



Publicly Owned Housing Program Appropriations Round

Program Guide

January 2025



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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

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), and Community Development Agencies (CDAs) that provide Public Housing to individuals and families (households with children) and is implemented through [Minnesota Statute 462A.202](#). Historically, POHP has been funded by the sale of General Obligation (GO) Bonds.

In 2023, the Minnesota Legislature issued one-time state appropriations totaling \$45,132,000 in [Minnesota Laws 2023, chapter 37, article 1, section 2, subdivision 34](#) together with [Minnesota Laws 2023, chapter 71, article 1, section 16, subdivision 2](#) for the purposes of rehabilitating and preserving Public Housing.

\$5,000,000 of the one-time appropriations was awarded to Minneapolis Public Housing Authority. The remaining \$40,132,000 will be distributed through a competitive Request for Proposals (RFP) process, to selected POHP applicants, in the form of zero interest, deferred, forgivable loans with a 20-year term.

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
 - Critical needs that have an expected useful life of more than 10 years
- Improvements of a capital nature

1.01 Funding Availability

- 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, though 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, PHAs, CDAs, Tribal Entities and owners of Public Housing that have been repositioned, as described in this Appropriations Round Program Guide, are encouraged to apply, even if they have limited leveraged resources.

1.02 Terms and Definitions

Appendix A (Terms and Definitions) of this document includes definitions of capitalized terms used in this Appropriations Round Program Guide.

1.03 Legal Addendum

Any recipient of an award pursuant to POHP agrees to comply with the additional requirements and obligations as described in Appendix B (Legal Addendum) of this Appropriations Round Program Guide.

Chapter 2 – Eligibility Criteria

2.01 Eligible Properties

In order to be eligible, properties must be:

- Public Housing, defined as housing for low-income persons and households that is:
 - Financed by the federal government and publicly owned;
 - Financed by the federal government and owned by a Tribal Entity, or
 - Housing that has been repositioned under the federal Rental Assistance Demonstration (RAD) or similar program
- An existing building(s)

All types of Public Housing (e.g., single family scattered site, duplexes, townhomes and high rises) are eligible to apply.

Applicants may apply for more than one development; however, the development must 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.

2.02 Eligible Applicants

In order to be eligible, applicants are required to:

- Have the authority to own and operate the project
- Enter into the loan agreements required by Minnesota Housing
- Comply with the requirements of [Minn. Stat. 462A.202](#)
 - The priority in [Minn. Stat. 462A.202, subdivision 3a](#), for projects to increase the supply of affordable housing, and the restrictions of [Minn. Stat. 462A.202, subd. 7](#) do not apply to this appropriation
- Be a(n)
 - Tribal Entity or
 - Local unit of government such as a city, county, HRA, PHA, or CDA, as described in [Minn. Stat. 462C.02, subd. 6](#), or
 - Owner of a Public Housing building that had been repositioned under the federal Rental Assistance Demonstration (RAD) or similar program
- 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.

Under specific circumstances, Minnesota Housing may allow unrestricted unit(s); for example unit(s) for caretaker and/or security personnel. This is an important consideration when applying for funds, as the number of income-restricted units will need to comply for the entire 20-year compliance period.

2.04 Eligible Uses

Eligible uses of funds include but are not limited to:

- Expenditures of a capital nature such as design, rehabilitation, or major remodeling
- Major roof reconstruction or replacement
- Major window replacement
- Heating and cooling system replacement
- Elevator upgrades
- Installation or modernization of fire alarm(s) and/or fire suppression systems
- Other improvements that add value or life to a building and that are not of a recurring nature; these improvements must have an expected useful life of at least 10 years

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, and critical needs).

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.

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 the betterment of the property, relocation expenses, and ongoing maintenance expenses such as regularly scheduled preventive maintenance of building systems that help to ensure proper functioning of affected systems (ex. boilers, furnaces, heat pumps, etc.)
- 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.

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 [Publicly Owned Housing Program \(POHP\)](#) 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 Multifamily Customer 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 [Publicly Owned Housing Program \(POHP\)](#) webpage.

3.03 Application Content

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

The application package must include all of the following:

- Application and Certification
- Self-Scoring Worksheet
- Documentation of renter incomes (names removed) for eligible property; this is for scoring purposes only
- POHP Workbook

- Most current Five-Year Capital Fund Program (CFP) Action Plan
- Most recent capital needs assessment and any updates
- One- or two-year current audited financial statements
- Annual operating budget for applicant entity
- Most recent Real Estate Assessment Center (REAC) inspection report or NSPIRE 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 Rehabilitation Scope of Work

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

Health and Life Safety

Eligible health and life safety rehabilitation items include but are not limited to:

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

Accessibility

Eligible accessibility rehabilitation items include but are not limited to:

- 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
- Improvements such as Universal Design features, reasonable accommodations requests, and aging-in-place features

Energy and Water Efficiency/Climate Resiliency and Sustainability

Eligible energy and water efficiency/climate resiliency and sustainability rehabilitation items include but are not limited to:

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

Critical Needs

Eligible critical needs rehabilitation items include but are not limited to:

- Replacement or repair of items that outlived their expected useful life of at least ten years, are antiquated, worn-out, or simply inoperable
- Conditions determined to be critical via a certified HUD Universal Physical Condition Standard (UPCS), or Real Estate Assessment Center (REAC) Deficiencies inspection report or NSPIRE
- Any work described in Minnesota Housing's [Multifamily Rental Housing Design/Construction Standards \(RHD/CS\)](#), Chapter 8 – Critical Physical Needs and Preservation Funded Projects

3.05 Leverage

For leverage, an applicant may submit an application showing the commitment of a portion of their capital fund; however, if the applicant is selected for funding, the loan can not close until these capital funds are available.

An applicant may commit unissued bond proceeds as leverage; however, the POHP loan cannot close until funds have been received. Applicants 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
- A description of how tenants with special needs will be accommodated
- A description of what the development team will do to help displaced tenants who have additional challenges when facing temporary or permanent voluntary relocation; for example, households with a large family size
- A description of any social, disability, or other services to be used
- 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 relocation plan timeline

Chapter 4 – Selection Process

4.01 Application Review

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

Minnesota Housing will review RFP applications for:

- Program eligibility
- Owner capacity
- The applicant's ability to leverage POHP funds with non-state resources

Applications will be reviewed based on the following criteria:

- Scope of work and immediacy of need
- Anticipated operational or utility cost savings
- Geographic distribution of applicants
- First time or repeat applications
- Leverage
- Applicant capacity, including financial capacity

Repositioned projects that cannot use the proceeds of GO Bonds may be given priority this funding round, but geographic balance will also be an important consideration.

A site visit may be conducted by Minnesota Housing staff based on 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 Minnesota Housing's board has taken action.

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

Chapter 5 – Post-Selection Processing and 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 [Publicly Owned Housing Program \(POHP\)](#) 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 construction/permanent, long-term loan to finance construction/rehabilitation and eligible soft costs. The loan funds are advanced incrementally during construction/rehabilitation. 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 construction/rehabilitation 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, forgivable 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.

Minnesota Housing reserves the right to review the applicant's POHP eligibility and potential ability to repay POHP funds if the applicant should no longer participate in HUD's Public Housing Program, Rental Assistance Demonstration (RAD), or similar program.

At the time of the project loan closing, a Declaration of Covenants, Conditions, and Restrictions (Affordability Declaration) is recorded against the property. A Subsidy Declaration may also be recorded against the property if it has been repositioned. The Affordability and/or Subsidy Declaration(s) must have priority over all liens filed against the property.

5.06 Transfers of Ownership

Sale of the property to another eligible borrower and assumption of the loan must be pre-approved in writing by Minnesota Housing. Approval must be requested through the [Request for Action \(RFA\)](#) process. Approval is at Minnesota Housing's sole discretion and will only be considered (but not guaranteed to be approved) if:

- The borrower is not in default of any of its agreements with Minnesota Housing
- The new entity is creditworthy, in Minnesota Housing's sole opinion
- The new entity assumes all contractual obligations with Minnesota Housing

- There is payment of an assumption fee, if required, equal to the approximate administrative costs incurred by Minnesota Housing in processing the sale and assumption
- The project remains Public Housing

5.07 Prepayment

The loan may be prepaid in full at any time; however, covenants and conditions in the declaration(s) will remain for the full 20-year term. Minnesota Housing may charge a prepayment fee in the amount equal to the approximate administrative costs incurred by Minnesota Housing in processing the prepayment.

Chapter 6 – Design Review and Construction Management

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

- Applicable requirements of the [Multifamily 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
- Minnesota Housing's [Limited Scope Project Sustainability Requirements](#)

POHP applicants selected for further processing will confer with their 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 on the proposed scope of work, the HUD environmental review (if completed), and discussions with Minnesota Housing staff, the following environmental studies may be required:

- Phase I Environmental Site Assessment (ESA)
 - A HUD Categorical Exclusion Determination may substitute for a Phase I ESA, if approved by Minnesota Housing
 - Projects with a total construction cost less than \$300,000 are not required to conduct a Phase I ESA
- 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 section 2.02 of Minnesota Housing's [Architect's Guide](#). This may be waived by Minnesota Housing based on 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 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 to increase the energy efficiency in affordable housing properties throughout Minnesota. 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.

6.06 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 site during construction
- Receive regular construction meeting minutes and observation reports (electronic PDF only) from the project architect
- Receive copies of requests for proposals, change orders, Architectural Supplemental Instructions (ASIs), or any other change directive (electronic PDF only); change orders must be submitted to and approved by Minnesota Housing prior to acceptance or prior to being executed

6.07 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 owner's architect in attendance. Upon approval of the pay application by the project'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 on 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 we finance. 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

Recipients of POHP loans 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. The [PORT User Guide](#) can be found on the Minnesota Housing's [Partner Login](#) webpage.

7.03 Compliance Term

All projects funded with POHP appropriations are required to comply with the affordability restrictions and are subject to monitoring and reporting for a minimum of 20 years beginning on the date of closing.

Appendix A – Terms and Definitions

Table 1: Terms and Definitions

Term	Definition
Community Development Agency (CDA)	A local government agency, as described in Minnesota Statute 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 described in Minnesota Statute 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.
Publicly Owned Housing Program (POHP)	A competitive funding program in Minnesota that helps to preserve and rehabilitate Public Housing.
Public Housing	Housing for low-income persons and households that is: <ul style="list-style-type: none"> • Financed by the federal government and publicly owned; • Financed by the federal government and owned by a Tribal Entity, or • Housing that has been repositioned under the federal Rental Assistance Demonstration (RAD) or similar program

Term	Definition
Public Housing Agency (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.S. Code, title 42, section 1437 et seq.).
Rental Assistance Demonstration (RAD)	A federal program that allows PHAs to convert Public Housing to Section 8 Project-Based Vouchers or Project-Based Rental Assistance at contract rent levels based on the property's Public Housing funding. As a preservation program, RAD requires one-for-one replacement of the Public Housing units, with certain limited ("de minimis") exceptions. All residents have an absolute right to return (no re-screening). To convert, a PHA must submit a financing plan that demonstrates long-term feasibility.
Request for Proposal (RFP)	The competitive process of applying for POHP funds.
Tribal Entity	A federally recognized Indian Tribe in Minnesota or their associated Tribally Designated Housing Entity.
Tribally Designated Housing Entity	An entity as defined by United States Code, title 25, section 4103(22).
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 mandatory 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, Minn. Stat. Chapter 177 applies to an award of \$25,000 or greater for housing that is publicly owned. Minn. Stat. 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.