Housing Infrastructure Guide

Applicable for the 2023 and 2024 Multifamily Consolidated Request for Proposals and 2024 and 2025 Housing Tax Credits Funding Rounds

November 2023

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

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Chapter 1 – Purpose and Background

1.01 Program Purpose and Authorizing Statute

The Housing Infrastructure Bond (HIB) program was established in Minnesota Statute 462A.37 in 2012. HIBs are special, limited obligation Tax-Exempt Bonds issued by Minnesota Housing, the principal and interest on which are paid solely from appropriations from the General Fund of the state.

In 2023, Minnesota Statute 462A.37 was amended to expand the eligible uses and to utilize Housing Infrastructure Appropriations (HIA), which are direct state appropriations not associated with the issuance of bonds and the state and federal requirements associated with tax-exempt bonds.

Except where otherwise noted, HIBs and HIAs (collectively, Housing Infrastructure) have the same requirements and procedures.

This Program Guide focuses only on the multifamily rental related uses of Housing Infrastructure funding. For information on single family home ownership related uses, please contact Impact.Fund.MHFA@state.mn.us. For Information on manufactured housing related uses, please contact MNHousing.ManufacturedHomes@state.mn.us.

1.02 Definitions

Appendix A, which is attached and incorporated into this Program Guide, includes definitions of capitalized terms used in this Program Guide.

1.03 Legal Addendum

Any recipient of an award pursuant to the Housing Infrastructure Guide agrees to comply with the additional requirements and obligations as described in Appendix C, which is attached and incorporated into this Program Guide.

Chapter 2 – Eligible Uses and Eligibility Criteria

2.01 Eligible Applicants

Eligible applicants for Housing Infrastructure resources are:

- A nonprofit, tax-exempt organization as defined under Section 501(c)(3) of the Internal Revenue Code (IRC)
- A governmental entity (excluding the federal government)
- An Indian Tribe or Tribal housing corporation
- A for-profit entity

2.02 Eligible Uses, Requirements and Level of Funding

A. Permanent Supportive Housing – Homeless

Housing Infrastructure resources may be used to finance the costs of acquisition, construction, or rehabilitation of permanent supportive housing for individuals and families who are without a permanent residence, have multiple barriers to obtaining and maintaining housing, and benefit from the availability of supportive housing services. To be eligible for consideration for funding, projects must meet the following criteria:

- Units in a project must provide permanent supportive housing for individuals and families who are homeless. Eligible homeless populations include:
    - High Priority Homeless (HPH)
    - Other Homeless Households

If an applicant is intending to finance the development with housing tax credits (HTCs), the market study submitted with the application must incorporate additional requirements for projects involving special needs populations, housing for homeless households, and supportive housing as required in Minnesota Housing's Housing Tax Credit Market Study Guidelines.

B. Senior Housing

Housing Infrastructure resources may be used to finance the costs of the acquisition, rehabilitation, adaptive reuse, or new construction of Senior Housing. To be eligible for consideration for funding, projects must meet the following criteria:

- Senior is defined as a person 55 years of age or older.
- Units in the project must be leased to a Senior Household with one or more Senior members with an annual combined income that does not exceed 50% of the:

    - Metropolitan area median income for properties within the Metropolitan Area, or
    - Statewide median income for properties outside the Metropolitan Area.
- There is a preference for projects that serve households with a gross annual income that does not exceed 30% of the metropolitan area median income, not adjusted for household size. Minnesota Housing will prioritize proposals that achieve this preference and demonstrate financial feasibility.
- 100% of the units must be intended for and initially occupied by Seniors and at least 80% of those units must be occupied by Seniors for the term of the loan.
- The project must have written policies and procedures specifying an intent to provide housing for Seniors.
- If intending to finance the development with HTCs, the market study submitted with the application must include the materials required in the Senior Addendum to Market Study Guidelines.

C. Preservation

Housing Infrastructure resources may be used to finance the costs of the acquisition and rehabilitation or for the Replacement of federally assisted rental housing and to refinance costs of construction, acquisition, and rehabilitation, including providing funds to refund, in whole or in part, outstanding Bonds previously issued by Minnesota Housing or another government unit to finance or refinance those costs.

- To be eligible for consideration for funding, projects must be eligible for the preservation selection criteria by preserving existing federally assisted or other critical affordable units. For more information, refer to the Self-Scoring Worksheet.
- To be eligible as Replacement of federally assisted rental housing, the project must demonstrate to Minnesota Housing's sole satisfaction that the demolition is warranted, and that rehabilitation is not a viable option for serving the intended population. This includes sufficient documentation that the Replacement is more cost effective than preservation and/or the existing structure is functionally obsolete and would cost more to update than to replace. Any change to the number of units or unit sizes must be approved by Minnesota Housing, at its sole discretion.

D. Foreclosed Properties

Housing Infrastructure resources may be used to finance the costs of the acquisition and rehabilitation of Foreclosed or Abandoned Property to be used for affordable rental housing, or to finance the new construction of rental housing on abandoned or foreclosed properties where the existing structures will be demolished or removed.

To be eligible for consideration for funding, projects must meet at least one of the strategic priorities as defined in the Self-Scoring Worksheet.

E. Rent Restricted General Occupancy Properties

Housing Infrastructure resources may be used to finance the costs of construction, acquisition, and rehabilitation of permanent housing with rents affordable to households with incomes at or below 50% of the area median income for the applicable county or metropolitan area as published by the United States Department of Housing and Urban Development (HUD), as adjusted for household size.

F. Projects

A project may be either a multifamily housing residence or a portion of a mixed-use multifamily residence that has a property legal description and ownership structure distinct from any other portion of the residence.

The amount of Housing Infrastructure resources will be based upon the number of units that meet an eligible use. A project may include units that meet multiple eligible uses. For example, a 50-unit project may include 25 units set aside for permanent supportive housing (homeless) and 25 units set aside for households with incomes at or below 50% area median income.

Senior Housing projects are not able to mix with other eligible uses and all units must meet the Senior Housing eligible use.

G. Ineligible Projects

Temporary uses such as shelters, transitional housing, or residential hotels **are not** eligible for funding with Housing Infrastructure resources.

For Senior Housing, housing must be of an independent living model. Assisted living facilities **are not** eligible for funding with Housing Infrastructure resources.

H. Level of Funding

In determining the amount of Housing Infrastructure resources, Minnesota Housing reviews cost reasonableness on a per-unit and total project cost basis. Minnesota Housing also analyzes the developmental and operational costs to determine that the amount of funds provided to the project is not more than is necessary to make it financially feasible.

I. Housing Related Space and Community Service Facilities

Projects funded with Housing Infrastructure resources may include housing-related space such as community, administrative, or program space. Per the Multifamily Underwriting Standards, 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% or less of area median income.

Generally, community service facilities are not eligible for financing with Housing Infrastructure resources. Minnesota Housing will analyze the following factors when determining the amount of housing-related space in a housing project that is eligible to be funded:

- Whether the space will be used exclusively by tenants
- The extent to which the proposed use of the space fits with the service needs of the tenants and does not expose the tenants to security risks or the project to financial risk
- The ease with which the space is convertible to residential space
- The financial and operational capacity of the applicant or any partner organization to operate and manage the space
- Whether similar services or facilities that are appropriate for the tenants are located nearby
- The availability of other funding for the construction and/or rehabilitation of space, as well as the maintenance and operation of that space

Projects that will include a community service facility component are strongly encouraged to request technical assistance from Minnesota Housing's multifamily staff well in advance of application submission.

2.03 Design and Construction Review

Projects financed with Housing Infrastructure resources must meet Minnesota Housing's Rental Housing Design and Construction Standards and are subject to plan reviews by staff architects per Minnesota Housing's Architect's Guide.

Housing Infrastructure projects that are new construction or substantial rehabilitation with more than four units per building must meet the following statutory design requirements. Additional information can be found in the Rental Housing Design and Construction Standards.

- At least 5% of the total units, with a minimum of one unit, must be accessible units, as defined by Section 1002 of the current State Building Code Accessibility Provisions for Dwelling Units in Minnesota, and include at least one roll-in shower;
- At least 5% of the total units, with a minimum of one unit, must be sensory- accessible units that include:

- Soundproofing between shared walls for first and second floor units;
- No florescent lighting in units and common areas;
- Low-fume paint;
- Low-chemical carpet; and
- Low-chemical carpet glue in units and common areas.

Senior Design Requirements. Minnesota Housing's Rental Housing Design and Construction Standards includes Senior design requirements and recommended (not required) best practice Senior design features.

2.04 Income Requirements and Preferences

A. Income Limits

All units in a project financed with Housing Infrastructure resources must be occupied by households whose income at the time of initial occupancy does not exceed 80% of the greater of statewide median or area median income, not adjusted for household size. Lower income limits may be required for all or some of the units based on Minnesota Housing's funding priorities, state law applicable to a financing with the proceeds of Housing Infrastructure resources or federal tax law.

For acquisition and rehabilitation projects, the owner must contact each household prior to mortgage commitment and have them certify their gross annual household income on an Initial Occupancy Statement by Tenant Form (other, more detailed income certification forms may be acceptable as long as information on the more detailed form(s) matches the information requested on the Initial Occupancy Statement by Tenant Form). As assisted units become vacant, they must continue to be leased to income-qualifying households. New households must similarly certify their gross annual household income prior to occupancy.

NOTE: If there are other funding sources for the project, there may be additional income requirements.

B. Minimum Term

The income restrictions for the assisted units are in effect for a minimum of the term of loan or the declaration.

C. Senior Household Income Limits

For projects to qualify units under the Senior Housing eligible use of Housing Infrastructure resources, the household must have an annual combined income not greater than 50% of metropolitan area median income for properties within the Metropolitan Area, or 50% of statewide area median income for properties outside the Metropolitan Area.

D. Preference

Statute gives preference to Senior Housing projects that serve households with a gross annual income that does not exceed 30% of the metropolitan area median, not adjusted for household size. Minnesota will prioritize proposals that achieve this preference and demonstrate financial feasibility.

Applicable household and individual income limits can be found on Minnesota Housing's Multifamily Rent and Income Limits webpage.

2.05 Rent Limitations and Preferences

A. Maximum Gross Rents

Limitations on the amount of rent that may be charged for each unit will remain in place for a minimum of the term of the loan or declaration. Rents for units assisted with Housing Infrastructure resources may not exceed the Affordable to Local Workforce rent limits published by Minnesota Housing. Lower rent limits may be required for all or some of the units based on Minnesota Housing's funding priorities. If any of the assisted units are the subject of project-based or tenant-based rental assistance such as Section 8 or a similar state or local government rental assistance program or private organization or a Housing Support Agreement, such units are deemed to satisfy the rent restrictions. Rents are gross rents that include an allowance for tenant paid utilities. An acceptable utility allowance is determined by the Section 8 public housing authority (PHA) utility allowance for vouchers and must be updated annually.

B. Minimum Term

The rent restrictions for the assisted units are in effect for a minimum of the term of loan or declaration.

C. Preference

Statute gives preference to projects that will provide housing with rents affordable at or below 30% of the area median income. Minnesota will prioritize proposals that achieve this preference and demonstrate financial feasibility.

If there are other funding sources for the project, there may be additional rent limitations.

2.06 Tenant Selection Plan

Minnesota Housing requires all properties financed with applicable Minnesota Housing program and funding sources to have a Tenant Selection Plan (TSP). A list of program and funding sources, as well as TSP best practices and performance requirements, can be found on Minnesota Housing's Tenant Election Plan Guidelines webpage.

Chapter 3 – Loan Characteristics and Terms

Minnesota Housing primarily selects projects for a loan to be made with the proceeds of HIBs, when, as and if issued by Minnesota Housing, or HIA funds, during Minnesota Housing's annual Multifamily Consolidated RFP/HTC Funding Round process. Minnesota Housing underwriting parameters for all projects include an analysis of financial feasibility and development costs, and a review of sponsor capacity (financial and organizational), management, marketability, and architectural requirements. Refer to Minnesota Housing's Multifamily Underwriting Standards.

3.01 Fees

Please review the Multifamily Loan Programs and Housing Tax Credit Fee Schedule for all applicable fees associated with Housing Infrastructure resources.

3.02 Mortgage Interest Rate and Term

Loans are made as a 0% deferred payment loan unless a higher interest rate is necessary to allow Housing Infrastructure resources to be used with other funding sources. Principal and interest, if any, may be due and payable at the end of the loan term, which is typically 30 years.

3.03 Cash Flow Note

Minnesota Housing may, at its sole discretion, require a cash flow note. More information regarding the cash flow note requirement can be found in the Multifamily Underwriting Standards.

3.04 HIB Loan Types

This section only applies to Housing Infrastructure Bond proceeds.

A. Tax-Exempt Volume Limited Bond Funded

Loans are structured as deferred payment loans, repayable at maturity. HIBs issued by Minnesota Housing to fund these loans require an allocation of a portion of the state of Minnesota's volume cap on Tax-Exempt Volume Limited Bonds. Loans funded with the proceeds of this type of HIBs may help to qualify a project for 4% HTC if the proceeds of HIBs, together with the proceeds of any other Tax-Exempt Volume Limited Bonds issued to finance that project, will fund at least the Required Bond Percentage of the aggregate basis of the project plus land. The project must meet the Bond Tests Analysis discussed in Section 3.06 and the requirements of the applicable QAP. The borrower must be a for-profit entity.

Minnesota Housing, at its sole discretion, may make a short-term, Tax-Exempt Volume Limited Bond-funded bridge loan in the event that the principal amount of the HIB loan, including any portion required to be repaid at placed in service or stabilization, is not sufficient to meet the Required Bond Percentage test.

The bridge loan will have a term of approximately 18 months and will mature one month prior to maturity of the Tax-Exempt Volume Limited Bonds that fund the bridge loan. The loan may be prepaid in whole at the option of the borrower, but not earlier than one month prior to the first date that the Bonds can be redeemed at the option of Minnesota Housing (not less than 12 months after issuance); discuss with Minnesota Housing if this option is desired. The loan term may be longer based on the construction schedule and schedule of equity installments.

B. Governmental Bond Funded

Loans are structured as deferred payment loans, and will be either forgivable at maturity, if the borrower is not a governmental entity, or forgivable or repayable at maturity if the borrower is a governmental entity. HIBs issued by Minnesota Housing to fund these loans do not require an allocation of a portion of the state of Minnesota's volume cap on Tax-Exempt Volume Limited Bonds. These loans will not qualify a project for 4% HTCs. The borrower may be any type of entity.

C. 501(c)(3) Bond Funded

Loans are structured as deferred payment loans and are repayable at maturity. HIBs issued by Minnesota Housing to fund these loans do not require an allocation of a portion of the state of Minnesota's volume cap on Tax-Exempt Volume Limited Bonds. These loans do not qualify a development for 4% HTCs. The borrower must be a 501(c)(3) nonprofit organization.

3.05 HIA Loan Types

This section only applies to HIAs.

Loans are structured as deferred payment loans, either repayable or forgivable at maturity. By themselves, these loans do not qualify a development for 4% HTCs but can be used for eligible projects to fill funding gaps.

Projects that receive an allocation of Tax-Exempt Volume Limited Bonds issued to finance that project may qualify for 4% HTCs if the amount is at least the Required Bond Percentage of the aggregate basis of the project plus land. The project must meet the Bond Tests Analysis discussed in Section 3.06 and the requirements of the applicable QAP.

3.06 Bond Tests Analysis for HIB Loans

This section only applies to Housing Infrastructure Bond proceeds.

During Minnesota Housing's annual Multifamily Consolidated RFP/HTC Funding Round, applicants are required to submit a completed Bond Tests Analysis spreadsheet. This tool assists applicants in determining if the proposed project meets specific Bond tests.

A. Required bond Percentage Test

One of the major requirements for a project to preliminarily qualify for 4% HTCs is the use of the proceeds of Tax-Exempt Volume Limited Bonds to pay for at least the Required Bond Percentage of total aggregate basis of the project plus land through the placed-in-service date. To initially estimate the Bond amount required, use the following equation:

Bonds required for Required Bond Percentage test = Required Bond Percentage * (total aggregate basis + land acquisition cost)

This is a rough estimate that may be used during initial selection. The borrower should consult with their accountant to verify that the project will meet the Required Bond Percentage test as required by Section 42.

B. Good Costs/Bad Costs

Certain eligible development costs, also known as good costs, may be allocated to the proceeds of Tax-Exempt Bonds, while other ineligible (bad) costs may not. There must be sufficient good costs to support the final loan amount.

Good costs and bad costs are listed on the Bond Tests Analysis spreadsheet under the Bond Costs from Workbook tab. Some bad costs will not automatically categorize and will need to be adjusted manually. For example, developer fees, general contractor overhead and profits (such as amounts not payable by the general contractor to a third party), or architect's fees are considered bad costs when there is an identity of interest between the borrower and one of these parties, since payments to related parties (as defined by federal tax law) are not eligible to be financed with the proceeds of Tax-Exempt Bonds.

NOTE: For a project to qualify for an HIB loan, there must be sufficient other (non-Bond funded) sources to allocate to bad costs.

NOTE: Special attention should be paid to the good cost/bad cost analysis for projects that are governmental bonds or 501(c)(3) bonds funded as described in Section 3.04. Under these loan structures, the HIB loan may be a substantial portion of the total project sources. Thus, it is important to analyze if there are other (non-Bond funded) sources to allocate to bad costs. Further, these structures do not include participation of a tax credit investor as part of the ownership entity and increase the likelihood of an identity of interest between the borrower and the developer.

The **Bond Tests Analysis, Bond Costs from Workbook** tab calculates the anticipated amount of good costs and, for Tax-Exempt Volume Limited Bond funded loans, the amount of Tax-Exempt Volume Limited Bonds needed to meet the Required Bond Percentage test (the total aggregate basis + land amount), plus a 3% buffer. If the former is not at least equal to the latter, there are not enough good costs to support the amount of Bonds needed to meet the Required Bond Percentage test.

If a project contains commercial or non-residential space, costs related to those portions of the development are considered bad costs.

If at any time during post-selection there are updates to good/bad costs, submit that information to the Minnesota Housing underwriter who is assigned to your project. Minnesota Housing's finance and Bond counsel make the final determination of good costs. Minnesota Housing's counsel must determine there are adequate good costs to support the amount of Bonds; however, Minnesota Housing finance and Bond counsel make no determination about the Required Bond Percentage test for purposes of housing tax credits eligibility. The Required Bond Percentage test is determined by the borrower's accountant.

C. Ownership Assessment

Organizational charts for the current and future ownership entities showing the ownership percentage, cash flow, and residuals must be sent to Minnesota Housing post-selection. Refer to Appendix A for sample organizational charts pre- and post-sale.

NOTE: If the developer is a related party to the borrower, the developer fee may be ineligible to be financed with Bond proceeds. Special attention should be paid to the good cost/bad cost Test due to the potential of developer fees, general contractor overhead and profits (such as amounts not payable by the general contractor to a third party), or architect's fees not being eligible to be reimbursed with Bond proceeds. Projects financed with governmental or 501(c)3 Bonds should evaluate this carefully as these structures will not include a tax credit investor as a limited partner, thus increasing the likelihood of an identify of interest between the borrower and developer.

D. Rehabilitation/Acquisition Ratio

Rehabilitation expenditures must equal or exceed 15% of the portion of the cost of acquiring the building financed by Bonds.

$$\frac{\text{rehabilitation costs}}{\text{(building acquisition – land cost) financed by Bonds}}$$

This calculation is included in the Bond Costs from Workbook tab of the **Bond Tests Analysis.**

E. Bond Income Restrictions

If the project is funded with a 4% HTC financial structure, units must be income-restricted to meet the requirements of the elected minimum set-aside in accordance with Section 42 and Section 142(d). This restriction is in addition to income limits applicable to projects financed with the proceeds of HIBs and associated with any other funding sources financing costs of the project.

F. State Requirements Applicable to Tax-Exempt Volume Limited Bonds

- Fair market rents: At least 20% of units must have rents at or below FMR or exception FMR for existing housing. Units that have project-based federal rental assistance (for example, Section 8) are deemed to meet this condition.
- Rental Assistance: The borrower is obligated to extend any existing rental assistance agreements for the maximum term permitted.
- Term of State requirements: The borrower must maintain the maximum rental rates and income levels for 15 years.

G. Scattered Site Projects

For a scattered site development, each separate site must meet the income set-aside, the Required Bond Percentage test, the rehabilitation cost test, the Good Cost/Bad Costs test, and Minnesota's fair market rent test.

3.07 Underwriting and Post-Selection HIB Process

This section only applies to Housing Infrastructure Bond proceeds.

A. Reimbursement Declaration

After selection, Minnesota Housing will execute a declaration of intent to reimburse costs of the project from the proceeds of HIBs and/or other Tax-Exempt Volume Limited Bonds. That declaration of intent allows eligible expenses incurred and paid up to 60 days prior to execution of the declaration to be reimbursed with the proceeds of HIBs. Some preliminary expenditures are reimbursable even if incurred and paid earlier (for example, architect, engineering, surveying, soil testing), but not land acquisition or site preparation. The reimbursement declaration does not expire.

NOTE: If land or existing structures are or have been acquired by the borrower, or a related party to the borrower, before 60 days prior to the execution of the reimbursement declaration, those costs are ineligible to be financed with Bond proceeds. Special attention should be paid to the Good Cost/Bad Cost analysis due to the potential of acquisition costs not being eligible to be reimbursed with Bond proceeds. Projects financed with governmental or 501(c)(3) Bonds should evaluate this carefully as there may not be sufficient other (non-Bond funded) sources to pay for acquisition costs if ineligible to be reimbursed with Bond proceeds.

B. Tax Equity and Fiscal Responsibility (TEFRA) Hearing

Minnesota Housing will give notice and hold a TEFRA public hearing for all projects to be financed with the proceeds of HIBs and/or other Tax-Exempt Volume Limited Bonds. The principal amount of Bonds stated in the notice of the TEFRA hearing may include a buffer over the anticipated amount of the Bonds needed to fund each loan. Following the TEFRA public hearing, Minnesota Housing will request the governor to approve the issuance of Bonds for each project. The Bonds must be issued within one year of the governor's approval or another approval must be requested and obtained.

C. Tax-Exempt Bond Issuance

The proceeds of HIBs usually will finance loans for multiple projects. Neither the principal nor interest, if any, to be repaid with respect to the loans nor the property financed are security for repayment of the HIBs. For approval purposes, a loan made from the proceeds of HIBs is processed in the same manner as a deferred loan. Minnesota Housing's internal Mortgage Credit Committee approval is required for the loan, and after initial selection, additional Minnesota Housing board approval is not typically required.

The funding of the loans, however, will be dependent upon, and will not occur until, the issuance of HIBs. Minnesota Housing's ability to issue HIBs is dependent on Minnesota Management and Budget providing updated disclosure with respect to the state of Minnesota and its finances. Currently, that disclosure is only prepared when the state issues its Bonds in late summer or early fall.

Minnesota Housing's board resolution approving the issuance of HIBs will identify each development that is authorized to be financed with the proceeds of those HIBs.

D. Minnesota Statute 474A.047 Compliance

Prior to loan closing, projects with an existing project-based federal rental assistance payment contract must enter into a binding agreement with Minnesota Housing to extend affordability restrictions and any contract or agreement for rental assistance for the maximum term permitted. Minnesota Housing must also certify, based on information certified to Minnesota Housing by the borrower, that project reserves will be maintained at the closing of the loan and budgeted in future years at the lesser of:

- The greater of 40% of the outstanding first mortgage or $5,000 per unit; or
- The level of project reserves available prior to closing of the loan, provided that additional money is available to accomplish repairs and replacements needed at the time of loan closing

3.08 Post Closing HIB Process

This section only applies to Housing Infrastructure Bond proceeds.

Bond Compliance Agreement or Tax Exemption Agreement. The provisions of the Bond Compliance Agreement relating to income and rent requirements begin on the date 10% of units are first occupied and continue, regardless if the loan is prepaid or assumed, through the later of:

- The date the Bonds are paid in full, or
- 15 years from date 50% of units are first occupied, or
- Termination of Section 8 contract, if any.

The Bond Compliance Agreement is required in connection with any loan, made from the proceeds of Tax-Exempt Volume Limited Bonds. It is also required for deferred repayable loans made from the proceeds of HIBs to an entity that is a 501(c)(3) corporation for acquisition and rehabilitation of a project. The Tax Exemption Agreement is required in connection with any other type of loan made with the proceeds of HIBs and terminates when the HIBs have been paid in full.

Minnesota Housing's asset manager monitors the property for compliance under the Bond Compliance Agreement. The Bond Compliance Agreement must be an attachment to the Management Agreement, and the Management Agreement must contain a provision requiring the manager of the project to comply with the provisions of the Bond Compliance Agreement.

Additional monitoring requirements include:

- **Exhibit B of the Bond Compliance Agreement.** The document is required to be completed when 50% of the units in the project are occupied. Exhibit B is used to document the Bond Compliance Agreement's:
  - Commencement date
  - End dates of occupancy restriction and rental restrictions
- **Annual Certifications.** During the compliance period, the following forms may need to be submitted annually to Minnesota Housing (refer to Bond Compliance Agreement):
  - IRS Form 8703
  - Certification of Compliance with 474A.047
- **Financial Reporting and Annual Inspections.** In addition to the annual certification, the following financial reporting and oversight may be required by Minnesota Housing:
  - Submit monthly operating reports

- Annual budget approvals
- Annual inspections by a Minnesota Housing asset manager

3.09 Transfers of Ownership and Prepayment

A. Transfers of Ownership

The project may not be sold, and in connection with any sale the loan may not be assumed by the new owner, without the approval of Minnesota Housing. The borrower must request the approval through Minnesota Housing's Request for Action (RFA) process. Minnesota Housing, at its sole discretion, will consider giving that approval only if the following minimum requirements are met:

- The borrower is not in default under any of its agreements with Minnesota Housing
- The new entity is eligible to receive a loan from the proceeds of HIBs of the type that financed the original loan as set forth in Section 2.02
- The new entity is creditworthy, at Minnesota Housing's sole discretion
- The new entity assumes all contractual obligations with Minnesota Housing
- An assumption fee is paid equal to the approximate administrative costs incurred by Minnesota Housing in processing the sale and assumption

B. Prepayment and Assumption

For forgivable Housing Infrastructure loans, the loan may not be prepaid for a period of 10 years from the date of the loan. Thereafter, the loan may be repaid in full at any time. For repayable HIB loans, the borrower may prepay the unpaid principal amount, in whole or in part, with the prior written approval of Minnesota Housing, by paying a sum equal to the unpaid principal amount and interest (if any) to the date of repayment, plus a processing fee in an amount to be determined by the Lender in its sole discretion, but not exceeding the approximate administrative costs incurred by Minnesota Housing in processing the prepayment. The covenants and conditions in the declarations run with the land and will remain in effect for the term of the declarations even if the loan is paid in full or an assumption of the loan is permitted.

3.10 Return on Equity

Minnesota Housing statutes currently allow a maximum return of 15% based on actual borrower equity, as determined by Minnesota Housing.

3.11 Management and Operation

A. Management and Operating Budget

The budget submitted in the application is reviewed and compared to budgets of comparable projects that have been financed by Minnesota Housing. These comparables are used in the underwriting of the loan and to project long-term operating costs and help ensure the long-term financial viability of the project. For more information, refer to the Minnesota Housing Multifamily Underwriting Standards.

Minnesota Housing reserves the right to reject or adjust the management and operation figures based on the information provided, specific project type and circumstances, and significant changes to the economics of the project's current marketplace.

B. Utilization of Units

All units must be rented to family sizes appropriate to the unit size, with a ratio of at least one person per bedroom. If, during tenancy, a family size changes, a household may submit a written request to the management agent to transfer to another unit or be placed on a waiting list for that transfer. In the event of a decrease in family size, the household may be required to move into the next available, suitably sized smaller unit.

C. Marketing

Minnesota Housing requires that each housing provider carry out an affirmative marketing program to attract prospective buyers or tenants in the housing market area regardless of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, familial status, gender identity, or sexual orientation. The owner or management agent must submit a Tenant Selection Plan, Affirmative Fair Housing Marketing Plan, and an Affirmative Housing Marketing Plan Addendum.

D. Permanent Supportive Housing Documentation

At application, the borrower must submit a Permanent Supportive Housing Narrative, a Letter of Confirmation from the local (county or tribal) human services department, and a Continuum of Care (CoC) Confirmation (if applicable) form. Prior to loan closing, the borrower must submit, among other items, a management plan, a supportive housing services budget, a supportive housing services plan, a memorandum of understanding and any other documentation deemed necessary for Minnesota Housing staff review and approval. For a complete list of requirements, please contact the Minnesota Housing Supportive Housing Team at supportive.housing@state.mn.us.

3.12 Monitoring and Reporting Requirements

For all loans funded with Housing Infrastructure resources, monitoring activities are at Minnesota Housing's discretion and may include reviewing tenant incomes, rents, utility allowances, affirmative marketing, resident selection plans, financial reports, Homeless Management Information System data, and financial summary, compilation, or audit information. In addition, projects financed by Minnesota Housing are subject to periodic management reviews and physical inspections.

An annual owner's certification of compliance and occupancy information on all units must be reported annually in the form and manner requested by Minnesota Housing.

The owner must lease assisted units to qualified households who certify their annual household income at initial occupancy on an Initial Occupancy Statement by Tenant Form (other, more detailed income certification forms may be acceptable). This form is used to help verify that households are qualified to occupy an assisted unit. Owners must also request (but cannot require) that qualified households complete a Head of Household Demographic Information Form which provides additional information for program evaluation.

Additionally, each adult member of a household occupying an assisted unit must sign and date a Government Data Practices Act Disclosure Statement. This statement informs the tenant that their annual household income and other information will be reported to Minnesota Housing and may be reviewed by other governmental agencies. This is required for the administration and management of state or federal programs that provide housing for low- and moderate-income families.

All relevant forms can be found on Minnesota Housing's Oversight and Support for Property Managers webpage.

A. Senior

As referenced in Section 2.02, for projects to qualify units for a loan funded with Housing Infrastructure resources under the Senior Housing-eligible use, units in the project must be leased to a Senior Household with one or more Senior members age 55 or older, with a gross annual combined income that does not exceed 50% of metropolitan area median for properties within the Metropolitan Area or statewide area median income for properties outside the Metropolitan Area.

B. Permanent Supportive Housing

Minnesota Housing requires owners and service providers of permanent supportive housing units to provide specific information beyond general funding reporting requirements. These include, but are not limited to, entering and reporting participant information in Minnesota's Housing Management Information System (HMIS); reporting annually to Minnesota Housing on the operations of the property through an annual budget and financial review and a supportive housing annual online property survey; and periodic inspections by an asset manager or compliance officer that follows the schedule approved by the Minnesota Housing board for deferred loans or the HTCs schedule, if the loan is eligible for housing tax credits. For a complete list of requirements, please contact the Minnesota Housing Supportive Housing Team at supportive.housing@state.mn.us.

Appendix A: Sample Organizational Charts

Figure 1: Original Structure of Seller (From Initial Closing – Date)

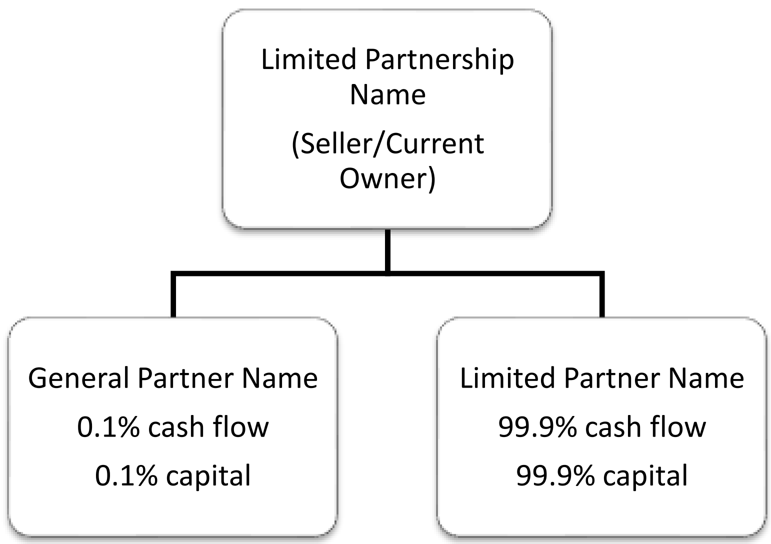


Figure 2: Structure of Seller Following Exit of Limited Partner (as of Date)

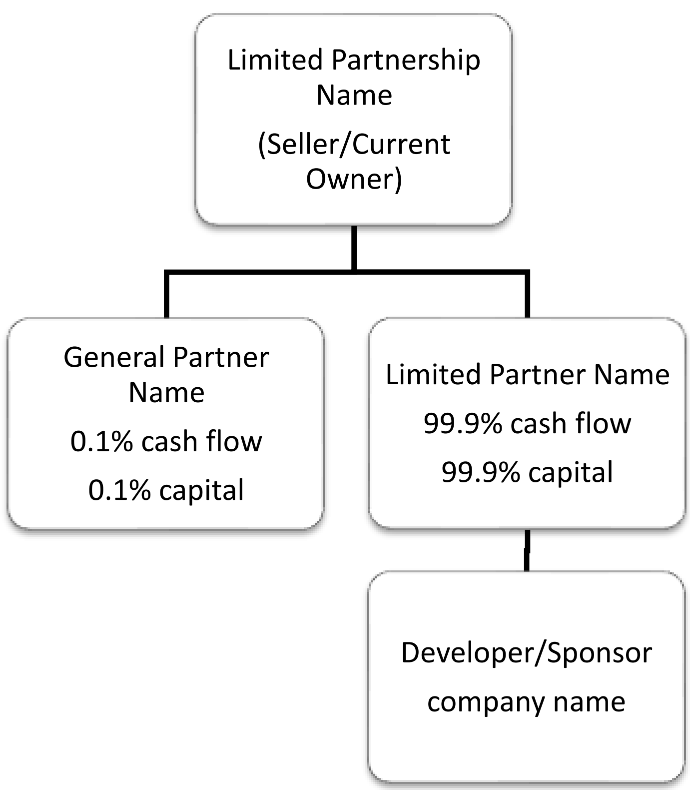
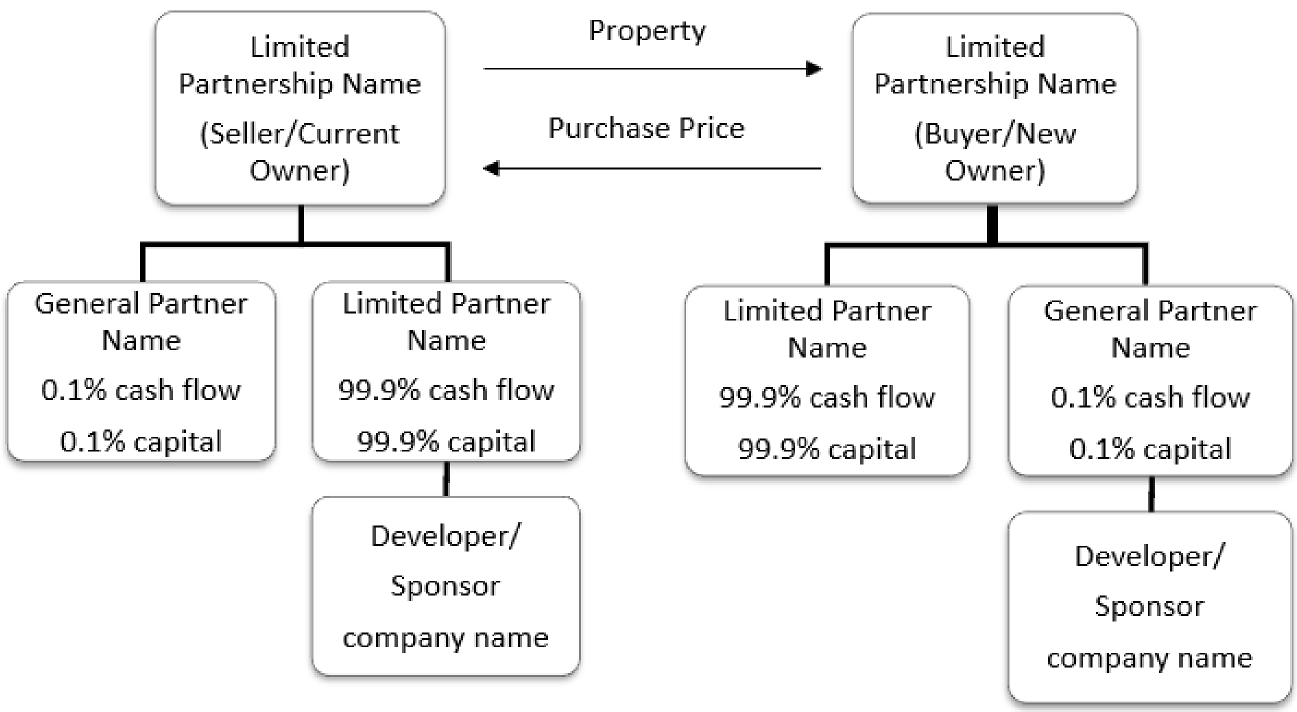


Figure 3: Structures as of Closing Date for Sale of Project



Appendix B: Terms

Term	Definition
4% Housing Tax Credits	Non-competitive housing tax credits (HTC) that subsidize 30 percent of the low-income unit costs in a project. Multifamily housing projects qualify for if Tax-Exempt Volume Limited Bonds finance at least the Required Bond Percentage of the aggregate basis of the building and land and are outstanding at least until the housing project's placed-in-service date. Multifamily housing projects also must meet the requirements of the applicable year QAP.
9% Housing Tax Credits	Competitive housing tax credits (HTC) that subsidize 70 percent of the low-income unit costs in a project. The total number allocated is limited by the state's annual per capita volume limit. Multifamily housing projects also must meet the requirements of the applicable year QAP.
Affordable to the Local Workforce	Statutory rent limit requiring that the rents to be affordable based on the wages of jobs being created or retained in the local area.
Appropriation	Direct legislative appropriation (cash) provided under the HIB statute to fund loans for projects meeting HIB eligible uses.
Bond	A debt investment in which an investor loans money to an entity (typically corporate or governmental) that borrows the funds for a defined period of time at a variable or fixed interest rate. Bonds are used by companies, municipalities, states, and sovereign governments to raise money and finance a variety of projects and activities. Owners of Bonds are debtholders, or creditors, of the issuer.
Bond Tests Analysis	The Microsoft Excel spreadsheet required for all applications eligible for HIB that provides a preliminary analysis of several of the required tests that must be met for Tax-Exempt Bonds including the good cost/bad cost and 50% tests.
Coordinated Entry System	The system defined by the Statewide Coordinated Entry standards and protocol as adopted by the local Continuum of Care or such successor system as determined by Minnesota Housing.
Continuum of Care (CoC)	A local planning body that coordinates housing and services planning and funding for homeless families and individuals. The CoC tracks and manages the homeless needs and services in its area.
High Priority Homeless (HPH)	Households prioritized for permanent supportive housing by the Coordinated Entry System.

Term	Definition
Housing Infrastructure	Collective, HIAs and HIBs
Housing Infrastructure Appropriations (HIAs)	Appropriations from the General Fund of the state that are made available to Minnesota Housing that may be used to fund loans and grants that conform to the provisions of Minnesota Statute 462A.37.
Housing Infrastructure Bonds (HIB)	HIBs are special, limited obligation, Tax-Exempt Bonds issued by Minnesota Housing, the principal and interest on which are paid solely from appropriations to Minnesota Housing from the General Fund of the state. For more information on HIB, refer to the Housing Infrastructure webpage.
Housing Management Information System (HMIS)	A web based information technology system used to collect client-level data on the provision of housing and services to individuals and families experiencing or at risk of homelessness.
HTC	Housing Tax Credits – A financing program for qualified residential rental properties. The HTC program offers investors a 10-year reduction in tax liability in exchange for capital to build eligible affordable rental housing units in new construction, rehabilitation, or acquisition with rehabilitation.
Internal Revenue Code (IRC)	The Internal Revenue Code (IRC) refers to Title 26 of the United States Code. The Internal Revenue Code is enforced by the Internal Revenue Service (IRS).
Metropolitan Area	The area over which the Metropolitan Council has jurisdiction, including the counties of Anoka; Carver; Dakota (excluding the cities of Northfield and Cannon Falls); Hennepin (excluding the cities of Hanover and Rockford); Ramsey; Scott (excluding the city of New Prague); and Washington.
Minnesota Housing or Agency	Minnesota Housing Finance Agency
Minnesota Management and Budget	The State of Minnesota Department that administers the allocation of private activity bond volume cap in accordance with the provision of Minnesota Statutes, Chapter 474A.
Mortgage Credit Committee	A Minnesota Housing cross-divisional management group that approves credit analysis, ownership structures and financing of projects for multifamily loans and related matters.

Term	Definition
Multifamily Consolidated RFP/HTC Funding Round	Multifamily Consolidated Request for Proposals/Housing Tax Credits funding round offered once a year which consolidates and coordinates multiple housing resources into one application process, including deferred loans and amortizing first mortgages.
Multifamily Underwriting Standards	The Underwriting Standards sets forth the standards and processes that Minnesota Housing will use to underwrite Multifamily rental properties.
Municipal Bond	A debt security issued by or on behalf of a state or its political subdivision, or an agency or instrumentality of a state, its political subdivision, or a municipal corporation. Municipal Bonds, for example, may be issued by states, cities, counties, special tax districts or special agencies or authorities of state or local governments.
Other Homeless Households	Households, other than High Priority Homeless households, that include (i) individuals leaving institutions that do not have a permanent residence or (ii) other homeless populations not referred by the Coordinated Entry System.
Private Activity Bonds	A Municipal Bond issued to fund projects used by a non-governmental entity in its trade or business and secured by property used in a trade or business. Certain types of these obligations may qualify as Tax-Exempt Bonds and bear interest excludable from federal gross income.
Program Guide	Housing Infrastructure Program Guide
QAP	Qualified Allocation Plan. Section 42 of the Internal Revenue Code requires that state allocating agencies develop a QAP for the distribution of housing tax credits within their jurisdiction. The current and proposed QAPs for each calendar year are available on Minnesota Housing's Qualified Allocation Plan (QAP) webpage.
Replacement	New construction housing which replaces units with project-based federal rental assistance or supportive housing units that will be demolished. Replacement housing units must be built on the same site or a contiguous site. For the purpose of this definition, sites across the street from one another will be considered contiguous. The contiguity requirement is not applicable for existing scattered site projects located on Tribal land.
Required Bond Percentage	The percentage of aggregate basis of the building and land required by Section 42 to be financed by Tax-Exempt Volume Limited Bonds.
Section 142(d)	Section of the Internal Revenue Code that describes what constitutes a qualified residential rental project.

Term	Definition
Section 42	Section of the Internal Revenue Code applicable to the low-income housing tax credit (LIHTC).
Self-Scoring Worksheet	The Self-Scoring Worksheet sets the selection criteria and funding priorities that Minnesota Housing will use to prioritize applications requesting 4% Housing Tax Credits (HTCs), 9% HTCs, and/or deferred funds that are selected through the Multifamily Consolidated Request for Proposals (Consolidated RFP) or on a pipeline basis for available financing that may be available throughout the year.
Senior	A person 55 years of age or older
Senior Household	A household with one or more Senior members and with an annual combined income not greater than 50 percent of: (1) the metropolitan area median income for persons in the metropolitan area; or (2) the statewide median income for persons outside the metropolitan area.
Senior Housing	Housing intended and operated for occupancy by Senior Households with at least 80 percent of the units occupied by Senior Households, and for which there is publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for Seniors.
Tax-Exempt Bonds	A Municipal Bond that bears interest excludible from federal gross income, and that may also not be subject to state or local income taxation.
Tax-Exempt Volume Limited Bonds	A Municipal Bond that must receive an allocation of a portion of the state's volume cap for the issuance of Private Activity Bonds under Section 146 of the Internal Revenue Code in order to qualify as Tax-Exempt Bonds.
TEFRA	Tax Equity and Fiscal Responsibility Act of 1982. Certain types of Private Activity Bonds, to qualify as Tax-Exempt Bonds, must be approved (TEFRA approval) either by an elected official or a body of elected officials of the applicable governmental entity after a public hearing (TEFRA hearing) following reasonable public notice (TEFRA notice) or by voter referendum of the governmental entity.
Workbook	The Microsoft Excel spreadsheet used to apply for Minnesota Housing multifamily funding.

Appendix C: Legal Addendum

1.01 Conflict and Control

In the event of any conflict between the terms of this Addendum and the document to which it is attached, the terms of this Addendum will govern and control.

1.02 Fraud

Fraud is any intentionally deceptive action, statement or omission made for personal gain or to damage another.

Any person or entity (including its employees and affiliates) that enters into a contract with Minnesota Housing and witnesses, discovers evidence of, receives a report from another source or has other reasonable basis to suspect that fraud or embezzlement has occurred must immediately make a report through one of the communication channels described in section 1.07.

1.03 Misuse of Funds

A contracting party that receives funding from Minnesota Housing promises to use the funds to engage in certain activities or procure certain goods or services while Minnesota Housing agrees to provide funds to the recipient to pay for those activities, goods or services. Regardless of the Minnesota Housing program or funding source, the recipient must use Minnesota Housing funds as agreed, and the recipient must maintain appropriate documentation to prove that funds were used for the intended purpose(s).

A misuse of funds shall be deemed to have occurred when: (1) Minnesota Housing funds are not used as agreed by a recipient; or (2) a recipient cannot provide adequate documentation to establish that Minnesota Housing funds were used in accordance with the terms and conditions of the contract.

Any recipient (including its employees and affiliates) of Minnesota Housing funds that discovers evidence, receives a report from another source or has other reasonable basis to suspect that a misuse of funds has occurred must immediately make a report through one of the communication channels described in section 1.07.

1.04 Conflict of Interest

A conflict of interest – actual, potential or perceived – occurs when a person has an actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A potential or perceived conflict of interest exists even if no unethical, improper or illegal act results from it.

An individual conflict of interest is any situation in which one's judgment, actions or non-action could be interpreted to be influenced by something that would benefit them directly or through indirect gain to a Partner, Family Member, Relative, Friend, Business or other Outside Interest with which they are involved. Such terms are defined below.

<u>*Actual Conflict of Interest</u>: An Actual Conflict of Interest occurs when a person's decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.

<u>*Potential Conflict of Interest</u>: A Potential Conflict of Interest may exist if a person has a relationship, affiliation or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations or interests.

<u>*Partner</u>: A person's romantic and domestic partners and outside business partners.

<u>*Family Member</u>: A person's current and former spouse; children, parents, and siblings; current and former children-in-law, parents-in-law, and siblings-in-law; current and former stepchildren and stepparents; grandchildren and grandparents; and members of the person's household.

<u>*Relative</u>: Uncle or aunt; first or second cousin; godparent; godchild; other person related by blood, marriage or legal action with whom the individual has a close personal relationship.

<u>*Friend</u>: A person with whom the individual has an ongoing personal social relationship. "Friend" does not generally include a person with whom the relationship is primarily professional or primarily based on the person being a current or former colleague. "Friend" does not include mere acquaintances (i.e., interactions are coincidental or relatively superficial). Social media friendships, connections, or links, by themselves, do not constitute friendship.

<u>*Business</u>: Any company, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages either in nonprofit or profit-making activities.

<u>*Outside Interest</u>: An Outside Interest may occur when an individual, their Family Member or their Partner has a connection to an organization via employment (current or prospective), has a financial interest or is an active participant.

Once made aware of a conflict of interest, Minnesota Housing will make a determination before disbursing any further funds or processing an award. Determinations could include:

- Revising the contracting party's responsibilities to mitigate the conflict
- Allowing the contracting party to create firewalls that mitigate the conflict

- Asking the contracting party to submit an organizational conflict of interest mitigation plan
- Terminating the contracting party's participation

Any person or entity (including its employees and affiliates) that enters into a contract with Minnesota Housing must avoid and immediately disclose to Minnesota Housing any and all actual, potential or perceived conflicts of interest through one of the communication channels described in section 1.07.

A contracting party should review its contract and request for proposals (RFP) material, if applicable, for further requirements.

1.05 Assistance to Employees and Affiliated Parties

Any party entering into a contract with Minnesota Housing for the purpose of receiving an award or benefit in the form of a loan, grant, combination of loan and grant or other funding is restricted in issuing a loan, grant, combination of loan and grant or other funding to a recipient ("Affiliated Assistance") who is also: (1) a director, officer, agent, consultant, employee or Family Member of an employee of the contracting party; (2) an elected or appointed official of the State of Minnesota; or (3) an employee of Minnesota Housing, unless each of the following provisions are met:

- The recipient meets all eligibility criteria for the program;
- The assistance does not result in a violation of the contracting party's internal conflict of interest policy, if applicable;
- The assistance does not result in a conflict of interest as outlined in section 1.04;
- The assistance is awarded utilizing the same costs, terms and conditions as compared to a similarly situated unaffiliated recipient and the recipient receives no special consideration or access as compared to a similarly situated unaffiliated recipient; and
- The assistance is processed, underwritten and/or approved by staff/managers who are independent of the recipient and independent of any Family Member of the recipient. Family Member is defined in section 1.04.

A contracting party need not disclose Affiliated Assistance to Minnesota Housing. However, the contracting party must document and certify, prior to the award, that the Affiliated Assistance meets each of the provisions outlined above. This documentation must be included in the Affiliated Assistance file and must be made available to Minnesota Housing upon request. Affiliated Assistance that does not meet each of the provisions outlined above will be considered a violation of Minnesota Housing conflict of interest standards and must be reported by the contracting party through one of the communication channels outlined in section 1.07.

1.06 Suspension

By entering into any contract with Minnesota Housing, a contracting party represents that the contracting party (including its employees or affiliates that will have direct control over the subject of the contract) has not been suspended from doing business with Minnesota Housing. Please refer to Minnesota Housing's website for a list of suspended individuals and organizations (Go to mnhousing.gov, scroll to the bottom of the screen and select Report Wrongdoing, then select Suspensions from the menu).

1.07 Disclosure and Reporting

Minnesota Housing promotes a "speak-up, see something, say something" culture whereby internal staff must immediately report instances of fraud, misuse of funds, conflicts of interest or other concerns without fear of retaliation through one of the communication channels listed below. External business partners (e.g., administrators, grantees or borrowers) and the general public are strongly encouraged to report instances of fraud, misuse of funds, conflicts of interest or other concerns without fear of retaliation using these same communication channels.

- Minnesota Housing's Chief Risk Officer at 651.296.7608 or 800.657.3769 or by email at MHFA.ReportWrongdoing@state.mn.us;
- Any member Minnesota Housing's Servant Leadership Team, as denoted on Minnesota Housing's current organizational chart (Go to mnhousing.gov, scroll to the bottom of the screen and select About Us, select Servant Leadership Team); or
- Report Wrongdoing or Concerns (mnhousing.gov) (Go to mnhousing.gov, scroll to the bottom of the screen and select Report Wrongdoing).

1.08 Electronic Signatures

Minnesota Housing will use and accept e-signatures on eligible program documents subject to all requirements set forth by state and federal law and consistent with Minnesota Housing policies and procedures. The use of e-signatures for eligible program documents is voluntary. Questions regarding which documents Minnesota Housing permits to be e-signed should be directed to Minnesota Housing staff.

1.09 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, gender identity or sexual orientation.

Minnesota Housing's fair housing policy incorporates the requirements of Title VI of the Civil Rights Act of 1968; the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendment Act of 1988; and the Minnesota Human Rights Act. Housing providers and other entities involved in real-estate related transactions are expected to comply with the applicable statutes, regulations and related policy guidance. Housing providers should ensure that admissions, occupancy, marketing and operating procedures comply with non-discrimination requirements. Housing providers and other entities involved in real-estate related transactions must comply with all non-discrimination requirements related to the provision of credit, as well as access to services.

In part, the Fair Housing Act and the Minnesota Human Rights Act make it unlawful, because of protected class status, to:

- Discriminate in the selection/acceptance of applicants in the rental of housing units;
- Discriminate in the making or purchasing of loans for purchasing, constructing or improving a dwelling, or in the terms and conditions of real-estate related transactions;
- Discriminate in the brokering or appraisal of residential property;
- Discriminate in terms, conditions or privileges of the rental of a dwelling unit or services or facilities;
- Discriminate in the extension of personal or commercial credit or in the requirements for obtaining credit;
- Engage in any conduct relating to the provision of housing that otherwise make unavailable or denies the rental of a dwelling unit;
- Make, print or publish (or cause to make, print or publish) notices, statements or advertisements that indicate preferences or limitations based on protected class status;
- Represent a dwelling is not available when it is in fact available;
- Refuse to grant a reasonable accommodation or a reasonable modification to a person with a disability;
- 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; or
- Engage in harassment or quid pro quo negotiations related to the rental of a dwelling unit.

Minnesota Housing has a commitment to affirmatively further fair housing for individuals with disabilities by promoting the accessibility requirements set out in the Fair Housing Act, which establish design and construction mandates for covered multifamily dwellings and requires those in the business of buying and selling dwellings to make reasonable accommodations and to allow persons with disabilities to make reasonable modifications.

Under certain circumstances, applicants will be required to submit an Affirmative Fair Housing Marketing Plan at the time of application, to update the plan regularly and to use affirmative fair housing marketing practices in soliciting renters, determining eligibility and concluding all transactions.

As a condition of funding through Minnesota Housing, housing providers are not permitted to refuse to lease a unit to, or discriminate against, a prospective resident solely because the prospective resident has a Housing Choice Voucher or other form of tenant-based rental assistance.

1.10 Minnesota Government Data Practices

Minnesota Housing, and any party entering into a contract with Minnesota Housing, must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by Minnesota Housing under the contract, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by the contracting party under the contract. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this section by either the contracting party or Minnesota Housing. If the contracting party receives a request to release the data referred to in this section, the contracting party must notify Minnesota Housing. Minnesota Housing will give the contracting party instructions concerning the release of the data to the requesting party before the data is released. The contracting party’s response to the request shall comply with applicable law.

1.11 Prevailing Wage

Under certain circumstances, awards of Minnesota Housing funds may trigger state prevailing wage requirements under Minnesota Statutes Chapter 177 or Minnesota Statutes Section 116J.871. In broad terms, Minnesota Statutes Chapter 177 applies to an award of $25,000 or greater for housing that is publicly owned. Minnesota Statutes Section 116J.871 applies to awards for non-publicly owned housing that meet the following conditions: (1) new housing construction (not rehabilitation); (2) a single entity receives from Minnesota Housing $200,000 or more of grant proceeds or $500,000 of loan proceeds.

Minnesota Statutes Section 116J.871 sets out several exceptions to the applicability of prevailing wage including (1) rehabilitation of existing housing; (2) new housing construction in which total financial assistance at a single project site is less than $100,000; and (3) financial assistance for the new construction of fully detached single-family affordable homeownership units for which the financial assistance covers no more than ten fully detached single-family affordable homeownership units.

All determinations regarding prevailing wage are made by the Minnesota Department of Labor and Industry. All questions regarding state prevailing wages and compliance requirements should be directed to that agency as follows:

Division of Labor Standards and Apprenticeship
Karen Bugar, State Program Administrator
443 Lafayette Road N, St. Paul, MN 55155
651.284.5091 or dli.prevwage@state.mn.us

If, after a determination by the Minnesota Department of Labor that prevailing wage does apply, a contractor or subcontractor fails to adhere to prevailing wage laws, then that contractor or subcontractor could face civil and/or criminal liability.