allocation and compliance monitoring. As a condition of the Joint Powers Agreement, the participating suballocator will transfer its entire annual tax credit distribution to Minnesota Housing.

12.10 Suballocators are responsible for entering into an agreement with HUD to perform Subsidy Layering Reviews.

# Article 13 – Amendments to the Qualified Allocation Plan

13.0 The QAP is subject to modification or amendment at any time to ensure that the provisions conform to the requirements of the Code and applicable Minnesota law. Minnesota Housing may also make population and date changes and other non-substantive updates to the QAP.

Written explanation will be made available to the general public for any allocation of tax credits 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 the main offices of Minnesota Housing in St. Paul, Minnesota. Any substantive amendments will require approval of the Minnesota Housing Board and the Governor.

**This QAP has been prepared to comply with the regulations set forth in Section 42 of the Code. The QAP may be subject to amendment in order to conform to the Code and applicable state statute.**