



Publicly Owned Housing Program

Program Guide

January 2024



The Minnesota Housing Finance Agency does not discriminate on the basis of race, color, creed, national origin, sex, religion, marital status, status with regard to public assistance, disability, familial status, gender identity, or sexual orientation in the provision of services.

An equal opportunity employer.

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

Table of Contents

Values Statement	1
Chapter 1 – Program Background and Purpose	2
1.01 Program Background and Purpose.....	2
1.02 Funding Availability.....	2
1.03 Definitions.....	2
1.04 Legal Addendum	3
Chapter 2 - Eligibility Criteria	4
2.01 Property	4
2.02 Owner	4
2.03 Income Limits.....	4
2.04 Eligible Use(s) of Funds	5
2.05 Ineligible Use(s) of Funds	5
Chapter 3 - Application Requirements.....	6
3.01 Applicant Responsibilities	6
3.02 Application Deadline/Application Submission	6
3.03 Application Content	6
3.04 Scope of Work.....	7
3.05 Leverage.....	8
3.06 Relocation Plan	8
Chapter 4 - Selection Process	10
4.01 Review of the POHP Application	10
4.02 Selection Notification.....	10
Chapter 5 – Post-Selection Processing, Loan Terms and Conditions.....	11

5.01	Intake and Technical Assistance Kickoff Meeting.....	11
5.02	Due Diligence Checklists	11
5.03	Issuance of Loan Commitment/Loan Closing	11
5.04	Loan Types	11
5.05	Loan Terms	12
	Chapter 6 - Design Review and Construction Management	13
6.01	Plan Review and Plan Approval.....	13
6.02	Environmental Standards.....	13
6.03	Architectural Services	14
6.04	Design-build Design and Construction Delivery	14
6.05	B3 Sustainable Building Guidelines	14
6.06	Predesign Requirements	14
6.07	Energy Rebate Analysis	15
6.08	Construction Management	15
6.09	Construction Loan – Request for Funds Process	15
	Chapter 7 - Compliance Monitoring and Reporting	17
7.01	Compliance Monitoring Requirement.....	17
7.02	Compliance Reporting Requirement.....	17
7.03	Compliance Term	17
	Appendix A – Terms.....	18
	Appendix B – Legal Addendum	20
1.01	Conflict and Control	20
1.02	Fraud.....	20
1.03	Misuse of Funds	20

1.04	Conflict of Interest	20
1.05	Assistance to Employees and Affiliated Parties.....	22
1.06	Suspension	22
1.07	Disclosure and Reporting	23
1.08	Electronic Signatures	23
1.09	Fair Housing Policy.....	23
1.10	Minnesota Government Data Practices	24
1.11	Prevailing Wage	25

Values Statement

All Minnesotans live and thrive in a stable, safe and accessible home they can afford in a community of their choice. To achieve the concept of One Minnesota where everyone thrives, we will reorient how we work and expand who has a voice at the table and who participates in and benefits from the housing economy.

We will:

- Center the people and places most impacted by housing instability at the heart of our decision making,
- Listen and share the power we have,
- Honor, respect and strengthen communities, and
- Be inclusive, equitable, just and antiracist in our action.

Chapter 1 – Program Background and Purpose

1.01 Program Background and Purpose

The Publicly Owned Housing Program (POHP) was first established by the Minnesota Legislature in 2005 to offer assistance to Housing and Redevelopment Authorities (HRAs)/Public Housing Authorities (PHAs)/Community Development Agencies (CDAs) that provide public housing to individuals and families (households with children). The purpose of POHP is to rehabilitate and preserve public housing units. POHP funds are provided in the form of a 20-year, deferred, forgivable loan to HRAs/PHA/CDAs that operate public housing.

Since 2005, POHP has received increased funding and support from the Minnesota Legislature and continues to provide assistance to HRAs/PHA/CDAs funded by the sale of General Obligation (GO) Bonds. GO Bonds are issued by Minnesota Management and Budget (MMB) and are backed by the full faith and credit of the state of Minnesota.

Minnesota Statutes sections [16A.695](#) and [462A.202](#) govern the use of GO Bond proceeds, which require the project to be owned by a state agency or political subdivision and require a public program be provided in the project. Priority uses of POHP funds include:

- Rehabilitation of public housing, particularly to address health and life safety, accessibility, energy and water efficiency/climate resiliency and sustainability, and critical needs that have an expected useful life of more than 10 years
- Improvements of a capital nature

1.02 Funding Availability

- There is no minimum or maximum loan request limit.
- Minnesota Housing may fund all or part of a project identified within the application.
- There is no minimum or maximum loan request limit. Minnesota Housing requires leveraged resources, although there is no minimum percentage required. Minnesota Housing prioritizes project proposals that maximize federal resources such as capital funds, or local (non-state) resources such as philanthropic, community foundation, and/or utility rebates.
- All HRAs/PHA/CDAs are encouraged to apply, even if they have limited, leveraged resources.

1.03 Definitions

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

1.04 Legal Addendum

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

Chapter 2 - Eligibility Criteria

2.01 Property

- The property must be public housing, defined as housing for low-income people that is financed, in whole or in part, by the federal government and owned and operated by an HRA, a PHA, or a (CDA) formed by a city or a county.
- The property must be an existing building(s).
- An HRA/PHA/CDA may apply for more than one development; the development should contain a minimum of four units. Because of the limited amount of POHP funding available, it is advisable to prioritize which development has the most imminent needs.
- All types of public housing (e.g., single family scattered site, duplexes, townhomes and high rises) are eligible to apply.
- **NOTE:** Since POHP loans are funded by GO Bonds, the property must remain in public ownership for a 35-year compliance period. As a result, POHP loans are incompatible with Rental Assistance Demonstration (RAD) transactions that involve a transfer of ownership to a non-public owner.

2.02 Owner

All applicants must satisfy the following requirements:

- The applicant must have the authority to own and operate the project, enter into the loan agreements required by Minnesota Housing, and comply with the requirements of Minnesota Statutes sections 16A.695 and 462A.202.
- The applicant must be a local unit of government such as a city, county, or HRA/PHA/CDA as defined in [Minnesota Statutes section 462C.02, subdivision 6](#).
- The applicant (public owner) must directly operate and manage the project.

2.03 Income Limits

All units in a project financed with POHP funds must be occupied by households whose income at the time of initial occupancy does not exceed the maximum household income as determined by HUD's Office of Public and Indian Housing.

A recipient of POHP funds may choose to restrict fewer than the total number of units in the development. This is an important consideration when applying for funds, as the number of restricted units will need to comply for the entire 35-year compliance period.

2.04 Eligible Use(s) of Funds

Eligible uses of funds include but are not limited to:

1. Expenditures of a capital nature such as design, rehabilitation, or major remodeling
2. Major roof reconstruction or replacement
3. Major window replacement
4. Heating and cooling system replacement
5. Elevator upgrades
6. Installation or modernization of fire alarm and/or fire suppression systems
7. Other improvements that add value or life to a building and that are not of a recurring nature. In addition, these improvements must have an intended minimum life expectancy of 10 years.
8. An application may contain multiple work items. Minnesota Housing will review these items individually and determine how they pertain to the stated priorities of the program (health and life safety; accessibility; energy and water efficiency/climate resiliency and sustainability; critical needs).
9. Applicants may request a project management fee not to exceed 5% of the net total development cost. The fee may be used to pay for soft costs directly related to costs associated with applying for POHP funds. Such costs may include administrative expenses, processing agent fees, or construction management fees.

NOTE: All expenditures must be project specific and considered reasonable expenses associated directly to the proposed POHP renovation project.

2.05 Ineligible Use(s) of Funds

Ineligible uses of funds include but are not limited to:

- Expenditures that are not of a capital nature, do not add value or life to a building, or are of a recurring nature
- Operating expenses and costs, reserves, market studies, up-front marketing expenses, hazard and liability insurance, legal fees not attributable to or betterment of the property, relocation expenses and other ongoing maintenance improvements
- Expenses that are incurred prior to formal Minnesota Housing board approval, with the exception of project specific, pre-renovation fees associated with scope of work development, design, or engineering specifications
- New construction of public housing

Chapter 3 - Application Requirements

3.01 Applicant Responsibilities

The applicant is responsible for understanding the submission requirements necessary for a complete application. Application materials include the application checklist, the Narrative and Certifications, the POHP Workbook and supplemental materials.

NOTE: All applicants are required to schedule at least one technical assistance meeting either in person, virtually, or via phone with POHP staff prior to submitting an application. To schedule a technical assistance meeting, contact Cheryl Rivinius at 651.296.3705 or cheryl.rivinius@state.mn.us.

Application materials are available on Minnesota Housing's [POHP webpage](#).

3.02 Application Deadline/Application Submission

A complete application must be submitted no later than the application due date in order to be considered for selection. Applications must be submitted using Minnesota Housing's Multifamily Customer Portal which is a web-based system that facilitates the application and post-selection process for developers seeking funding from Minnesota Housing for affordable rental housing.

Information about setting up an account, "how to" guides providing details on navigating the Portal, and log in access can be found on the [Multifamily Customer Portal Resources](#) webpage.

The RFP process is highly competitive in nature. A typical funding round will result in requests that far exceed the amount of funding that is available. Minnesota Housing, in its sole discretion, reserves the right to request additional information or to deem an error related to an application to be immaterial.

For each funding round, applicants must use the most current version of application forms found on Minnesota Housing's [POHP webpage](#).

3.03 Application Content

A separate, **complete application** must be submitted for each project.

The application package must include all of the following:

- POHP Application Checklist
- POHP Workbook
- Narrative and Certifications
- Most current Five-Year Capital Fund Program (CFP) Action Plan
- Most recent PHA capital needs assessment and any updates

- One- or two-year current audited financial statements
- Annual operating budget for HRA/PHA/CDA
- Most recent REAC inspection report
- Applicant Certification of Known Environmental Conditions
- Photographs of overall property, existing conditions and proposed improvement areas
- If available, provide any other information deemed appropriate to support the application, including currently available architectural or engineering plans such as site plans, floor plans, exterior building elevations, product specifications, elevator modernization proposals, 3D renderings, most recent energy audit, etc.

3.04 Scope of Work

In general, scope of work items must include durability and life expectancy for at least ten years. Rehabilitation scope of work items eligible for consideration under POHP may include but are not limited to:

1. Health and Life Safety

- a. Building or fire code violations such as fire alarms, smoke alarms, GFCI/AFCI protection, carbon monoxide (CO) alarms, nitrogen dioxide (NO²) alarms, fire egress, elevator upgrades
- b. Environmental remediation for mold, radon, friable asbestos, lead-based paint hazards, soil vapor, sound/noise
- c. Site improvements to correct tripping/fall hazards or other unsafe site conditions
- d. Replace, repair, or remove any conditions of imminent structural collapse or failure
- e. Building envelope work to adequately prevent water or air penetration and prevent mold or other unsafe, interior health and life safety conditions
- f. Repair or replace systemic leaky or failed water and sewer piping
- g. Repairs or replacements of mechanical equipment, controls, ductwork, etc.
- h. Remedies to provide proper clothes dry venting and natural gas combustion equipment venting
- i. Installation or modernization of fire suppression systems

2. Accessibility

- a. Compliance with Section 504 of the Rehabilitation Act of 1973, the Architectural Barriers Act, the Fair Housing Act, the Americans with Disabilities Act (ADA), and state accessibility requirements
- b. Improvements such as Universal Design features, reasonable accommodations requests, and aging-in-place features

3. Energy and Water Efficiency/Climate Resiliency and Sustainability

- a. Replacement of inefficient plumbing fixtures with water conserving fixtures
- b. Replacement of inefficient/antiquated Heating Ventilating and Air Conditioning (HVAC), lighting, controls, etc.
- c. Weatherization improvements such as additional insulation, air-bypass sealing, exterior window/door upgrades, or other energy efficiency strategies
- d. Renewable energy systems may be considered if supported by a third-party analysis with a simple 10-year payback
- e. Upgrade in materials/building modifications to withstand extreme weather impacts
Examples include: fortified roofing, floodproofing (such as elevating mechanicals), increasing envelope efficiency, flood resilient elevators
- f. Improvements to prepare the building for climate resilient/sustainable systems that will be installed in the near future

4. Critical Needs

- a. Replacement or repair of items that outlived their expected useful life, are antiquated, worn-out, or simply inoperable
- b. Conditions determined to be critical via a certified HUD Universal Physical Condition Standard (UPCS) or Real Estate Assessment Center (REAC) Deficiencies Inspection Report
- c. Any work described in Minnesota Housing's Rental Housing Design/Construction Standards (RHD/CS), Chapter 8 – Critical Physical Needs and Preservation Funded Projects

3.05 Leverage

For leverage, an HRA/PHA/CDA may submit an application showing the commitment of a portion of their capital fund; however, if your application were to be selected for funding, the loan could not close until these capital funds were available.

An applicant may commit unissued bond proceeds as leverage; however, the POHP loan cannot close until funds have been received. The HRA/PHA/CDA should be cautious in offering bond proceeds as leverage in the event the bonds are not issued.

3.06 Relocation Plan

Minnesota Housing prohibits involuntary displacement of residents from developments receiving Minnesota Housing funding. All existing developments must submit a relocation plan that addresses

both temporary relocation and permanent voluntary displacement. The applicant must thoroughly assess the potential for displacement.

The plan must include:

- A description of the project
- Whether another funding source will require compliance with the Uniform Relocation Act (URA)
- A description of any temporary relocation, if any, that will occur based on the scope of work
- A description of how tenants' needs will be accommodated while they are temporarily displaced
- If tenants with special needs will be affected, include a description of how those needs will be accommodated
- A description of what the development team will do to help displaced tenants who may be hard to house, for example, due to family size
- Any social or other services to be used, as appropriate
- The assistance and compensation that will be offered to tenants who will either be temporarily relocated or permanently and voluntarily displaced
- An estimated budget identifying relocation/displacement expenses and an identified funding source
- A timeline

Chapter 4 - Selection Process

4.01 Review of the POHP Application

Minnesota Housing staff will review all POHP submissions after the application process has closed.

Minnesota Housing will review RFP application submittals for:

- Program eligibility
- Owner capacity
- The ability for an applicant to leverage POHP funds with other resources

Applications will be reviewed based upon the following criteria:

- Scope of work and consequences for not completing the work
- Anticipated operational or utility cost savings
- Geographic distribution of applicants
- First time or repeat applications
- Leverage
- Applicant capacity (including financial capacity)

A site visit may be conducted by Minnesota Housing staff based upon the proposed scope of work and construction costs.

Minnesota Housing's POHP selection committee will review all proposals and provide recommendations for funding. Recommendations are presented to various staff internally and if approved, recommendations will then be presented to Minnesota Housing's board for final approval.

4.02 Selection Notification

Applications recommended for further consideration and additional technical assistance will be presented to Minnesota Housing's board. All applicants will be notified of their status after the board has taken action.

Once selected, applicants have 20 months to secure a Loan Commitment for an End Loans or hold a Construction Loan closing.

Chapter 5 – Post-Selection Processing, Loan Terms and Conditions

5.01 Intake and Technical Assistance Kickoff Meeting

Projects that are selected for further consideration will be required to participate in an initial intake and technical assistance meeting. The purpose of the meeting is to review the details of the proposal and the specific requirements of the funding source.

The initial intake and technical assistance meeting will include the discussion of:

- The proposed scope of work
- The need for a third-party capital needs assessment
- The need for architectural and/or engineering services
- Required environmental studies
- The potential for a project processing agent
- Whether a general contractor will be required

Minnesota Housing staff will explain POHP due diligence requirements necessary to obtain a Loan Commitment for an End Loan and a Construction Loan closing.

5.02 Due Diligence Checklists

Following selection, POHP recipients are required to submit due diligence items to proceed to a Construction Loan closing or a Loan Commitment for an End Loan. Separate checklists exist for Construction Loans and End Loans and can be found on Minnesota Housing's [POHP webpage](#).

Due diligence items will be submitted via the [Multifamily Customer Portal](#).

5.03 Issuance of Loan Commitment/Loan Closing

Once due diligence and design reviews are complete, Minnesota Housing will issue a Loan Commitment for End Loans or conduct a loan closing for Construction Loans. POHP recipients can begin rehabilitation activities once the commitment is issued or the closing has taken place. Construction work should not begin prior to issuance of a Loan Commitment or a Construction Loan closing.

5.04 Loan Types

The Loan Commitment term and closing date are determined by the type of loan the applicant requests:

- **Construction Loan** – A permanent, long-term loan to finance construction and eligible soft costs. Loan funds are advanced during construction as the project progresses. The Construction Loan must close within 20 months from the initial Minnesota Housing board approval date.
- **End Loan** – A permanent, long-term loan that is used to pay off a short-term loan or other form of interim financing. The project must enter into a Loan Commitment for an End Loan within 20 months of board approval. The project must be completed and the loan closed within 18 months once the Loan Commitment for an End Loan is issued.

Either loan type may be available with Minnesota Housing approval.

If an applicant does not enter into a Loan Commitment for an End Loan or Construction Loan closing within the 20-month term, Minnesota Housing reserves the right to recapture funds or require a commitment extension.

5.05 Loan Terms

Selected proposals will be awarded funding in the form of a zero interest, deferred loan with a 20-year term. At the end of the 20-year term, the debt will be forgiven if no event of default has occurred; however, the applicant is required to continue to own and operate the project for a public purpose for a total of 35 years or until it is sold.

The sale of a GO Bond financed property cannot occur unless the owner or Minnesota Housing determines by official action that:

- The property is no longer usable or needed to carry out the governmental program for which it was acquired or constructed
- The sale is made as authorized by law
- The sale is made at fair market value
- The sale of the property requires prior written approval by Minnesota Housing and MMB

Minnesota Housing reserves the right to review the HRA's/PHA/CDA's POHP eligibility and potential ability to repay POHP funds if the HRA/PHA/CDA should no longer participate in HUD's Public Housing Program. At the time of the project loan closing, both a GO Bond Declaration and a Declaration of Covenants, Conditions and Restrictions are recorded against the property. The GO Bond Declaration must have priority over all liens filed against the property.

Chapter 6 - Design Review and Construction Management

Every applicant is required to comply with all of the following:

- Applicable requirements of the [Minnesota Housing Rental Design/Construction Standards](#)
- The most recently adopted edition of the Minnesota Building Code, International Building Code (IBC)
- Any other local, state and national codes and standards in effect. The most restrictive codes and regulations will apply
- Applicable [Building, Benchmarks, and Beyond \(B3\)](#) sustainability guidelines required for state-funded projects in Minnesota (refer to section 6.05 below), or Minnesota Housing's [Limited Scope Project Sustainability Requirements](#)

POHP applicants selected for further processing will confer with the assigned Minnesota Housing staff architect early in the design process to ensure rehabilitation plans and designs meet Minnesota Housing's standards and requirements.

6.01 Plan Review and Plan Approval

After the initial intake meeting and approval of scope of work, the applicant must submit construction documents to the assigned Minnesota Housing staff architect at the 75-90% completion phase and the 100% completion phase. Loan Commitment for End Loans and loan closing for Construction Loans are contingent upon an approved set of plans. Issuance of Loan Commitment for an End Loan or a Construction Loan closing will not occur without plan approval. Construction documents may be submitted in hard copy or electronic PDF. Consult with a Minnesota Housing staff architect for submission requirements.

6.02 Environmental Standards

Based upon the proposed scope of work, the HUD environmental review (if completed), and discussions with Minnesota Housing staff, the following environmental studies may be required:

- A Phase I Environmental Site Assessment (ESA) with the exception of:
 - A HUD "Categorical Exclusion Determination" may substitute for a Phase I ESA, if approved by Minnesota Housing, or
 - Projects with a total construction cost less than \$300,000
- Phase II ESAs
- Lead-Based Paint (LBP) Inspection/Assessments
- Asbestos-Containing Material (ACM) Assessments and Asbestos Containing Material (ACM) Operating and Maintenance (O&M) Plans

- Radon Assessments
- Response Action Plans (RAP)
- Ongoing testing during construction

6.03 Architectural Services

If an architect is required, applicants must use the services of a licensed architect and/or licensed professional engineer unless waived per Minnesota Housing's [Architect's Guide](#) (refer to section 2.02 of the [Architect's Guide](#)). This may be waived by Minnesota Housing based upon limited scope of work status.

6.04 Design-build Design and Construction Delivery

Design-build delivery is not allowed unless approved by Minnesota Housing. Design-build is typically only allowed for single subcontractor-type scope of work such as elevator upgrades, re-roofing, etc.

6.05 B3 Sustainable Building Guidelines

The Buildings, Benchmarks, and Beyond (B3) program outlines Minnesota's Sustainable Building Design (MSBD) requirements. Per Minnesota Statutes section 16B.325, all projects funded by GO Bond proceeds must comply with B3 Guidelines. More information about B3 is available at the [Minnesota Design of New Buildings and Renovations](#) webpage.

Minnesota Housing will work with both the recipient and the Center for Sustainable Building Research (CSBR) to determine if a recipient is required to comply with B3 Guidelines. A recipient is required to comply with B3 Guidelines if **both** of the following apply:

- The building exceeds 10,000 square feet; **and**
- Modifications are made to the HVAC system

If Minnesota Housing and/or the recipient believe that they are not required to comply with B3 Guidelines, they must request a B3 non-applicability waiver from CSBR. A copy of the waiver must be provided to Minnesota Housing via your Portal account.

NOTE: Any projects receiving a B3 waiver are required to comply with [Minnesota Housing's Limited Scope Project Sustainability Requirements](#).

6.06 Predesign Requirements

Minnesota Statutes section [16B.335](#) requires Predesign and legislative review for GO Bond funded projects with a total construction cost (including construction contingencies) of \$1.5 million or more. Applicants should review the statute for exemptions.

Predesign is a written plan that is completed prior to designing and constructing the project. It includes information regarding the project purpose, architectural plans, project budget and schedule. It should also include information on staffing as well as the operating budget for the project. Please refer to the [Department of Administration Sustainable Buildings webpage](#) and [Predesign Manual for Capital Projects](#).

Applicants who propose projects at or near the \$1.5 million construction cost level should consult with the Department of Administration (Eric Radel, 651.201.2380, eric.radel@state.mn.us) to ensure the correct timeline and procedure are followed.

6.07 Energy Rebate Analysis

Minnesota Housing requires POHP funding applicants to apply for energy efficiency incentives from utilities and other sources. The purpose of this requirement is to leverage utility funds in order to increase the energy efficiency in affordable housing properties throughout Minnesota. In order to comply, each application must include information that outlines the type and amount of the available incentives.

For additional information on working with utilities to access energy incentives, contact Katherine Teiken at 651.296.7610 or katherine.teiken@state.mn.us.

6.08 Construction Management

To help ensure compliance with approved construction documents, regardless of an End Loan or a Construction Loan, Minnesota Housing must:

- Be granted access to the construction site during construction
- Receive regular construction meeting minutes and observation reports from the PHA's architect (electronic PDF only)
- Receive (electronic PDF only) copies of Request for Proposals (RFP), change orders, Architectural Supplemental Instructions (ASIs), or any other change directive. Change orders must be submitted to and approved by Minnesota Housing prior to acceptance or prior to being executed

6.09 Construction Loan – Request for Funds Process

For Construction Loans, contractor pay applications will be reviewed on site once a month at a regularly scheduled pay draw meeting with the owner, general contractor, and the PHA's architect in attendance. Upon approval of the pay application by the PHA's architect, the pay application and other soft cost expenses (with receipts) must be submitted to Minnesota Housing using the request for funds process.

A Minnesota Housing staff architect may or may not attend on-site, pay draw meetings. Photos of the construction progress must be included with the pay application. The pay application process may be streamlined based upon a limited scope of work status if approved by Minnesota Housing.

Submittals required for end of construction and project closeout are included in the POHP Due Diligence Checklist.

Chapter 7 - Compliance Monitoring and Reporting

7.01 Compliance Monitoring Requirement

Minnesota Housing performs periodic inspections of the projects it finances. The frequency of physical inspections is determined by several factors such as loan type, term, loan amount, etc. Owners will be notified in advance of any inspection.

7.02 Compliance Reporting Requirement

POHP recipients are required to provide annual reporting using Minnesota Housing's Property Online Reporting Tool (PORT). Owners must submit an annual certification of compliance and occupancy data on all restricted units in the property. A [PORT User Guide](#) can be found on the Minnesota Housing [Partner Login webpage](#).

7.03 Compliance Term

All projects funded through GO Bond proceeds are required to comply with the affordability restrictions and are subject to monitoring and reporting for 35 years beginning on the date of closing.

Appendix A – Terms

Table 1: Terms and Definitions

Term	Definition
Buildings, Benchmarks, and Beyond (B3)	Guidelines developed for state-funded projects in Minnesota to ensure projects meet sustainability goals.
Community Development Agency (CDA)	A local government agency as defined in Minnesota Statutes Section 462C.02, subdivision 6, responsible for the management and operation of its local public housing program and/or other types of housing, community or economic development programs.
Construction Loan	A construction/permanent, long-term loan to finance construction/rehabilitation and eligible soft costs. The loan funds are advanced incrementally during construction/rehabilitation.
End Loan	A permanent, long-term loan that is used to pay off a short-term construction/rehabilitation loan or other form of interim financing.
General Obligation (GO) Bonds	Debt instruments issued by states and local governments to raise funds for public works that are backed by the full faith and credit of the issuing municipality.
Housing and Redevelopment Authority (HRA)	A local government agency as defined in Minnesota Statutes Section 462C.02, subdivision 6, responsible for the management and operation of its local public housing program and/or other types of housing, community or economic development programs.
Loan Commitment	A contractual agreement between Minnesota Housing and the borrower that sets forth the terms under which Minnesota Housing will lend funds to the borrower for a project.
Predesign	A plan required by local government units utilizing funding from the state legislature for capital improvement projects exceeding \$1.5 million in construction costs.

Term	Definition
Public Housing Authority (PHA)	A state, county, municipality or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the United States Housing Act of 1937 (<u>42 U.S.C. 1437et seq.</u>).
Uniform Relocation Act (URA)	The Uniform Relocation Act applies to federally funded projects involving rehabilitation or acquisition. The URA provides displaced persons with fair, equitable treatment and protection from disproportionate injury by projects designed to benefit the public. The URA requirements must be adhered to by the owner. If the borrowing entity will be displacing or temporarily relocating tenants, a tenant relocation plan that conforms to all URA requirements is required and must include an outline of how tenants will be accommodated during construction, an overview of construction activities, a project timeline, an estimated budget, and whether or not the scope of work will require temporary or permanent relocation.

Appendix B – 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 Appearance of a Conflict of Interest – 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 Conflict of Interest or Appearance of a Conflict of Interest exists even if no unethical, improper or illegal act results from it.

- **Actual Conflict of Interest:** 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.
- **Potential Conflict of Interest:** 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.
- **Appearance of a Conflict of Interest:** The Appearance of a Conflict of Interest means any situation that would cause a reasonable person, with knowledge of the relevant facts, to question whether another person’s personal interest, affiliation or relationship inappropriately influenced that person’s action, even though there may be no Actual Conflict of Interest.

A conflict of interest includes 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.

- **Business:** 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.
- **Family Member:** 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.
- **Friend:** 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.
- **Outside Interest:** 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.
- **Partner:** A person’s romantic and domestic partners and outside Business partners.
- **Relative:** 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.

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 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
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.