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# HOME Investment Partnerships Program and National Housing Trust Fund Program

## Combined Program Guide

Applicable to projects with HOME funds committed on or after April 20, 2025. Projects with HOME funds committed before this date must refer to the previous version of this Program Guide.

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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 actions.

# Chapter 1 – Purpose and Background

## 1.01 Program Purpose and Regulations

Minnesota Housing has administered the HOME Investment Partnerships (HOME) Program since 1992. National Housing Trust Fund (NHTF) Program funds first became available in Minnesota Housing's 2016 Multifamily Consolidated Request for Proposals (RFP). The HOME and NHTF programs are federal and depend on the continued availability of federal funds.

### HOME Program

The HOME Program provides financing to help preserve or increase the supply of decent, safe, and sanitary affordable housing for Low-Income Households. Minnesota Housing gives priority to Multifamily Consolidated RFP preservation projects that are faced with risk of opt-out from federal subsidy programs (for example, the Section 8 Housing Choice Voucher Program).

### NHTF Program

The NHTF Program provides financing to help to increase or preserve the supply of multifamily rental housing for Extremely Low-Income and Very Low-Income households, including families experiencing homelessness. This program provides funding to add a supply of affordable housing to markets where there is strong evidence of an inadequate supply.

### Regulations

Program specific federal statutes and rules referenced in this Program Guide can be found on the U.S. Department of Housing and Urban Development's (HUD) [HOME Investment Partnerships Program](#) webpage and [Housing Trust Fund](#) webpage.

The information presented in this Program Guide is not intended to be a complete description of the owner/developer's responsibilities under HUD's HOME and NHTF programs. It is the responsibility of the owner/developer to ensure they are compliant with all relevant regulatory requirements. Absence of any applicable regulatory requirements in this Program Guide does not negate an owner/developer's obligation to comply with said requirements.

Unless a provision is noted as "HOME Only" or "NHTF Only," all provisions of this Program Guide apply to both programs. Noncompliance by the owner/developer with certain HOME and NHTF Program requirements may have serious financial consequences.



## 1.02 Program Comparison

Table 1: HOME and NHTF Program Characteristics and Requirements

Categories	NHTF Program	HOME Program
Statutory Authority	Title I of the Housing and Economic Recovery Act of 2008	Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended
Regulatory Authority	<a href="#">Code of Federal Regulations, title 24, part 93</a>	<a href="#">24 C.F.R. 92</a>
Purpose	<p>Production or preservation of housing, primarily rental housing, affordable and available to Extremely Low-Income Households.</p> <p>The state determines priority housing need throughout the state.</p>	<ul style="list-style-type: none"> <li>• Preserve the supply of decent, safe, and sanitary affordable housing for Low-Income Households.</li> <li>• Meet identified priority housing needs through development or rehabilitation of rental housing.</li> </ul> <p>The state determines priority housing need throughout the state.</p>
Allocation	Formula that uses several indicators to determine a state's need for affordable housing and determine each state's share of NHTF funds.	Formula that uses several indicators to determine a jurisdiction's need for affordable housing and determine each jurisdiction's share of HOME funds.
Minimum Income Targeting	100% of NHTF Assisted Units must be occupied by Extremely Low-Income Households ( $\leq 30\%$ of Area Median Income [AMI]) or families with incomes at or below the poverty line, whichever is greater.	<ul style="list-style-type: none"> <li>• 100% for Low-Income Households (<math>\leq 80\%</math> of AMI)</li> <li>• 90% of HOME rental units for households at <math>\leq 60\%</math> of AMI</li> <li>• 20% of HOME Assisted Units in projects with five or more HOME units for Very Low-Income Households (<math>\leq 50\%</math> of AMI)</li> </ul>
Eligible Activities	<ul style="list-style-type: none"> <li>• New construction</li> <li>• Acquisition and rehabilitation</li> <li>• Operating Cost Assistance (up to one third of annual grant)</li> </ul>	<ul style="list-style-type: none"> <li>• New construction</li> <li>• Acquisition</li> <li>• Acquisition and rehabilitation</li> </ul>
Limits on Eligible Activities	Minnesota Housing will use NHTF funds to construct or rehabilitate multifamily rental properties.	Minnesota Housing will be use HOME funds to construct or rehabilitate multifamily rental properties.
Rents	Rent plus utilities for NHTF units must be at or below the NHTF Program rent limit for the geographic area, as determined by HUD, with adjustments for smaller and larger families.	Rent plus utilities for Low and High HOME units must be at or below the HOME Program rent limit for the geographic area, as determined by HUD, with adjustments for smaller and larger families.

Categories	NHTF Program	HOME Program
	See Minnesota Housing's <a href="#">HOME and NHTF Program Compliance Guide</a> for more details.	See Minnesota Housing's <a href="#">HOME and NHTF Program Compliance Guide</a> for more details.
Maximum Per-Unit Subsidy Limits	Limits are set by Minnesota Housing. Follow maximum per-unit subsidy limits of HOME Program.	Limits are set by HUD. Cannot exceed 240% of the <a href="#">section 234 basic mortgage limit for elevator-type projects</a> published by HUD.
Affordability Period	Rental Projects – New Construction, Rehabilitation, Rehabilitation and Acquisition: 30 years	<ul style="list-style-type: none"> <li>Rental Projects – Rehabilitation, Rehabilitation and Acquisition: 5, 10, 15 years depending upon the amount of the HOME investment</li> <li>Rental Projects – New Construction: 20 years</li> </ul>
Funding Commitment Deadline	24 months from date of HUD Grant Agreement execution	Suspended indefinitely
Project Completion Deadline	Four (4) years from commitment date (execution of a project's Written Agreement)	Four (4) years from commitment date (execution of a project's Written Agreement)

### 1.03 Highlights of the 2025 HOME Final Rule (HOME Only)

In January 2025, HUD published the HOME Final Rule ([FR-6144-F-03](#) and [FR-6144-F-05](#)) to update, simplify, and streamline program requirements, better align the program with other federal housing programs, and implement recent amendments to the HOME statute. This Program Guide specifies areas where Minnesota Housing has implemented more restrictive requirements.

This HOME Final Rule is applicable to projects for which HOME funds are committed on or after April 20, 2025. Projects for which HOME funds were committed before this date must refer to the previous version of this Program Guide for the rules effective prior to the 2025 HOME Final Rule.

The provisions of the HOME Final Rule listed below are of particular importance as they relate to changes in how the HOME Program is administered. Details can be found in subsequent chapters specific to these changes.

- Expanded the soft costs that are eligible project costs when incurred no more than 24 months prior to HOME commitment (Section 2.04)
- Aligned HOME Program rent limits for households with rental assistance with other rental assistance programs (Section 4.02)
- Expanded methodologies to determine HOME utility allowance to align with other affordable housing programs (Section 4.03)

- Updated property standards and inspections to account for carbon monoxide and smoke detection requirements and to accept National Standards for Physical Inspection of Real Estate (NSPIRE) inspections
- Updated the unit sample size for property inspections
- Revised the definition of a Community Housing Development Organization (CHDO)

## **1.04 Definitions**

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

## **1.05 Legal Addendum**

Any recipient of an award pursuant to the HOME and NHTF Combined Program Guide agrees to comply with the additional requirements and obligations as described in Appendix B (Legal Addendum), which is attached and incorporated into this Program Guide.

## **Chapter 2 – Eligible Uses and Eligibility Criteria**

### **2.01 Eligible Activities**

The HOME Program provides financing for any of the following activity types:

- New construction (with or without acquisition)
- Acquisition with rehabilitation
- Rehabilitation without acquisition

The NHTF Program provides financing for any of the following activity types:

- New construction (with or without acquisition)
- Acquisition with rehabilitation
- Rehabilitation without acquisition
- Operating Cost Assistance with one of the above activity types

### **2.02 Eligible Projects**

A property may contain one or more buildings on a single site. Properties may also be located on more than one site if it meets each of the following requirements:

- The properties are under common ownership
- The properties are under common management and financing
- The housing units are being rehabilitated in each building as part of a single undertaking

A property is also required to:

- Conform to all applicable zoning ordinances
- Possess all appropriate use permits
- Be used primarily for residential purposes (51% or more of the gross floor area of each structure must be residential space)
- Provide permanent housing (for example, no emergency shelters or other facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, housing for students, dormitories [including farmworker dormitories])

### **2.03 Ineligible Projects**

A project is considered ineligible if it is:

- A property under the Emergency Low-Income Housing Preservation (ELIHPA) Act of 1987

- A property under the Low-Income Housing Preservation and Resident Homeownership (LIHPRA) Act of 1990
- A Minnesota Housing financed project actively participating in its Redefined Equity Program
- A Public Housing property, unless otherwise specified by HUD
- A property owned by a trust
- A property owned by a borrower who previously received funds from Minnesota Housing and who did not maintain compliance with affordability, property standards, or otherwise defaulted under its loan
- A property owned by a borrower who has been suspended from doing business with Minnesota Housing
- A property where there are encumbrances, judgments, or outstanding liens that are not acceptable to Minnesota Housing
- A property with a history of negative cash flow that will not be corrected during the acquisition and rehabilitation of the property
- **NHTF Only:** A property taken by eminent domain unless eminent domain is employed only for a public use
- **HOME Only:** A property previously funded under the HOME Program (by Minnesota Housing or any other Participating Jurisdiction) that is still within its Period of Affordability unless a waiver has been granted by Minnesota Housing and HUD

## 2.04 Eligible Costs

Certain fees and costs are eligible to be paid for or reimbursed using federal funds.

### Hard Costs

Eligible hard costs include:

- The actual cost of constructing or rehabilitating housing, including the activities in 24 C.F.R. 93.201(a) for the NHTF Program and 24 C.F.R. 92.206(a) for the HOME Program.
  - Minnesota Housing can help determine what types of costs can be included in a specific project.
  - Eligible hard costs that are incurred prior to execution of the Written Agreement will become ineligible project costs for the purposes of cost allocation.
- Permanent improvements that bring the property into compliance with applicable state and local codes, zoning ordinances, and lead-safe housing as stated in HOME Program regulations under 24 C.F.R. 92.251, NHTF Program regulations under 24 C.F.R. 93.301, Minnesota Housing's Multifamily Rental Housing Design/Construction Standards, and NSPIRE standards specified in 24 C.F.R. 5.705.
- Acquisition costs of improved or unimproved real property.

- Eligible acquisition costs that are incurred prior to execution of the Written Agreement will become ineligible project costs for the purposes of cost allocation.

HOME and NHTF Program funds are restricted in their use for Public Housing units. Applications for Public Housing units must meet the eligibility requirements of 24 C.F.R. 92.213 for HOME or 24 C.F.R. 93.203 for NHTF.

## Soft Costs

Eligible soft costs include:

- Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups if they are incurred no more than 24 months prior to the execution of the HOME or NHTF Written Agreement that commits the funds to the property or during the construction phase
- **HOME Only:** HUD environmental reviews or other environmental studies, assessments, or fees and certain costs to process and settle financing for the project, such as private lender origination fees, credit reports, fees for title evidence, legal fees, accounting fees, filing fees for zoning or planning review and approval, private appraisal fees, fees for independent cost estimates, and other lender-required third-party reporting fees if they are incurred no more than 24 months prior to the execution of the HOME Written Agreement that commits the funds to the property or during the construction phase
- HUD environmental reviews or other environmental studies, assessments, or fees
- Developer fees
- Costs to process and settle the financing for a project, such as private lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorneys fees, private appraisal fees and fees for an independent cost estimate, builders, or developers fees
- Costs of a project audit, including certification of costs performed by a certified public accountant, that Minnesota Housing may require with respect to the development of the project
- Costs to provide information services such as affirmative marketing and fair housing information to prospective tenants or owners of an assisted project
- Payment of impact fees that are charged for all projects within a jurisdiction
- Relocation costs
- Other soft costs eligible under 24 C.F.R. 92 for the HOME Program, and 24 C.F.R. 93 for the NHTF Program that are approved by Minnesota Housing in advance of incurring the soft costs

## **Eligible Operating Costs (NHTF Only)**

The NHTF Program allows grantees to set aside up to one third of their grant for Operating Cost Assistance for NHTF Assisted Units for which project-based rental assistance is not available. Minnesota Housing will make available Operating Cost Assistance in the form of a grant to provide operating reserves to eligible projects.

Owners that accept Operating Cost Assistance Reserves (OCAR) as a component of the funding for their project will be required to enter into a Written Agreement for the OCAR as well as for Operating Cost Assistance with Minnesota Housing. These documents will identify the obligations of the owner in regard to holding and drawing the reserve funds.

Ongoing monitoring of the reserves will occur as part of asset management oversight and will be integrated into the underwriting of the project. On an annual basis, reserve amounts may be reconciled with the amount originally committed and projected with actual costs incurred. Adjustments to the reserves would be made as directed by HUD. Minnesota Housing reserves the right to modify any portion of this Program Guide to respond to federal guidance.

## **2.05 Ineligible Costs and Activities**

Additional detail for ineligible activities and fees can be found under 24 C.F.R. 92.214 for the HOME Program and 24 C.F.R. 93.204 for the NHTF Program.

Ineligible improvements and expenses may be completed at the expense of the owner.

### **Ineligible Improvements and Expenses**

Ineligible improvements and expenses include:

- Recreational or luxury improvements
- Installation of fireplaces or wood burning stoves
- Materials purchased prior to the commitment of federal funds
- Acquisition that is not in conjunction with rehabilitation of the project
- Improvements that started prior to the commitment of federal funds
- Equipment and furnishings not considered part of the real estate
- Materials, fixtures, or landscaping of a type or quality exceeding those customarily used in similar neighborhood properties
- Improvements not included in the scope of work and the loan amount

### **Ineligible Soft Costs**

Ineligible soft costs can include items such as:

- **HOME Only:** Operating or replacement reserves
- Application fees
- Management agent fees
- Monitoring fees
- Other soft costs incurred prior to the commitment of federal funds that have not been approved by Minnesota Housing

## 2.06 Eligible Forms of Assistance

HOME and NHTF Program funding can be provided in the form of a construction loan or an end loan. Features of these loans include:

- 0% interest rate
- Payment is due in full the earlier of 30 years from the date of the signed mortgage or the occurrence of one or more of the following:
  - Failure of the owner to accept a renewal or extension of federal rental assistance
  - Failure of the federal government to offer to renew or extend federal rental assistance due to actions of the owner or condition of the property
  - An event of default occurrence described in the mortgage and related loan documents
- The minimum amount of HOME and NHTF Program assistance is \$1,000 per unit or \$100,000 per project
- The interest rate may be adjusted in order to allow these funds to be utilized with other sources of funding, such as Federal Low-Income Housing Tax Credits (HTCs)
- The loan term may be adjusted based on requirements and conditions of other federal assistance or funding sources
- Loans will generally be full recourse; however, Minnesota Housing, at its sole discretion, may allow non-recourse debt to single asset entities
- Principal and interest, if any, will generally be due and payable at the end of the loan term, which is typically 30 years

Refer to Minnesota Housing's [Multifamily Underwriting Standards](#) for more information on HOME and NHTF Program funding.

## 2.07 Eligible Owners, Sponsors, Developers, and Capacity

Eligible Entities for the HOME Program and NHTF Program must be one of the following:

- A for-profit entity
- A 501(c)(3) nonprofit entity
- A government unit (excluding the federal government)
- A religious organization



The owner must provide evidence of a qualifying interest in the property. Such interest must be recorded and appear in the county records. The minimum qualifying interest is 100% fee simple interest that may also be subject to a mortgage.

### **Community Housing Development Organization Capacity (HOME Only)**

To receive the HOME CHDO set-aside funds, the developer must complete and submit a CHDO Qualification Form and supporting documentation to Minnesota Housing for review and approval. A CHDO certification must be completed for every project.

If CHDO set-aside funds are awarded to a project, the CHDO must recertify every year throughout the term of affordability. If a project is receiving CHDO set-aside funding, the CHDO can only be replaced as the general partner for just cause, and the CHDO must be replaced with another certified CHDO.

A nonprofit must have paid staff whose experience qualifies them to undertake CHDO set-aside activities.

### **Owner and Development Team Debarment Review**

Minnesota Housing will confirm that no members of the project team, including the owner, are debarred or excluded from receiving federal assistance prior to selection.

- If the owner(s) are listed on HUD's Limited Denial of Participation (LDP) list or are in the System for Award Management (SAM) on the [SAM.gov website](https://sam.gov) and listed as debarred, they will not be eligible to receive HOME or NHTF Program funds.
- If the owner(s) are listed on Minnesota Housing's suspension list, they will not be eligible to receive HOME or NHTF Program funds.
- If anyone on the owner's development team is listed on either HUD's LDP list, the SAM debarment list or Minnesota Housing's suspension list, they must be replaced by someone who does not appear on these debarment or suspension lists.

### **Developer Capacity**

Developer's capacity, including but not limited to prior experience and financial capabilities, will be assessed by Minnesota Housing prior to selection for funding.

## **2.08 Underwriting Considerations**

All projects funded through the HOME and NHTF programs must follow Minnesota Housing's [Multifamily Underwriting Standards](#). These standards include requirements for debt coverage ratio and loan-to-value.

Minnesota Housing will provide technical assistance to facilitate commitment of HOME and NHTF Program funds and will assist owners with understanding their compliance obligations.

### **Underwriting for New Construction**

Projects undergoing new construction have unique differences that include, but are not limited to, site and neighborhood standards, occupancy and marketing requirements, operating expense requirements, energy efficiency standards, fair housing policy requirements, and accessibility standards. These requirements are outlined throughout this Program Guide, the [Multifamily Underwriting Standards](#), the [Architect's Guide](#), and Minnesota Housing's [Multifamily Rental Housing Design/Construction Standards](#).

### **Underwriting for Rehabilitation**

Projects undergoing acquisition and rehabilitation have unique differences that include, but are not limited to, market demand requirements, occupancy and marketing requirements, operating expense requirements, energy efficiency standards, relocation requirements, fair housing policy requirements, and accessibility standards. These requirements are outlined throughout the [Multifamily Underwriting Standards](#), the [Architect's Guide](#), and Minnesota Housing's [Multifamily Rental Housing Design/Construction Standards](#).

## **2.09 Site and Neighborhood Standards**

Minnesota Housing will administer the HOME and NHTF programs in a manner that provides housing that is suitable from the standpoint of facilitating and furthering full compliance of fair housing laws and regulations and promotes greater choice of housing opportunities.

In carrying out the site and neighborhood requirements with respect to new construction of rental housing, Minnesota Housing will review the information to ensure that the proposed site for new construction meets the requirements in 24 C.F.R. 983.55(e)(2) and 24 C.F.R. 983.55(e)(3).

Project records must illustrate that a site and neighborhood standards review was conducted for each assisted project that included new construction of rental housing to determine that the site meets the requirements of 24 C.F.R. 92.202 for the HOME Program and 24 C.F.R. 93.150 for the NHTF Program.

HUD does not apply specific site and neighborhood standards to rehabilitation projects under the NHTF or HOME Programs. However, if project-based vouchers from a local public housing authority or housing and redevelopment authority are layered on any Minnesota Housing NHTF Program units in a rehabilitation project, the site and neighborhood standards for project-based vouchers will apply.

In addition, the requirements of 24 C.F.R. 8 (which implements section 504 of the Rehabilitation Act of 1973) apply to the NHTF Program and specifically addresses the site selection with respect to accessibility for persons with disabilities.

## 2.10 Affordability Period

The Affordability Period marks the time during which the Assisted Units must remain in compliance with specific program guidelines.

Minnesota Housing reserves the right to require a longer Affordability Period as a condition of funding. The Affordability Period begins within 15 days of final disbursement of all project funds to the owner. The final disbursement occurs after project completion and submission of all required documentation. After the final disbursement is completed, an Affordability Period Certificate will be executed by the owner and Minnesota Housing and then filed in the respective county's records.

HOME Program Acquisition and Rehabilitation Periods of Affordability:

- Five-year Period of Affordability for loans less than \$25,000 per HOME Program Assisted Unit
- Ten-year Period of Affordability for loans between \$25,000 and \$50,000 per HOME Program Assisted Unit
- Fifteen-year Period of Affordability for loans over \$50,000 per HOME Program Assisted Unit

HOME Program new construction Period of Affordability:

- Twenty-year Period of Affordability for all new construction

NHTF Program Affordability Period:

- Thirty-year Affordability Period for all loans regardless of amount or number of units

## 2.11 Cost Allocation

Minnesota Housing will identify the eligible HOME Program and/or NHTF Program project costs to determine the maximum amount of HOME or NHTF Program funds that the project may receive and the required number of federally Assisted Units.

The federal funding must only pay the share of project eligible costs proportionate to the number of federally Assisted Units. Assisted Units must be evenly distributed among the different unit types.

The final number and type of units to be assisted will be determined prior to signing the HOME Program and/or NHTF Program Written Agreement. If there are any changes to eligible project costs during underwriting and construction, the number of federally Assisted Units and maximum funding will be recalculated. This recalculation may result in revising the number of federally Assisted Units.

## 2.12 Applying for Funds

Funds are available through Minnesota Housing's Multifamily Consolidated RFP, dependent on federal appropriations.

Minnesota Housing's Multifamily Consolidated RFP takes place annually. Notification is posted with resources and requirements for program eligibility on Minnesota Housing's [Multifamily Consolidated RFP](#) webpage. Technical assistance and web training are made available prior to the date applications are due.

All program selections must be approved by Minnesota Housing's board. The projects may also be subject to approval by Minnesota Housing's Mortgage Credit Committee prior to commitment of funds (signing of the Written Agreement) and loan closing.

- The pro forma shall include tax benefits and other assumptions used in calculating the project's cash flow.
- The pro forma shall represent, at a minimum, the term of the HOME or NHTF Program affordability requirements (refer to section 2.10 of this Program Guide).

If Minnesota Housing determines that the total amount of federal funds and other governmental assistance exceeds the amount necessary to make the project feasible (for example, costs are unreasonable or the projected rate of return is too high), Minnesota Housing will pursue one or more of the following remedies:

- Reduce the amount of federal program funds by reducing the project budget
- Increase the borrower's contribution or non-public funding
- Make other adjustments, such as lowering the rents, increasing the replacement reserves, or analyzing expenses
- Deny federal program assistance if the applicant refuses to make reasonable adjustments or refuses to limit the rate of return and/or profit

### **2.13 Rural Development Special Considerations**

Below are the initial steps you must take when applying for funds to rehabilitate a U.S. Department of Agriculture Rural Development (RD) property:

- Contact the local RD office prior to submitting an application to Minnesota Housing for funding to discuss RD's procedure for applying for federal loans
- Ensure that the RD's construction analyst or architect has inspected the site and assisted with the scope of work

The owner is required to demonstrate that the RD's construction analyst or architect has inspected the site and assisted with the scope of work.

Minnesota Housing will allow a maximum of 80% of the units to be financed with HOME and/or NHTF Program assistance when the RD note rate rents exceed the applicable HOME and/or NHTF Program rent limits.

Units assisted with HOME or NHTF Program funds must comply with the income and rent restrictions applicable to those programs, which is discussed in other sections of this Program Guide.

### **Application and Approval for Commitment**

Minnesota Housing requires that all RD properties obtain approval for acquisition prior to submitting an application for funding. If Minnesota Housing receives an application without the necessary RD approvals, the application will be returned. This provision ensures that the maximum funds can be used in the most timely and effective manner.

Prior to closing, Minnesota Housing will send an executed Notice of Default Form to the appropriate RD office, along with a request for junior lien approval.

Minnesota Housing will not issue a loan commitment until it has received written consent from the RD office for junior lien approval.

## Chapter 3 – Federal Requirements

### 3.01 Federal Cross Cutting Requirements

The HOME and NHTF programs provide federal funds that require compliance with various cross-cutting requirements, which impact the entire project. These cross-cutting requirements are triggered by Minnesota Housing board action to select a project for HOME and/or NHTF Program funding. The owner/applicant is required to comply with all applicable cross-cutting requirements.

The following table helps identify some, but not all, of the major federal cross-cutting requirements, their trigger points, and the term of compliance with the requirement. More detailed explanations of these requirements can be found throughout relevant guides required as part of Minnesota Housing’s Multifamily Consolidated RFP and in the Code of Federal Regulations.

Table 2: Federal Cross-Cutting Requirements

Requirement	Trigger Point	Term of Requirement
<b>HOME Only:</b> Environmental Reviews – including choice-limiting actions	Funding Selection	Selection until HUD environmental clearance received
<b>NHTF Only:</b> Environmental Reviews	Funding Selection	Selection until project construction closeout
Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA)	Funding Selection	Selection until project construction closeout
Section 3	Funding Selection	Selection until project construction closeout
Black, Indigenous and People of Color-owned Business Enterprise/Women-owned Business Enterprise <sup>1</sup>	Funding Selection	Selection until project construction closeout
<b>HOME Only:</b> Davis-Bacon and Related Acts	Funding Selection	Selection until project construction closeout
Lead-Based Paint	Funding Selection (pre-1978 construction date)	Selection and ongoing
Build America, Buy America	Funding Selection	Selection until project construction closeout
Fair Housing – Accessibility	Funding Selection	Selection and ongoing

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<sup>1</sup> Minnesota Housing has adopted Black, Indigenous, and People of Color-owned Business Enterprise and Women-owned Business Enterprise (BIPOCBE/WBE), which is also known as Minority-owned and Women-owned Business Enterprise (MBE/WBE) when in reference to certain state and federal programs as well as statutory language.

Requirement	Trigger Point	Term of Requirement
Fair Housing – Marketing	Funding Selection	Selection and ongoing
EEO– Included in Contracts	Funding Selection	Selection until project construction closeout
Debarment/Suspension	Funding Selection	Selection until project construction closeout
Physical Condition Standards	Funding Selection	Selection and ongoing

### 3.02 Environmental Reviews

The HOME Program and NHTF Program both require an environmental review prior to execution of the Written Agreement.

#### HOME Only

The environmental review requirements for the HOME Program are found under 24 C.F.R. 92.352. This section’s regulations align with the environmental review requirements found under 24 C.F.R. 58.

After Minnesota Housing board selection and until receiving notification from Minnesota Housing that the project has received HUD environmental clearance, the owner/developer and all project partners cannot undertake any actions that are considered “choice limiting” or that could cause an “adverse impact” on the environment. These actions include but are not limited to:

1. Execution of a legally binding agreement or contract to commit or expend HUD or non-HUD funds for property acquisition, rehab, conversion, repair, or construction
2. Site/property acquisition or leasing
3. Purchasing or otherwise procuring construction materials
4. Construction
5. Rehabilitation/repair/remediation
6. Demolition
7. Any site work beyond general maintenance

Violating the choice-limiting action prohibitions will result in the loss of HOME Program funds and withdrawal of Minnesota Housing’s Funding Selection. Therefore, it is important for developers to consult with the Minnesota Housing underwriter to review the noted regulations to ensure the relevant protocols are followed. Written Agreements will not be entered into until the environmental review is completed.

If you have questions about choice-limiting actions, contact Minnesota Housing staff.

## NHTF Only

The environmental review requirements for the NHTF Program are found under 24 C.F.R. 93.301(f). It is important for developers to consult with the Minnesota Housing underwriter to review the noted regulations to ensure the relevant protocols are followed. Written Agreements will not be entered into until the environmental review is completed.

### 3.03 Uniform Relocation Assistance and Real Property Acquisition Policies Act

The purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) is to provide displaced persons or businesses with fair, equitable treatment and protection from disproportionate injury by projects designed to benefit the public. The owner/developer must adhere to URA requirements. If the borrowing entity will be displacing or temporarily relocating residential or nonresidential tenants, it is recommended that an experienced relocation specialist manage the entire process.

**HOME Only:** For lower income residents displaced as a direct result of demolition and conversions in HOME Program assisted projects, section 104(d) of the Housing and Community Development Act of 1974 may also apply. Minnesota Housing has a Residential Anti-Displacement and Relocation Assistance Plan (RARAP) that covers procedures under these circumstances.

For a complete recital of relocation requirements for HUD funded projects, refer to [HUD Handbook 1378: Tenant Assistance, Relocation and Real Property Acquisition](#). Minnesota Housing, at its sole discretion, retains the right to request additional compliance measures.

### 3.04 Section 3 Requirements

Properties that have work completed using federal funds are subject to the requirements of Section 3 of the Housing and Urban Development (HUD) Act of 1968 (U.S. Code, title 12, section 1701u), as amended. These requirements are described in 24 C.F.R. 75. Recipients are evaluated according to how well they meet the HUD defined benchmarks with respect to the percentage of the total number of labor hours worked by Section 3 Workers and by Targeted Section 3 Workers compared to the total number of labor hours worked on a Section 3 project. Minnesota Housing requires certain documentation and tracking information be provided to verify compliance with these benchmarks. Noncompliance with HUD's Section 3 regulations may result in sanctions and debarment or suspension from future Section 3 covered contracts.

Refer to Minnesota Housing's [Section 3 Compliance Guide](#) for more information on these requirements.



### **3.05 Black-, Indigenous-, and People of Color-Owned Business Enterprises and Women-Owned Business Enterprises**

It is the policy of Minnesota Housing that Black-, Indigenous-, and People of Color-Owned Business Enterprises and Women-Owned Business Enterprises (BIPOCBE/WBE) have equal access to business opportunities resulting from Minnesota Housing financed projects, and that the workforces on the projects that Minnesota Housing finances are demographically representative of the area where the projects are located. When reviewing bid information, Minnesota Housing will examine:

- The owner's and general contractor's certification to determine compliance with laws prohibiting discrimination in employment and that they hire affirmatively
- The extent to which bids from BIPOCBE/WBE are solicited; such solicitations and results must be documented
- The demographic make-up of the contractor and subcontractor's workforces

State and federal regulations direct that all affirmative steps be taken to ensure that BIPOCBE/WBE are used when possible. Outreach to Black, Indigenous, and people of color and women must be conducted and documented, and that documentation must be provided to Minnesota Housing for contracts in excess of \$25,000.

Refer to the [Multifamily Division Black, Indigenous, and People of Color-Owned Business Enterprise and Women-Owned Business Enterprise Compliance Standards](#) for more information on these requirements, including hiring goals for specific geographic areas.

### **3.06 Federal Labor Standards (HOME Only)**

Owners agree to abide by and ensure compliance with the federal labor standards laws and regulatory requirements. At a minimum, the three laws that apply to HOME funded projects are:

1. Davis-Bacon Act: Requires workers receive not less than the prevailing wages being paid for similar work in the locality. Prevailing wages are computed by the U.S. Department of Labor (DOL) and are issued in the form of federal wage decisions for each classification of work.
2. Copeland "Anti-Kickback" Act: Workers must be paid at least once a week without any deductions or rebates except permissible deductions, which include taxes, deductions the worker authorized, and those required by court processes. The act also requires that contractors maintain payroll records and submit weekly payrolls and statements of compliance to the contracting agency.
3. Contract Work Hours and Safety Standards Act: Workers must receive overtime compensation at a rate at least 1.5 times their regular wage after they have worked 40 hours in one week.

Refer to [HUD's Federal Labor Standards Handbook](#) and the [Davis-Bacon and Labor Standards Agency/Contractor Guide](#) for additional information about the laws outlined above.

## **Davis-Bacon Act (HOME Only)**

Each HOME Program assisted project that contains 12 or more HOME Program Assisted Units must pay all laborers and mechanics employed in the project an hourly rate not less than the minimum rate specified in the applicable wage decision issued by the DOL for each particular project. When combining HOME Program assistance with other federal sources, follow the Davis-Bacon standards of the program that applies the standards to the fewest number of units.

Owners must require each of the following:

- All contractors pay employees weekly
- All contractors must, on a weekly basis, enter their certified weekly payroll reports with all applicable documentation into the labor compliance software used by Minnesota Housing to comply with Davis-Bacon requirements

The completion and submission of all documentation for conformance with federal labor standards requirements is a condition for the release of HOME Program funds.

## **3.07 Lead Hazard Evaluation and Reduction**

All rehabilitation or conversion projects built prior to 1978 that are funded through the HOME or NHTF Program must follow HUD 24 C.F.R. 35, subparts A, B, J, K, M and R, Minnesota Housing's Multifamily Rental Housing Design/Construction Standards, and Minnesota Housing's Lead-Based Paint policy. Owners are required to follow disclosure requirements for Lead-Based Paint (LBP), including:

- Complete Minnesota Housing's [Lead-Based Paint Pre-Construction Certification Form](#) and submit to Minnesota Housing through the Multifamily Customer Portal as part of pre-construction due diligence.
- Provide the EPA-approved lead hazard pamphlet "Protect Your Family from Lead in Your Home" to all tenant households in a property built prior to 1978. The pamphlet must be given upon execution of Minnesota Housing's HOME and/or NHTF Program Funding Acceptance Agreement to existing tenants and new tenants at move-in.
- Distribute to all tenants residing at the property during rehabilitation the "Renovate Right: Important Lead Hazard Information for Families, Childcare Providers, and Schools" pamphlet. This must be distributed no less than seven days and no more than 60 days prior to commencement of rehabilitation.
- Retain on file a Lead-Based Paint Acknowledgment of Disclosure Form signed by the tenant. The signed Lead-Based Paint Acknowledgement of Disclosure must be retained for three years from the beginning date of the leasing period.
- Post an assessment or notice of lead-based paint hazards present, whether determined by a risk assessment or presumption of lead. The owner must post the notice in a conspicuous location or deliver a copy of the assessment to each household within 15 days.

Refer to HUD's [Lead-Based Paint webpage](#) for additional information about the documents and requirements outlined above.

### **3.08 Build America, Buy America Act**

The Build America, Buy America (BABA) Act was signed into law on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (IIJA) as sections 70901-52 of Pub. L. No. 117-58. IIJA created an incentive to increase domestic manufacturing across the country through the inclusion of BABA's Buy America Preference (BAP). In general, the BAP requires that all iron, steel, manufactured products, and construction materials used in infrastructure projects, including housing construction and rehabilitation, funded with federal financial assistance (FFA) must be produced in the United States.

BABA requirements apply to any projects awarded HOME or NHTF Program funds from Minnesota Housing from Federal Fiscal Year 2024 or later. Contact Minnesota Housing staff to confirm whether your project is subject to BABA requirements.

Owners of projects subject to BABA requirements will be responsible for helping ensure the following is completed for BABA compliance:

- Include the necessary BABA provision language in all contracts, agreements, and purchase orders with contractors, subcontractors, and suppliers, as well as the project bid documents
- Identify all products and materials required for the project subject to BABA
- Conduct market research to identify available domestic suppliers and manufacturers
- Calculate the cost of all products and materials subject to BABA
- Collect and submit documentation certifying domestically sourced and manufactured products and materials prior to procurement
- Collect and submit market research documentation for BABA waiver requests

### **3.09 Fair Housing Accessibility and Marketing**

It is illegal to discriminate in the rental of housing, including against individuals seeking housing assistance, or in other housing-related activities. The Fair Housing Act prohibits this discrimination because of race, color, national origin, religion, sex, familial status, and disability. A variety of other federal civil rights laws, including Title VI of the Civil Rights Act, section 504 of the Rehabilitation Act, and the Americans with Disabilities Act, prohibit discrimination in housing and community development programs and activities.

Affirmative marketing aims to ensure that housing opportunities are available to all, regardless of protected characteristics like race, color, national origin, sex, familial status, disability, or religion.

Accessibility requirements, as outlined in the Fair Housing Act and HUD's guidance, cover design features to ensure housing is usable by people with disabilities.

### 3.10 Equal Employment Opportunity

Employers with federally assisted construction contracts must not discriminate in employment practices. Refer to Minnesota Housing's [Equal Employment Opportunity Policy Statement](#) for more information.

#### Affirmative Action

Minnesota Housing works affirmatively to ensure that all persons, regardless of race, color, creed, national origin, sex, religion, marital status, age, status with regard to receipt of public assistance, disability, sexual orientation, or familial status will be treated fairly and equally in employment or program participation.

All programs financed or administered through Minnesota Housing will contain equal opportunity/affirmative action requirements in the contracts or procedural guides or manuals, regardless of whether or not federal funding is involved.

### 3.11 Debarment and Suspension

Minnesota Housing will confirm that no members of the project team, including the owner, are debarred or excluded from receiving federal assistance prior to Mortgage Credit Committee approval, entering into a Written Agreement, or closing the loan.

- If the owner(s) are listed on HUD's Limited Denial of Participation (LDP) list or are in the SAM on the [SAM.gov website](#) and listed as debarred, they will not be eligible to receive HOME or NHTF Program funds.
- If the owner(s) are listed on Minnesota Housing's suspension list, they will not be eligible to receive HOME or NHTF Program funds.
- If anyone on the owner's development team is listed on either HUD's LDP list, the SAM debarment list or Minnesota Housing's suspension list, they must be replaced by someone who does not appear on these debarment or suspension lists.

### 3.12 Design and Property Standards

Properties served with HOME and NHTF Program funds must comply with all applicable state and local codes, standards, and ordinances by project completion. In cases where standards differ, the most restrictive standard will apply. In the absence of a state or local building code, the International Residential Code or International Building Code of the International Code Council will apply.

Properties must meet local housing habitability or quality standards throughout the Affordability Period. If no such standards exist, HUD's NSPIRE, as set forth in 24 C.F.R. 5.705, will apply.

It is the owner's responsibility to determine if there is a local housing habitability code required for their property and to provide to Minnesota Housing with either a copy of the code or an internet URL to the code.

## Chapter 4 – Post-Selection

### 4.01 Unit Comparability Analysis and Cost Allocation

Minnesota Housing will perform a unit comparability analysis on all units in the project. Minnesota Housing will use this information and the eligible project costs to determine the maximum amount of HOME or NHTF Program funds that the project may receive and the required number of federally Assisted Units. The federal funding must only pay the share of project eligible costs proportionate to the number of federally Assisted Units. Assisted Units must be evenly distributed among the different unit types.

Minnesota Housing will work with the owner to determine if the federally Assisted Units will be designated as fixed or floating. When federally Assisted Units are fixed, the units remain the same during the Affordability Period. Units designated as fixed must be occupied by tenants that meet the income and rent restrictions of the specified program for the duration of the Affordability Period. When federally Assisted Units are floating, the units may change during the Affordability Period so long as both the total number of federally Assisted Units in the project remains the same, and any newly designated units are comparable and maintain the applicable unit mix.

The final number and type of HOME Program and/or NHTF Program units to be assisted will be determined prior to signing the Written Agreement. If there are any changes to eligible costs during underwriting or construction, the number of federally Assisted Units and maximum funding will be recalculated.

Refer to Minnesota Housing's [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide](#) for more information and compliance requirements during the Period of Affordability.

### 4.02 Income and Rent Limits

HOME and NHTF Program rent and income limits are published by HUD on an annual basis. When the new rent and income limits are released, Minnesota Housing notifies owners and managers by email and the new limits are published to Minnesota Housing's [Multifamily Rent and Income Limits](#) webpage. In the event rent limits decrease for an area, or utility allowances increase, an owner may be required to reduce the rent charged but will not be required to lower rents below those in effect at the time of project commitment.

The HOME and NHTF programs require annual review and approval of rents for the Assisted Units. Minnesota Housing's [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide](#) describes this process.

## HOME Income Limits

The HOME Program is intended to serve Low- and Very Low-Income Households. Refer to 24 C.F.R. 92.2 for a more detailed definition.

## NHTF Income Limits

The NHTF Program is intended to serve Extremely Low-Income Households. Refer to 24 C.F.R. 93.2 for a more detailed definition.

## HOME Rents

Every HOME Program Assisted Unit is subject to maximum allowable rents based on bedroom size for the county in which the property is located. These maximum rents are referred to as HOME rents. There are two HOME rents established for properties; High and Low HOME Rents represent the maximum that owners can charge for rent, including an allowance for tenant-paid utilities. Rent limits and rent increases must be determined and verified in accordance with the requirements of Minnesota Housing's [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide](#).

## NHTF Rents

For tenants who are Extremely Low-Income Households, their rent plus utilities must not exceed the greater of 30% of the federal poverty line or 30% of the income of a family whose annual income equals 30% of AMI for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit.

Units funded with an NHTF Program OCAR cannot have any subsidy attached to those units. The OCAR is used to fund operating shortfalls with the tenants paying no more than 30% of their income toward rent.

Rent limits and rent increases must be determined and verified in accordance with the requirements of Minnesota Housing's [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide](#).

## Housing Support

Applicable to properties receiving HOME or NHTF Program funds and Housing Support (formerly known as Group Residential Housing [GRH]).

When using current rent limits and taking into consideration the current Housing Support room and board rate, the amount of rent being charged for Assisted Units that are also subsidized with Housing

Support is within applicable rent limits provided that the project is in compliance with 24 C.F.R. 92.214(b)(3) and 24 C.F.R. 93.204(b)(4).

- Owners are prohibited from charging fees that are not customarily charged in rental housing.
- Owners may charge fees for meals, as long as the services are voluntary.
- Receipt of the board rate is optional for units with Housing Support in order to remain in compliance with applicable program regulations.

### 4.03 Utility Allowances

**HOME Only:** The HOME Program statute and the regulations outlined in 24 C.F.R. 92 establish gross rent limits for HOME Program assisted rental units. Gross rent limits include the contract rent plus a utility allowance (UA) for any tenant-paid utilities. Owners are required to establish maximum monthly allowances for utilities and services (excluding telephone) and update these annually.

The HOME Rule requires all owners to use a project-specific UA. The 2025 HOME Final Rule expanded the possible methodologies that can be used to calculate a project-specific UA and that will meet the HOME Program regulatory requirements for a project-specific UA to include the local Public Housing Authority's (PHA) established utility allowance. A list and description of these methodologies can be found in the [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide](#). The [Utility Allowance Certification](#) and [Utility Allowance Utility Grids](#) must be submitted to Minnesota Housing along with supporting documentation prior to receiving Mortgage Credit Committee approval. Owners are permitted to switch methodologies only after approval by Minnesota Housing.

**NHTF Only:** For the NHTF Program, owners may use the PHA's established utility allowance that is also used for the tenant-based Section 8 Housing Choice Voucher Program for that local area.

### 4.04 Minnesota Housing Rental Housing Design/Construction Standards

All projects funded through the HOME and NHTF programs must follow Minnesota Housing's Multifamily Rental Housing Design/Construction Standards. These guidelines are available on Minnesota Housing's [Building Standards](#) webpage.

All rehabilitation projects with 26 or more units are required to have the useful remaining life of the major systems determined. Major systems include structural support; roofing; cladding and weatherproofing (for example, windows, doors, siding, gutters); plumbing; electrical; and heating, ventilation, and air conditioning.

For rehabilitation projects, if the useful remaining life of one or more major system(s) is less than the applicable Affordability Period, the system(s) must either be included in the scope of work or a



replacement reserve must be established and monthly deposits made to the reserve account to adequately repair or replace the systems as needed.

#### **4.05 Initial Inspections**

All projects funded through the HOME and NHTF programs must have a scope of work and bid specifications prepared by an architect licensed to practice in Minnesota. Initial property inspections performed by the project team must be in accordance with Minnesota Housing's [Multifamily Rental Housing Design/Construction Standards](#).

In addition, both programs require an initial property inspection for rehabilitation projects to identify any NSPIRE deficiencies. This inspection is completed by Minnesota Housing staff or by an entity or person contracted by Minnesota Housing.

Violations discovered during the initial inspection deemed an emergency will be required to be remedied within 24 hours. The remaining violations and findings, including those categorized as routine maintenance, will then need to be integrated into the scope of work.

Improvements that are identified as routine maintenance may, at Minnesota Housing's discretion, be included in the scope of work or completed separately by the owner. If the owner chooses to complete the maintenance work separate from the project's scope of work, the maintenance must be completed prior to the final project closeout inspection and must meet all applicable requirements outlined in Minnesota Housing's [Multifamily Rental Housing Design/Construction Standards](#).

#### **4.06 Reserves**

If the useful remaining life of one or more major system(s) is less than the applicable Affordability Period, the system(s) must be either included in the scope of work, or a replacement reserve must be established and monthly deposits to the reserve account must be made to adequately repair or replace the systems as needed.

#### **NHTF Only**

##### **Operating Cost Assistance Reserves (OCAR)**

- An OCAR may be funded for the amount estimated to be necessary for 15 years from the start of the Affordability Period.
- Minnesota Housing will determine funding levels and underwrite for these reserves based on the needs of the project and eligible uses.
- The reserve will be held by Minnesota Housing. The owner must annually submit an audit along with the payment request for the eligible expenses incurred during the previous year.

- If the property fails to meet the affordability requirements or is terminated or in default for any reason, all funds must be repaid and any balance in a reserve account will be applied to the balance owed.

## **4.07 Capital Needs and Major Systems**

Minnesota Housing must underwrite all projects to ensure that each project is financially sustainable over its Affordability Period. Capital needs will be evaluated during underwriting to plan for major systems repairs. The scope of rehabilitation work and replacement reserves deposits must be sufficient to ensure the useful life of essential building components throughout the Affordability Period as outlined in 24 C.F.R. 92.251(b)(ii) and (viii) for the HOME Program and in 24 C.F.R. 93.301 for the NHTF Program.

After construction has been completed and as part of the project closeout, the owner must provide an updated capital needs assessment that will document the property's needs for the term of the Affordability Period. A Minnesota Housing architect reviews and approves the assessment before the project starts its Affordability Period. Handling of reserves during the Affordability Period can be found in section 4.06 of this Program Guide.

## **4.08 Obtaining Bids**

All projects must be awarded to a single general contractor except if the project includes asbestos work. If asbestos work is included, it is acceptable to have a general contractor for the asbestos work and a general contractor for the remaining scope of work. The selected single prime general contractor will be responsible for their scope of work.

The contractor selection process can be done through competitive or negotiated bids. If the bid for a general contractor is negotiated, all subcontractors must be competitively solicited. Refer to section 4.10 of this Program Guide for important information on eligible contractors and subcontractors and Minnesota Housing's Contractor Guide for more information on soliciting bids.

Minnesota Housing must be given a copy of the bid specifications and bid documents before they are released for bid. Minnesota Housing staff will review and approve the bid package before it is released for bid to ensure all required forms are included with the understanding that the wage decision may have to be updated before the contract is signed.

## **4.09 Wage Determination (HOME Only)**

Each project with 12 or more HOME Program Assisted Units must obtain a wage decision from the [SAM.gov website](https://sam.gov). The owner's architect is responsible for obtaining the wage decision and ensuring it is included in all bid documents.

The owner must have a formal construction contract with the selected general contractor, and an owner who is also the licensed general contractor must have formal construction contracts with all individual subcontractors. All construction contracts must contain Davis-Bacon language binding the contractor to Davis-Bacon requirements (HUD 4010). The general contractor must also ensure that all contracts with subcontractors contain all applicable labor standards.

A Minnesota Housing-approved wage decision must be included in all bid specifications, bid documents, and contracts. Failure to include a wage decision or the use of a wrong wage decision in bid specifications, bid documents, and contracts will not relieve the contractor or owner from potential enforcement action and may make costs ineligible for payment with HOME Program funds.

Wage determinations may be modified by the DOL at any time, but most changes occur weekly on Fridays. The contract award date or the date on which a wage decision is considered locked in is as follows:

- For competitively bid contracts, the wage decision is considered locked in when the bids are opened, provided the contract is awarded within 90 days of the bid opening. If the contract is awarded more than 90 days after bid opening, the wage decision shall be updated as of the date of award.
- The project that negotiates the general contractor's contract will lock in the wage decision when the contract is signed.
  - If the general contractor's contract is negotiated, all of the subcontractor's work must be competitively bid.
- For projects that receive construction advances that are Federal Housing Administration (FHA) insured, the wage decision is locked in on the date that the mortgage is initially endorsed by HUD, provided that construction starts within 90 days.

Work closely with Minnesota Housing staff to determine when your project's wage decision is locked in.

The construction contract, relocation contract (if applicable), any environmental remediation contracts outside of the construction contract (if applicable), architect contract, and subcontractor contracts must include all forms required by Minnesota Housing and federal requirements.

## **4.10 Debarment and Suspension**

### **Contractor Debarment**

Before issuing a contract to a general contractor, the owner must verify with Minnesota Housing that the general contractor is not debarred or excluded from working on federally assisted projects.

- If the general contractor is listed on HUD's LDP list or the SAM debarment list on the [SAM.gov website](https://www.sam.gov), they are not eligible to work on the project and will have to be replaced by another contractor who does not appear on HUD's debarment lists.
- If the general contractor is listed on Minnesota Housing's suspension list, they are not eligible to work on the project and will have to be replaced by another contractor who does not appear on Minnesota Housing's suspension list.

## **Subcontractor Debarment**

Before awarding a subcontract to a subcontractor, the general contractor must verify that the subcontractor is not debarred or excluded from working on federally assisted projects.

- It is the general contractor's responsibility to provide documentation to Minnesota Housing that verifies all subcontractors working on the project are not on the LDP list or the SAM debarment list.
- If the subcontractor is listed on HUD's LDP list, the SAM debarment list or Minnesota Housing's suspension list, they are not eligible to work on the project and will have to be replaced by another subcontractor who does not appear on these debarment or suspension lists.

## **4.11 Market Analysis**

The HOME and NHTF programs require an assessment of market demand. The purpose of this requirement is to help ensure that there will be adequate market demand for a project before committing federal funds. To comply with the regulatory obligations, Minnesota Housing requires a developer to follow the protocols outlined in the Multifamily Request for Proposals Standards and Multifamily Underwriting Standards.

An assessment must include, at a minimum, the current market demand in the neighborhood in which the project will be located, the experience of the owner/developer, the financial capacity of the owner/developer, and firm written financial commitments for the project.

If a project is also receiving housing tax credits, the market study will be used to assess the market.

## **4.12 Secured Financing**

Projects cannot receive federal funds, or have them committed to the project, until proof of due diligence is provided to show all financing for the project has been secured.

## **4.13 Limit on Governmental Assistance – Subsidy Layering Review**

As part of the underwriting process, Minnesota Housing is required to conduct a subsidy layering review to ensure that the sources and uses of funds (including OCAR for NHTF Program funds) for the

project are reasonable and only the necessary amount of HOME and/or NHTF Program funds are invested in the housing project.

Minnesota Housing will refer to the Multifamily Underwriting Standards as a guide for conducting the subsidy layering review analysis of reasonable project costs.

For the purposes of the subsidy layering review, governmental assistance includes any loan, grant (including a Community Development Block Grant), guarantee, insurance, payment, rebate, subsidy, tax credit benefit, OCAR (NHTF Only), or any other form of direct or indirect assistance from the federal, state, or local government for use in, or in connection with, a specific housing project.

To complete the analysis, Minnesota Housing will review all sources and uses of funds. Minnesota Housing will confirm that all costs are reasonable. The reasonableness of the project's costs is determined by reviewing the project's quality, construction costs, architectural and engineering fees, and consulting fees.

Minnesota Housing's staff architect and underwriter review the cost estimates, costs of comparable projects in the same geographic area, qualifications of the cost estimates for various budget line items, comparable costs published by recognized industry cost index services, and the comparable bids obtained.

The reasonableness of the rate of return on the applicant's equity investment is assessed through a review of the pro forma during the underwriting process.

#### **4.14 Written Agreement – Commitment of Funds to a Project**

Written Agreements are required for:

- HOME Program capital funds
- HOME Program CHDO set-aside funds
- NHTF Program capital funds
- NHTF Program OCAR funds

The owner and Minnesota Housing must sign and date the applicable Written Agreement in order to receive federal funds. For capital funds, the Written Agreement must be signed prior to construction activities. The Written Agreement may be signed in advance of, or concurrent with, loan closing as long as all HOME Program, NHTF Program, and Written Agreement requirements have been satisfied.

Each Written Agreement outlines the minimum responsibilities and expectations that must be met prior to signing the Written Agreement and throughout the term of the Affordability Period. Minnesota Housing reserves the right to include additional requirements.

All projects using these federal sources for capital expenses must demonstrate the ability to begin construction within 12 months from the date of the signed Written Agreement.

The commitment deadline for HOME Program funds is suspended indefinitely. NHTF Program funds have a commitment deadline of 24 months from the date the HUD Grant Agreement is executed. If funds are not committed via execution of the Written Agreement by their commitment deadline, HUD will recapture the federal funds from a project.

#### **4.15 Tenant Selection Policies**

Owners must adopt written tenant selection policies and criteria. Additionally, owners must develop a Tenant Selection Plan per all applicable guidelines, which is then used by prospective tenants to self-screen and determine their eligibility for a property prior to submitting an application for housing. These must be made available to Minnesota Housing upon request.

Tenant selection policy requirements and related prohibited activities include:

- Tenant Selection Plans must be consistent with the purposes of providing housing for Low-, Very Low- and/or Extremely Low-Income Households, and housing must be limited to income-eligible families.
- Tenant Selection Plans must provide for the selection of tenants from an existing written waiting list in the chronological order of their application, insofar as is practicable.
- Tenant Selection Plans must allow for prompt written notification of the grounds for rejection to any rejected applicant.
- Tenant Selection Plans must be reasonably related to the applicants' ability to perform the obligations of the lease (for example, to pay the rent, to not damage the housing, to not interfere with the rights and quiet enjoyment of other tenants).
- Owners shall comply with the Fair Housing Act, applicable provisions of 24 C.F.R. 5, and any applicable HUD guidance.

In addition, projects selected for HOME and/or NHTF Program funding must follow Minnesota Housing's Tenant Selection Plan guidelines as well. Refer to Minnesota Housing's [Tenant Selection Plan Guidelines](#) webpage for more information on these guidelines.

#### **4.16 Mandatory Lease Terms**

The HOME and NHTF programs both require written leases. Leases for HOME and NHTF Program Assisted Units must be for a period of one year unless a shorter term is mutually agreed upon by the tenant and the owner.

All leases must contain the following provisions:

- **Tenant Income Certification:**

- On an annual basis, the tenant must certify the household's income and composition by completing and signing a Tenant Income Certification Form that is provided by the owner.
- The owner may terminate the lease or refuse to renew the lease of a household for failure to supply the completed and signed Tenant Income Certification Form within 30 days of the request.
- **Third-Party Income Verifications:**
  - The tenant must provide or sign consents to third-party income verification as reasonably requested by the owner.
  - The owner may terminate the lease or refuse to renew the lease of a household for failure to supply the third-party income verification or sign consents to third-party income verification within 30 days of the request.
- **Right of Access:**
  - The tenant must sign an acknowledgement that the owner or their duly authorized agents, employees, or representatives, upon reasonable notice to the household, must have the right of access to the dwelling unit for the purpose of examining the condition thereof, making improvements and repairs, and showing the dwelling unit for re-rental.
- **Lease:**
  - The tenant and owner must sign an acknowledgement that the lease between a tenant and an owner of rental housing assisted with HOME or NHTF Program funds must be for no less than one year, unless by mutual agreement between the tenant and the owner.
- **Lease Addendum:**
  - Minnesota Housing provides the owner with a lease addendum that must be signed and retained in the tenant's file. This addendum includes the prohibited lease terms.

#### 4.17 Prohibited Lease Terms

The HOME and NHTF programs prohibit the following terms within tenant leases for HOME or NHTF Program Assisted Units:

- **Agreement to be sued:** The lease cannot contain a tenant agreement to be sued, admit guilt, or accept a judgment in favor of the property owner in a lawsuit brought in connection with the lease.
- **Treatment of property:** The lease cannot contain a tenant agreement that the property owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant regarding disposition of personal property remaining in the housing unit after the tenant has moved out. The property owner may dispose of this personal property in accordance with state law.

- **Excusing the property owner from responsibility:** The lease cannot contain a tenant agreement to not hold the property owner or the property owner's agents, employees, or representatives legally responsible for actions or failure to act, whether intentional or negligent.
- **Waiver of notice:** The lease cannot contain a tenant agreement that the property owner may institute a lawsuit without notice to the tenant.
- **Waiver of legal proceedings:** The lease cannot contain a tenant agreement that the property owner may evict the tenant or household member(s) without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.
- **Waiver of jury trial:** The lease cannot contain a tenant agreement to waive any right to a jury trial.
- **Waiver of right to appeal court decision:** The lease cannot contain a tenant agreement to waive the right to appeal or to otherwise challenge in court a decision in connection with the lease.
- **Tenant chargeable with the cost of legal actions regardless of outcome:** The lease cannot contain a tenant agreement to pay attorney fees or other legal costs even if the tenant wins a court proceeding by the property owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.
- **Mandatory Supportive Services:**
  - **NHTF Only:** In NHTF Assisted Units, the lease cannot require the tenant, as a condition of occupancy, to participate in or agree to accept supportive services that are offered.
  - **HOME Only:** In HOME Assisted Units, the lease cannot require the tenant, as a condition of occupancy, to participate in or agree to accept supportive services that are offered (other than a tenant in transitional housing).

#### 4.18 Termination of Tenancy

The owner must comply with HOME and NHTF Program requirements related to evictions as well as state law regarding eviction procedures. Refer to Minnesota Housing's [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide for](#) additional information about these requirements.

#### 4.19 Violence Against Women Reauthorization Act

On March 15, 2022, HUD issued its Violence Against Women Reauthorization Act of 2022 (VAWA) Final Rule ([FR-6330-N-01](#)) implementing housing protections authorized in the VAWA. Unique monitoring and implementation dates apply to the HOME and NHTF programs. Compliance with VAWA regulatory requirements under the 2022 VAWA Final Rule is required for all HOME and NHTF Program projects. Written Agreement provisions and lease addendums will be updated to include current regulatory language for these projects.



One of the key elements of VAWA housing protections is the emergency transfer plan, which allows for survivors to move to another safe and available unit if they fear for their life and safety. In addition to emergency transfer plans, VAWA includes notification and documentation requirements by owners. Owners must be familiar with regulatory requirements impacting their developments and should consult with their legal counsel as needed.

Refer to Minnesota Housing's [Violence Against Women Act](#) webpage for more information, including required forms and documentation.

For more information on fair housing, refer to Minnesota Housing's [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide](#).

## **4.20 Uniform Relocation Assistance and Real Property Acquisition Policies Act**

### **Guiding Statutes, Regulations, and Reference Materials**

Applicable statutes and regulations pertaining to displacement include:

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970: Applies to displacement resulting from acquisition, demolition, or rehabilitation for HUD assisted projects carried out by public agencies, nonprofit organizations, private developers, or others and real property acquisition for HUD assisted projects (whether publicly or privately undertaken)
- Section 104(d) of the Housing and Community Development Act of 1974
- HOME Program regulations found in 24 C.F.R. 92
- NHTF Program regulations found in 24 C.F.R. 93
- Tenant Assistance, Relocation and Real Property Acquisition Handbook ([HUD Handbook 1378](#)), as updated: Consolidates relocation requirements for all HUD programs in one document and provides instructions for compliance

### **Displacement, Temporary Relocation, and Non-Displacement**

Displacement occurs when a person or business is displaced as a direct result (as defined under federal regulation) of a federally assisted acquisition, demolition, or rehabilitation project. The term displaced person means any residential or nonresidential tenant, regardless of income, who is forced to move from the property permanently or temporarily as a direct result of rehabilitation, demolition, or acquisition of a HOME or NHTF Program assisted project. This includes, but is not limited to, physical displacement caused by overcrowding, loss of a unit, or economic displacement due to an increase in rents.

Temporary relocation occurs when a residential or nonresidential tenant is required to move temporarily, either within the project or to an offsite location, in order to accommodate a federally assisted acquisition, demolition, or rehabilitation. Relocation is only considered temporary if the

residential or nonresidential tenant's relocation is for 12 months or less. If the relocation exceeds 12 months, it is considered permanent displacement under URA regulations. Any person or business who qualifies as a permanently or temporarily displaced person must be fully informed of their rights and entitlements to relocation assistance and payments under URA regulations.

Non-displacement occurs when a residential or nonresidential tenant is not moved from their unit as a result of a federally assisted acquisition, demolition, or rehabilitation.

URA requirements are triggered at Minnesota Housing Funding Selection. Once this occurs, the owner/developer will review the scope of work and determine if there will be any displacement, temporary relocation, or non-displacement.

## Tenant Relocation Plan

A residential or nonresidential Tenant Relocation Plan that conforms to all URA requirements may be required for federally assisted projects involving rehabilitation, acquisition, or adaptive reuse. If required, the plan must contain an outline of how the residential or nonresidential 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 relocation or permanent displacement. The outline should include:

- A description of who is developing the plan
- A description of the project and scope of work
- A list of all sources of funds and whether multiple federal fund sources will be used
- If **temporary relocation** is anticipated for anything exceeding 24 hours, describe:
  - How many tenants will be affected
  - How long the temporary relocation will last for an individual tenant
  - How many tenants will need to be out during business hours verses overnight or extended time periods
  - Estimated schedule of construction and relocation
  - Where temporarily relocated tenants will be housed (for example, a vacant unit, nearby hotel)
  - Plans for food and entertainment costs if relocation will be during business hours only
  - Transportation considerations
  - Moving companies available
  - Americans with Disabilities Act (ADA) accommodations
  - Budget of estimated costs and source information for the numbers
- If the relocation exceeds 12 months, it is considered permanent displacement. If **permanent displacement** is anticipated, describe:
  - How many tenants will be affected
  - Estimated schedule of construction and relocation

- How the owner/developer plans to find comparable replacement dwellings
- How tenants who may be hard to house will be assisted
- Transportation considerations
- Moving companies available
- Americans with Disabilities Act (ADA) accommodations
- Budget of estimated costs and source information for the estimates
- How the owner/developer plans to accommodate any special needs of the tenants and how needs assessment interviews will be conducted
- What other social services may need to be used
- Relocation budget contingency for unexpected issues (for example, a tenant is allergic to dust, so they are not able to return home after business hours as expected); Minnesota Housing requires a minimum of \$5,000 for the relocation budget

**NOTE:** This list is intended as a guide and is not all inclusive. It is the owner/developer's responsibility to ensure they comply with all applicable regulatory requirements.

## Notices

URA regulations require several notices to be delivered to all residential or nonresidential tenants and/or potential tenants of the property receiving federal funds. Each notice must be written in plain, understandable language. Persons who are unable to read and understand the notice (for example, due to lack of literacy, limited English proficiency, disability) must be provided with appropriate translation or interpretation services in accordance with HUD limited English proficiency guidance, alternative formats, and/or counseling. Each notice must list the name and telephone number, including the telecommunication device for the deaf (TDD) number (if applicable), of a person who may be contacted for answers to questions or for other needed help.

Templates of all notices can be found on Minnesota Housing's [HOME and NHTF](#) webpage except for the Ninety-Day Notice, which should be developed by the owner/developer. The templates include instructions on how to tailor the notices to the specific project. Minnesota Housing requires drafts of all notices to be submitted as due diligence items for review and approval. Once the drafts are approved, the owner/developer must deliver applicable notices to the tenants. All notices must be delivered (at a minimum) to all adult leaseholders.

Tenant notices should be delivered in one of the following ways:

- Hand delivery
- Certified return receipt (USPS)

Other forms of delivery must receive prior approval from Minnesota Housing. The owner/developer must be able to provide proof of delivery.

**HUD Information Brochure:** A copy of HUD’s brochure must be provided to tenants, homeowners, and businesses who will be permanently displaced. English and Spanish versions can be found on HUD’s [Publications](#) webpage.

**General Information Notice (GIN):** The GIN informs tenants of the receipt of federal funds for acquisition, rehabilitation, and/or adaptive reuse. Tenants residing in the property at the time of Minnesota Housing board selection must be provided a GIN within 30 days, or adhere to another timeline that Minnesota Housing, at its sole discretion, agrees upon. It is imperative that the GIN is disbursed in a timely manner. Any tenants who move in or out before the GIN is disbursed will be eligible for URA benefits. There are two versions of the GIN, and the owner/developer should work with Minnesota Housing staff to determine which version of the notice (displacement, non-displacement, or a combination) should be used.

**Notice of Non-Displacement:** This notice informs tenants who will continue to reside in the project after completion of the assisted activity of their rights and of the terms and conditions for remaining at the property during construction. This is a separate notice and requirement from the GIN; however, the GIN and the Notice of Non-Displacement can be delivered at the same time.

**Move-In Notice:** Tenants who move into the project after the GIN has been delivered to current tenants must sign a Move-In Notice prior to signing the lease. This notice informs new tenants that they may be displaced and that they will not be entitled to relocation assistance under URA.

**Notice of Eligibility (NOE)<sup>2</sup>:** The NOE informs tenants who will be permanently displaced of available relocation assistance, the estimated amount of assistance based on the displaced person’s individual circumstances and needs, and the procedures for obtaining assistance. This notice must be specific to the person and their situation so that they will have a clear understanding of the type and number of payments, along with the amount of each payment, and/or other assistance they may be entitled to. The NOE must be signed by the tenant(s).

**Ninety-Day Notice:** Owners/developers will develop their own vacate notices, which must be provided to tenants who will be displaced, at least 90 days prior to their move out. The notice may not be given before they receive an NOE for relocation assistance. Depending on the project timeline, the Ninety-Day Notice may be combined with the NOE. The date provided in this notice may be different for each person or group of persons residing in a project based on whether or not the project will be phased, the location of the occupied building(s), or the project schedule.

**Additional Notice Requirements – Tenant Track Down:** If an owner/developer fails to disperse the GIN required and occupants vacate the project before being appropriately advised of their eligibility or

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<sup>2</sup> Before an NOE can be provided, a relocation needs assessment interview needs to take place. The development team must also complete [Form HUD-40061](#). This form must be retained in the tenant URA file for purposes of monitoring by Minnesota Housing.

ineligibility for URA, the owner/developer must initiate all reasonable procedures to locate all former occupants who should have received proper notice. Each occupant's file must be documented with all attempts to make contact and the results. The owner/developer will need to determine the eligibility or ineligibility for relocation assistance for each former occupant who is located and assist the former occupant in accessing appropriate advisory services and applicable relocation payments. Efforts to locate former occupants may include:

- Appropriate notice in a local newspaper (for at least 30 days)
- Posting notice in an appropriate project location
- Checking with the local post office for a forwarding address
- Checking project records for employment or other contact telephone numbers
- Checking with local utility companies, school districts, churches, or community organizations
- Hiring a "finding service" available in the local area or over the internet
- Other appropriate methods

### Relocation Needs Assessment Interviews

Providing a written notice or series of notices, along with the HUD information brochure, is not sufficient to ensure that a person who is affected by the project understands their rights and responsibilities. As soon as feasible, the owner/developer must contact each person who is affected by the project to discuss their needs, preferences, and concerns. Whenever feasible, contact should be in person.

The development team must complete [Form HUD-40061](#). This form must be retained in the tenant URA file for purposes of monitoring by Minnesota Housing.

### Claim Forms

HUD provides claim forms on their [Forms and Brochures](#) webpage to use when calculating benefits.

Each URA file for *residential tenants* who are **displaced** requires:

- [Form HUD-40058](#): Claim for Rental Assistance or Down Payment Assistance
- [Form HUD-40054](#): Residential Claim for Moving and Related Expenses

Each URA file for *residential tenants* who are **temporarily relocated** requires:

- [Form HUD-40058](#): Claim for Rental Assistance or Down Payment Assistance
- [Form HUD-40030](#): Claim for Temporary Relocation Expenses (Residential Moves)

Each URA file for *nonresidential tenants* who are **displaced or temporarily relocated** requires:

- [Form HUD-40055](#): Claim for Actual Reasonable Moving and Related Expenses – Nonresidential

- [Form HUD-40056](#): Claim for Fixed Payment in Lieu of Payment for Actual Nonresidential Moving and Related Expenses

## Appeals

Tenants have the right to appeal the claim amount they have been provided. The Tenant Relocation Plan must include details of the appeals process consistent with 49 C.F.R. 24.10. Owners/developers must track all appeals submitted and the outcome of each decision. Written responses to tenants must include information regarding the tenant's ability to appeal the decision. Refer to [HUD Handbook 1378: Tenant Assistance, Relocation and Real Property Acquisition](#) for more information on the appeals process.

## Reporting

The development team will be required to send the month's rent roll(s) and any Move-In Notices to Minnesota Housing by the last business day of the month for Minnesota Housing to review.

Construction draws are contingent on Minnesota Housing having current and accurate URA information.

## Monitoring

Minnesota Housing will monitor URA files at project closeout for both temporary relocation and permanent displacement. The file should, at a minimum, contain the following:

- All applicable notices
- All applicable claim forms
- Copies of all checks and proof tenants received them (for example, signed check, certified mail signatures)
- Proof the appropriate HUD Information Brochure was delivered
- Any applicable communication
- Any appeals information, if applicable
- For residential tenants who were displaced, the file should contain:
  - [Form HUD-40061](#): Selection of Most Representative Comparable Replacement Dwelling for Computing Replacement Housing Payment
  - Replacement housing rent and utility costs
  - Proof that the replacement dwelling is decent, safe, and sanitary. A dwelling occupied in connection with a rental assistance program that is subject to HUD Housing Quality Standards (HQS) (24 C.F.R. 982.401), must be deemed to be in compliance with URA decent, safe, and sanitary standards if it meets the applicable HQS.

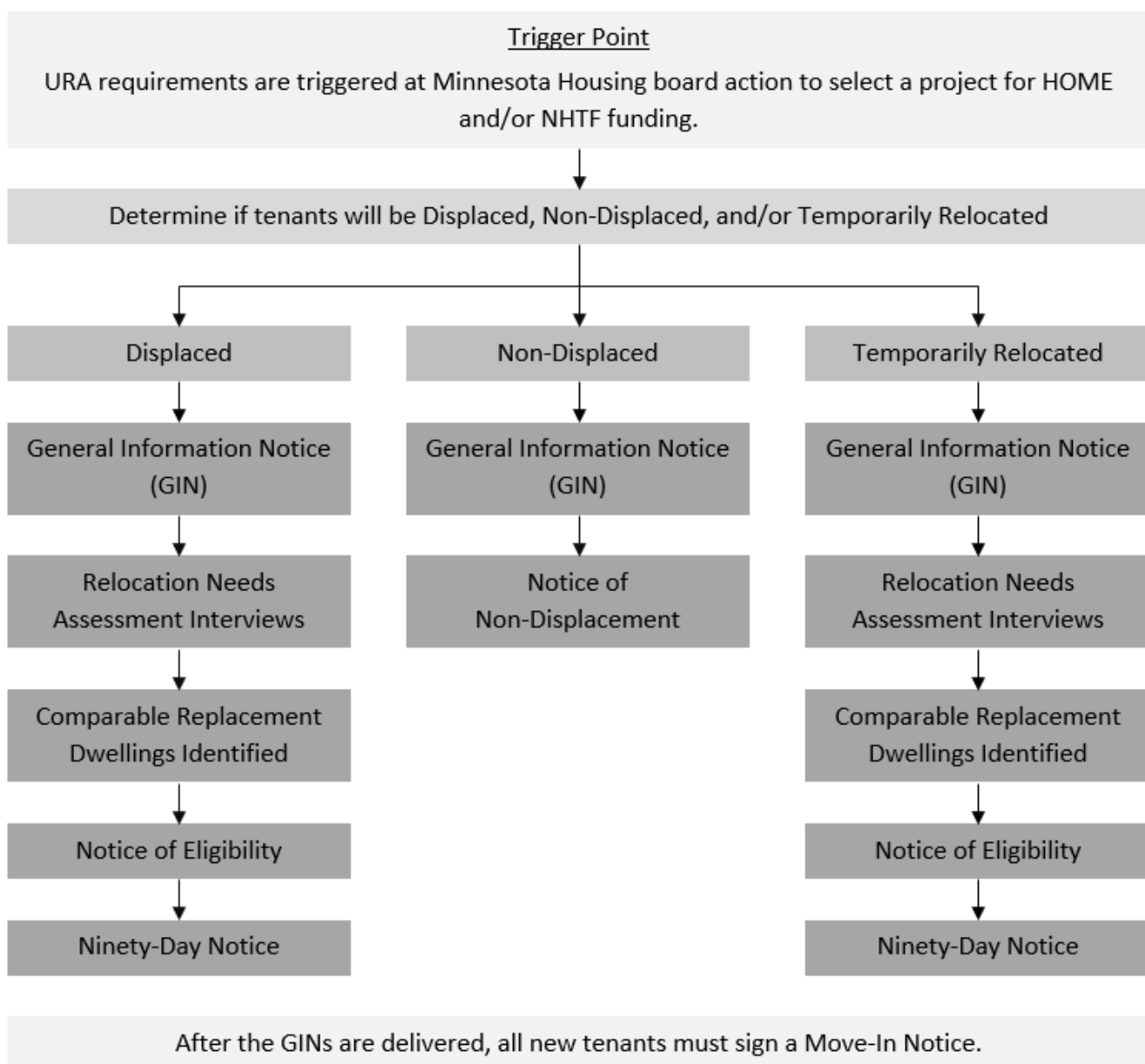
## Records Retention

Owners/developers must have a URA file for all tenants. The owner/developer will be responsible for retaining all documentation pertaining to URA, including rent rolls, tenant files, notices, claims, etc. All records must be retained for five years after the final claim payment has been made.

## URA Flowchart

Figure 1 below provides a general outline of the process and materials needed to comply with the URA, as described throughout section 4.20 (Uniform Relocation Assistance and Real Property Acquisition Policies Act) of this Program Guide.

Figure 1: URA Flowchart



## **4.21 Monitoring and Reporting Requirements**

Both the HOME and NHTF programs require regular reporting throughout the underwriting period for certain activities. These include:

- URA requirements
- Section 3 requirements
- Build America, Buy America (BABA) Act requirements

## **4.22 Subordination to Declaration of Covenants, Conditions, and Restrictions**

Minnesota Housing requires all lenders in a senior position to agree to subordinate their mortgage to the HOME Program or NHTF Program Declaration of Covenants, Conditions, and Restrictions; this does not affect lien priority. Rather, it ensures that applicable rent, income, and occupancy requirements run with the property for the duration of the Affordability Period regardless of any change of ownership, full payment of the loan, or event of default.

Borrowers should begin talking to senior lien holders as soon as possible to determine if they are willing to execute the subordination. If a lender is not able to meet this requirement, Minnesota Housing may elect to not fund the loan.



## Chapter 5 – Construction and Project Closeout

### 5.01 Construction Process Monitoring

The owner's contracts with the architect and general contractor must include language that requires the architect and general contractor to provide regular construction administration and site observations pursuant to Minnesota Housing's Architect's Guide and Contractor's Guide, which can be found on Minnesota Housing's [Building Standards](#) webpage.

### 5.02 Construction and Project Closeout Inspections

Minnesota Housing will attend the draw meetings and perform property inspections during construction.

A final project closeout inspection must be completed by Minnesota Housing staff or by an entity or person contracted by Minnesota Housing after project construction is complete. All violations, including those categorized as routine maintenance, from all earlier inspections must be corrected prior to the project closeout inspection.

### 5.03 Change Orders

All change orders and other contract modifications will be in accordance with Minnesota Housing's Architect's Guide and Contractor's Guide.

### 5.04 Required Documentation for Davis-Bacon (HOME Only)

Before the loan closing, the general contractor must submit a complete list of all contractors and subcontractors to be employed. This list must be updated as additional subcontractors are determined. Additionally, once per project and before the subcontractor starts working on the project, the general contractor is required to submit documentation showing that the employed subcontractors are not on HUD's Limited Denial of Participation (LDP) list or listed as debarred in the SAM on the [SAM.gov website](#).

The general contractor must, at a minimum, submit the following records on a weekly basis into the labor compliance software used by Minnesota Housing to comply with Davis-Bacon requirements:

- A list showing all contractors and subcontractors working on the project during the work week
- A contractor and subcontractor profile for every contractor working on the project
- The certified weekly payroll report for each contractor and subcontractor that includes employees working at any time during the week
- Proof of employee approval of all other deductions

These submittals must be made no later than seven days following the reporting period covered.  
*Incomplete or incorrect payroll reports will delay payment.*

Minnesota Housing will also conduct periodic interviews with persons who are working on site to ensure compliance with Davis-Bacon and Related Acts. Errors or discrepancies in labor rates and payrolls will result in possible restitution to the person affected.

### **Davis-Bacon Notices for Job Site**

Minnesota Housing will make one or more site visits to determine that the applicable notices related to wage and labor requirements are posted at the site. Posting at the work site must include a copy of:

- Applicable Davis-Bacon wage decision
- [Form HUD-4010](#): Federal Labor Standards Provision
- [Worker Rights Under the Davis-Bacon Act Notice Poster](#)
- Any additional classification information

These documents must be posted at the work site in a location that employees can easily access and must be protected from the weather for the duration of the contract work.

### **5.05 Construction Draws**

Minnesota Housing reviews and approves all monthly draws for the HOME and NHTF Program prior to disbursement of any funds. Minnesota Housing cannot approve a draw or disburse HOME or NHTF Program funds if a property is out of compliance with program obligations during the construction period. This may include, but is not limited to, failure to provide labor information and reports, URA reports, and Section 3 documentation.

Draws may be withheld until compliance with program obligations, loan terms, and the Written Agreement are met and, in cases where compliance cannot be achieved, Minnesota Housing may pursue all available remedies as outlined in the loan documents.

### **5.06 Monitoring and Reporting Requirements**

Both the HOME and NHTF programs require regular reporting throughout the construction period for certain activities. These include:

- URA requirements
- Section 3 requirements
- Build America, Buy America (BABA) Act requirements

**HOME Only:** The HOME Program also requires reporting for labor standards (Davis-Bacon) during the period of construction.

## 5.07 Labor Standards and Payment of Wages Disputes (HOME Only)

Disputes arising from labor standard provisions must be resolved in accordance with the policies and procedures listed below. This includes disputes between the contractor or subcontractor and Minnesota Housing, HUD, the DOL, or the employees and their representatives.

The purpose of these procedures is to establish a uniform method of receiving, resolving, and documenting complaints and investigations or disputes where Davis-Bacon labor standards apply.

The following procedures must be followed to reach a resolution to labor standard disputes:

- The Minnesota Housing construction compliance officer (CCO) is responsible for resolving any complaints and conducting all investigations received where Davis-Bacon labor standards apply.
- All complaints received must be referred to the Minnesota Housing CCO for investigation within 10 days of receiving the complaint.
- The Minnesota Housing CCO will investigate and review complaints, request additional information if necessary, and issue a written notice of findings to all parties within 30 days of receiving all information required to make a decision.

If a contractor or subcontractor disagrees with the findings of the Minnesota Housing CCO concerning the complaint, the contractor or subcontractor can appeal any findings by submitting a written request to the Minnesota Housing CCO. The contractor or subcontractor must provide an explanation, along with supporting documentation, within 30 days of the original notification of findings.

The Minnesota Housing CCO and the Multifamily assistant commissioner will review the original findings and the information submitted appealing the findings to determine if the disagreement is justified. The contractor or subcontractor will be notified in writing within 30 days of receiving the written appeal.

If the contractor or subcontractor is not satisfied with Minnesota Housing's determination, they may request that the case be referred to HUD and/or the DOL for reconsideration. Such disputes must be resolved in accordance with the procedures of the DOL set forth in 29 C.F.R. 5-7.

A request for DOL reconsideration of a work classification and wage rate must be submitted in writing to the DOL within 30 days of the decision and must be accompanied by a full statement and supporting data or information.

The information in this Program Guide is not intended as a full or complete description of labor standards, responsibilities, and obligations. It is important to develop a working knowledge of HUD labor standards. If you are not well versed in labor standards issues and compliance, you may want to consider hiring an experienced consultant to ensure full compliance.

## **5.08 Owner's Letter Certifying Compliance (HOME Only)**

Upon completion, the owner must submit a letter to Minnesota Housing certifying compliance with all Davis-Bacon labor standards requirements.

## **5.09 Project Completion**

Project completion for projects financed with HOME or NHTF Program funds is defined to mean that:

- All necessary title transfer requirements and construction work have been performed
- The project complies with the requirements of program regulations, including property standards
- The final drawdown of funds has been disbursed for the project
- The project completion information has been entered into HUD's Integrated Disbursement and Information System (IDIS)

To help ensure that new construction properties fully comply with HUD's HOME and/or NHTF Program project completion requirements, a project will not be deemed to have reached project completion until satisfactory evidence has been submitted confirming that all HOME or NHTF Program responsibilities have been met and that all associated documentation needed for project closeout is complete. Reference 24 C.F.R. 92.251 and 92.502(d) for the HOME Program and 24 C.F.R. 93.2, 93.301, and 93.402(d) for the NHTF Program.

### **HOME Only**

HOME Program assisted rental units must be occupied by income-eligible households within 18 months of project completion; for units that remain vacant six months following completion, an enhanced marketing plan and report will be required to be submitted to HUD (24 C.F.R. 92.252).

### **NHTF Only**

The project completion date must ensure timely occupancy of NHTF Program units.

The NHTF Program requires the completion of a final cost certification performed by a certified public accountant for each assisted project. This final cost certification must be completed and submitted as part of NHTF Program project closeout.

## **5.10 Funds for Final Draw**

Minnesota Housing may withhold a portion of the HOME and/or NHTF Program loan proceeds until the final project draw. The amount may be adjusted depending on the specific requirements of the project. Final disbursement will be contingent on satisfactory evidence that all HOME and/or NHTF Program

requirements and compliance responsibilities have been met and that all associated documentation needed for project closeout is complete.

For projects using HOME/NHTF Program funds for new construction, Minnesota Housing may withhold the final draw until all federally Assisted Units are occupied by income-eligible tenants and required due diligence has been reviewed and approved.

## Chapter 6 – Affordability Period

The federal HOME Program and NHTF Program establish specific compliance responsibilities for the duration of the Affordability Period and the term of the loan. For information on compliance using HOME or NHTF Program funds, refer to applicable regulations for each program as referenced throughout this Program Guide.

### 6.01 Monitoring and Reporting Requirements

Minnesota Housing actively monitors each development. This includes monitoring of tenant incomes, rents, affirmative marketing, and equal opportunity requirements.

Developments financed by Minnesota Housing are subject to periodic management reviews and physical inspections. Assisted Units must be leased to qualified households who must disclose their annual household income at initial occupancy on an Initial Occupancy Statement by Tenant Form (other, more detailed income certification forms may be acceptable, approval of which will be determined by Minnesota Housing). This form is used to certify households are qualified to occupy an Assisted Unit.

Owners must also request (but cannot require) that qualified households complete a Head of Household Demographic Information Form, which provides additional information for program evaluation. Occupancy information for all units must be reported annually in the form and manner requested by Minnesota Housing.

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

All relevant forms can be found on Minnesota Housing's [Oversight and Support for Property Managers](#) webpage.

### 6.02 Financial Reporting and Reserves

#### HOME Only

For projects that receive HOME Program funds, Minnesota Housing may require the owner to establish a replacement cost reserve account any time prior to repayment of the HOME Program loan. The replacement cost reserve account will be held and maintained by either Minnesota Housing or a depository designated by Minnesota Housing.

If, during the HOME Program Period of Affordability, the owner has a previously established replacement cost reserve account with a lender other than Minnesota Housing, the owner is required to furnish to Minnesota Housing evidence of the spending activity of the replacement cost reserve account. Evidence must include, but is not limited to, the current balance, deposits and disbursements made from the account, purpose of the disbursements, and any other information Minnesota Housing may request.

If the owner has established a replacement cost reserve account that is not held by a lender, then during the Period of Affordability (as defined herein), the owner must, within 10 business days, furnish to Minnesota Housing or the lender, as may be requested from time to time, evidence of the spending activity of the replacement cost reserve account in a form acceptable to Minnesota Housing or the lender. Evidence must include, but is not limited to, the current balance, deposits and disbursements made from the account, purpose for which disbursements were made, and any other information the lender may request.

### **NHTF Only**

Properties with 10 or more NHTF Program Assisted Units will be required to follow the financial oversight obligations of 24 C.F.R. 93 and 24 C.F.R. 93.404 and as detailed in this Program Guide.

### **Financial Oversight**

Requests from reserves will be reviewed and approved annually by Minnesota Housing upon receipt of audited financial statements. Owners must submit annual operating data, audited financial statements, and annual updated Physical Needs Assessment (PNA) data for review by the assigned housing management officer (HMO). If you have questions regarding financial oversight, contact Eric Thiewes, Multifamily Portfolio Manager, at [eric.thiewes@state.mn.us](mailto:eric.thiewes@state.mn.us) or 651.296.6527.

### **Physical Needs Assessments and Capital Needs Assessments**

The owner must submit a post rehabilitation capital expenditure that includes capital projections through the end of the Affordability Period. Minnesota Housing architects will review the plan using the completed rehabilitation capital expenditure to ensure appropriate useful remaining life and needed expenditures are included. The Asset Management Program supervisor will annually:

- Review the balance of replacement reserves at the beginning of the fiscal year
- Review capital expenditures during the fiscal year
- Adjust the above referenced Physical Needs Assessment (PNA)/Capital Needs Assessment (CNA) as needed
- Ensure reserves balance remains positive through the Affordability Period end date

Use the Federal Reporting Tool to submit annual operating data. This information will be used to assist in evaluating the long-term financial viability of the project. It is similar to the Minnesota Housing reporting tool that owners and agents currently use to report first mortgage oversight operating data except for the following:

- Only one report needs to be submitted 30 days from the project's fiscal year end.
- The report will include all reserves balances and loan amounts from outside entities (if not held by Minnesota Housing).
- The report will be in place of an annual budget and will reflect actual annual financial viability.

### **6.03 Ongoing Property Inspections and Property Standards**

Ongoing property inspections are required during the Affordability Period as noted in 24 C.F.R. 92.251 and 24 C.F.R. 93.301 and 93.404.

Minnesota Housing's inspection schedule for HOME and NHTF Program projects can be found in Minnesota Housing's [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide](#). The first monitoring inspection will be conducted in conjunction with project completion.

### **6.04 Rent and Income Eligibility During Occupancy**

#### **HOME Only**

All HOME Program Assisted Units in a rental housing project must be occupied by households that are eligible as low-income families, with the following additional requirements. More restrictive requirements may be applicable based on project underwriting.

#### **Properties with Five or More Units**

Properties with five or more HOME Program Assisted Units must meet the following initial occupancy requirements at project completion:

- At least 90% of all HOME Program Assisted Units must be initially occupied by families with annual gross incomes at or below 60% of AMI, with rents at or below the High HOME Rent limit.
- At least 20% of all HOME Program Assisted Units must be initially occupied by Very Low-Income Households with incomes at or below 50% of AMI, with rents at or below the Low HOME Rent limit, unless a greater percentage is specified in the Declaration of Covenants, Conditions, and Restrictions.
- The remainder of the HOME Program Assisted Units must be initially occupied by families with annual gross incomes at or below 80% of AMI, with rents at or below the High HOME Rent limits.



Subsequent to initial occupancy:

- The minimum percent of the HOME Program Assisted Units designated in the Declaration of Covenants, Conditions, and Restrictions must continue to be occupied by families with annual gross incomes at or below 50% of AMI, with rents at or below the Low HOME Rent limit. The remaining HOME Program Assisted Units must be occupied by families with annual gross incomes at or below 80% of AMI, with rents at or below the High HOME Rent limit.

### **Properties with Fewer than Five Units**

Properties with fewer than five HOME Program Assisted Units must meet the following initial occupancy requirement at project completion:

- All HOME Program Assisted Units must be initially occupied by families with annual gross incomes at or below 60% of AMI, with rents at or below the High HOME Rent limit.

Subsequent to initial occupancy:

- All HOME Program Assisted Units must continue to be occupied by families with gross annual incomes at or below 80% of AMI, with rents at or below the High HOME Rent limit.

### **NHTF Only**

The income and rent determination provisions provided in this Program Guide are those that HUD uses in its HOME Rule. The breakdown of occupied units and income and rent requirements for the NHTF Program are different and are specific to serving populations that are Extremely Low-Income Households.

Refer to Minnesota Housing's [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide](#) for more information.

## **6.05 Utility Allowances**

As part of ongoing property inspections, Minnesota Housing staff will review the current utility allowances and supporting documentation for the property.

Refer to Minnesota Housing's [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide](#) for more information.

## **6.06 Lease Terms and Tenant Selection Policies**

As part of ongoing property inspections, Minnesota Housing staff will review the following property information:

- Current written Tenant Selection Plan, occupancy policy, and/or house rules
- Current lease and lease addenda (including HOME/NHTF Program Form 22, VAWA Lease Addendum, and Minnesota Housing's attachment)
- Affirmative Fair Housing Marketing Plan
- Marketing and advertising
- Tenant ledgers for all units inspected

Refer to Minnesota Housing's [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide](#) for more information.

## **6.07 Lead-Based Paint Requirements**

As part of ongoing property inspections, Minnesota Housing staff will review the ongoing lead-based paint maintenance records for the property, where applicable.

Refer to Minnesota Housing's [Multifamily HOME Investment Partnerships and National Housing Trust Fund Program Compliance Guide](#) for more information.

## Appendix A – Terms

Term	Definition
Affordability Period	The period of time, as specified in 24 CFR 93.302, that NHTF Program requirements apply to NHTF-assisted housing.
AMI	Area Median Income
Assisted Unit	A unit that is subject to the HOME or NHTF Program requirements.
Community Housing Development Organization (CHDO)	A private nonprofit organization that meets the requirements of a CHDO as defined in 24 C.F.R. 92.2.
Declaration of Covenants, Conditions, and Restrictions	Legal document that outlines the rules and regulations governing the use, maintenance, and development of real property within a specific community.
EEO	Equal Employment Opportunity
Extremely Low-Income Household	Household whose annual income does not exceed 30 percent of AMI, as determined by HUD, with adjustments for smaller and larger families.
Federal Low-Income Housing Tax Credits (HTCs)	A financing program for qualified residential rental properties. The HTC program offers investors a 10-year reduction in tax liability in exchange for capital to build eligible affordable rental housing units in new construction, rehabilitation, or acquisition with rehabilitation.
Funding Selection	Minnesota Housing board action to select a project for funding.
HOME Investment Partnerships (HOME) Program	A federal program established by Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, that provides financing for the acquisition, new construction, or rehabilitation of federally and non-federally assisted multifamily rental housing for low-income individuals and families.
HOME Final Rule	An update to the HOME Program regulations.
High HOME Rent	<p>If a Low-Income Household is participating in a program where the household pays as a contribution toward rent no more than 30 percent of the household's monthly adjusted income or 10 percent of the household's monthly income, then the maximum rent due from the household is the household's contribution.</p> <p>For all other cases, the rent does not exceed the lesser of:</p> <ul style="list-style-type: none"> <li>(i) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or</li> <li>(ii) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD.</li> </ul>
LDP	HUD Limited Denial of Participation List
Low HOME Rent	If a Very Low-Income Household is participating in a program where the household pays as a contribution toward rent no more than 30 percent of

Term	Definition
	<p>the household's monthly adjusted income or 10 percent of the household's monthly income, then the maximum rent due from the household is the household's contribution.</p> <p>All other Low HOME Rent units must have rent that meet one of the following requirements:</p> <p>(i) The rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD. If the rent determined under this paragraph is higher than the fair market rent under <a href="#">paragraph (a)(1)(i)</a> of this section, then the maximum rent for units under this paragraph is the fair market rent under paragraph (a)(1)(i);</p> <p>(ii) The rent contribution of the family is not more than 30 percent of the family's adjusted income; or</p> <p>(iii) The unit is a LIHTC unit and has rents not greater than the gross rent for rent-restricted residential units as determined under <a href="#">26 U.S.C. 42(g)(2)</a>.</p>
Low-Income Household	Household whose annual income does not exceed 80 percent of AMI, as determined by HUD, with adjustments for smaller and larger families.
Mortgage Credit Committee	A Minnesota Housing cross-divisional management group that approves credit analysis, ownership structures and financing of projects for multifamily loans and related matters.
Multifamily Consolidated Request for Proposals	Multifamily Consolidated Request for Proposals funding round offered once a year which consolidates and coordinates multiple housing resources into one application process, including deferred loans and amortizing first mortgages.
National Housing Trust Fund (NHTF) Program	A federal program established by Title I of the Housing and Economic Recovery Act of 2008 that provides financing for acquisition, new construction, or rehabilitation activities that increase or preserve the supply of multifamily rental housing for extremely low-income individuals and families.
NSPIRE	National Standards for Physical Inspection of Real Estate
Operating Cost Assistance	Funds used to pay for the insurance, utilities, real property taxes, maintenance, and scheduled payments to a reserve for replacement of the major systems of NHTF Assisted Units for which project-based rental assistance is not available.
Operating Cost Assistance Reserves (OCAR)	Project reserves used to pay for the insurance, utilities, real property taxes, maintenance, and scheduled payments to a reserve for replacement of the major systems of NHTF Assisted Units for which project-based rental assistance is not available.
Participating Jurisdiction	A jurisdiction (as defined in this section) that has been so designated by HUD in accordance with 24 CFR 92.105 to administer HOME Program funds.

<b>Term</b>	<b>Definition</b>
Period of Affordability	The period of time, as specified in 24 CFR 92.252 and 92.254, that HOME Program requirements apply to HOME-assisted housing.
Program Guide	HOME and NHTF Combined Program Guide
Public Housing	Housing owned by a local political subdivision that is federally subsidized via an annual contributions contract and is restricted by a HUD declaration of trust.
Rural Development (RD)	The housing division of the United States Department of Agriculture.
SAM	System for Award Management
Section 8	The Housing Choice Voucher Program which helps low-income families, elderly persons, veterans and disabled individuals afford housing in the private market.
Tenant Selection Plan	A plan that outlines the procedures and criteria used to select tenants for a property, ensuring compliance with fair housing laws and program requirements.
Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA)	The Uniform Relocation Assistance and Real Property Acquisition Policies 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.
Very Low-Income Household	Household whose annual income does not exceed 50 percent of AMI, as determined by HUD, with adjustments for smaller and larger families.
Written Agreement	A legally binding agreement with a project owner to commit a specific amount of HOME or NHTF funds to a specific local project.

## **Appendix B – Legal Addendum**

Any recipient of an award pursuant to the HOME and/or NHTF Program agrees to comply with the additional requirements and obligations as described below.

### **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 (that is, 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.

#### **1.04.1 Federal Conflict of Interest Requirements**

State and federal conflict of interest requirements differ, and Minnesota Housing business partners must comply with all requirements.

Minnesota Housing administers various programs using federal funds. Minnesota Housing requires that each of its external business partners (for example, administrators, borrowers, contractors, grantees or subrecipients) complies with all applicable federal conflict of interest standards. Specifically, no external business partner's employee, agent or consultant may participate in the selection, award or administration of a contract supported by a federal award if they have a real or apparent conflict of interest. Such a conflict of interest would arise when the business partner's employee, agent, consultant or any member of their immediate family, their partners, or an organization which employs or is about to employ any of these parties, has a financial or other interest in, or obtains a tangible personal benefit from, a firm considered for a contract. External business partner's employees, agents and consultants may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts supported by a federal award. Minnesota Housing will not consider it a violation of this policy if the external business partner's employee, agent or consultant receives an unsolicited item of nominal value.

In addition, no external business's partner employees, agents or consultants "who exercise or have exercised any functions or responsibilities with respect to activities assisted with" funds from HOME Investment Partnerships (HOME), HOME American Rescue Plan (HOME ARP), Housing Opportunities for Persons with AIDS (HOPWA) or National Housing Trust Fund (NHTF) "or who are in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or financial benefit from" a HOME, HOME ARP, HOPWA or NHTF-assisted activity "or have a financial interest in any contract, subcontract, or agreement with respect to the" HOME, HOME ARP, HOPWA or NHTF-assisted activity "or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a



stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.”<sup>3</sup> Violation of federal conflict of interest requirements by business partners, agents or consultants will result in appropriate actions by Minnesota Housing, including the potential termination of the relationship and additional contractual or other remedies. Violation of federal conflict of interest requirements may need to be reported to the federal government in appropriate circumstances.

Any person or entity (including its employees and affiliates) that enters into an agreement with Minnesota Housing relating to federal funds 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

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<sup>3</sup> See generally, HOME: [24 CFR 92.356](#); including any revisions by the Appendix to the HOME-ARP Notice as amended; HOPWA: [24 CFR 574.625](#); NHTF: [24 CFR 93.353](#). In limited circumstances, a conflict of interest could be waived via an exception request, in writing. For further information, see federal regulations at: HOME: [24 CFR 92.356](#); HOPWA: [24 CFR 574.625](#); NHTF: [24 CFR 93.353](#).

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 (for example, 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](mailto: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 of existing housing); (2) a single entity receives from Minnesota Housing \$200,000 or more of grant proceeds or \$500,000 of loan proceeds; or (3) allocations or awards of low-income housing tax credits, for which tax credits are used for multifamily housing projects consisting of more than ten units.

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.

Entities receiving funding from Minnesota Housing as described in this section shall notify all employers on the project of the recordkeeping and reporting requirements in Minnesota Statutes Section 177.30, paragraph (a), clauses (6) and (7). Each employer shall submit the required information to Minnesota Housing.

Questions related to submission of required information to Minnesota Housing may be directed to: [mhfa.prevailingwage@state.mn.us](mailto:mhfa.prevailingwage@state.mn.us).

All questions regarding state prevailing wages and compliance requirements should be directed to the Minnesota Department of Labor and Industry 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](mailto:dli.prevwage@state.mn.us)

If a contractor or subcontractor fails to adhere to prevailing wage laws, then that contractor or subcontractor could face civil and/or criminal liability.