



HOME American Rescue Plan Program

HOME ARP Program Guide

October 2025



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Values Statement

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

We will:

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

Chapter 1 – Purpose and Background

This Program Guide is applicable to projects with HOME American Rescue Plan (HOME ARP) funds. HOME ARP is separate and distinct from the HOME Investment Partnerships (HOME) and National Housing Trust Fund (NHTF) programs. Projects with HOME or NHTF program funds must refer to the applicable HOME and NHTF Combined Program Guide for questions related to compliance with Minnesota Housing requirements for those programs.

1.01 Program Purpose and Regulations

The HOME ARP Program was created in 2021, providing \$5 billion in one-time funding across the nation to support affordable housing initiatives. Under the HOME ARP Program, funds were allocated to states and local jurisdictions based on a formula that considered various factors such as population size, poverty rates, and housing needs. This formula ensured that the funds were directed to areas where they could have the most significant impact.

The HOME ARP Program provides financing to help preserve or increase the supply of decent, safe and sanitary affordable housing, upgrading shelter facilities to include non-congregate shelter, and providing tenant-based rental assistance and supportive services. HOME ARP Program funds are intended to benefit specific Qualifying Populations and Low-Income Households.

Minnesota Housing will use its one-time allocation of HOME ARP Program funds to provide financing to selected applicants for any of the following activities:

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

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 ARP](#) webpage.

Program specific federal statutes and rules referenced in this guide can be found at the links below:

- [CPD-21-10 Notice: Requirements for the Use of Funds in the HOME ARP Program](#)
- [Waivers and Alternative Requirements for Implementation of the HOME ARP Program](#)

The information presented in this guide is not intended to be a complete description of the owner/developer's responsibilities under the HOME ARP Program. 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.

Noncompliance by any participating party with certain HOME ARP Program requirements may have serious financial or legal consequences.

1.02 Highlights of the HOME ARP Program

HUD published the HOME ARP Notice CPD 21-10 and Appendix in 2021, which contains many provisions that impact how the funding is administered. This Program Guide specifies areas where Minnesota Housing has implemented more restrictive requirements.

The provisions of the HOME ARP Notice listed below are of particular importance as they relate to the most significant changes for the administration of the HOME ARP Program. Details can be found in subsequent chapters specific to the change.

- Targeting requirements related to meeting eligibility of Qualifying Populations rather than to income targeting requirements
- Unit mix requirements with no more than 30% of units restricted for occupancy to Low-Income Households, the remaining units (70%) are restricted for occupancy to Qualifying Populations
- Addition of a Capitalized Operating Cost Assistance Reserve as an eligible cost
- Maximum per unit subsidy amount waived
- Alignment of HOME ARP Program rent limits for households with rental assistance with other rental assistance programs
- HOME ARP Program Compliance Period is 15 years regardless of rental housing activity type
- No matching contribution requirements
- Homeownership and owner-occupied activities, including assistance to homebuyers, development of affordable housing for homeownership, and homeowner rehabilitation are not eligible

1.03 HOME ARP Intended Beneficiaries

HOME ARP Program regulations require that funds primarily benefit the four Qualifying Populations:

1. Homeless
2. At Risk of Homelessness
3. Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD
4. Other Populations

These Qualifying Populations are defined below. Veterans and Families that include a Veteran Family Member that meet the criteria for one of the Qualifying Populations are eligible to receive HOME ARP Program assistance.

Any individual or family who meets the criteria for these populations is eligible to receive assistance or services funded through the HOME ARP Program without meeting additional criteria. All income calculations to meet income criteria of a Qualifying Population or required for income determinations in HOME ARP Program eligible activities must use the annual income definition in 24 C.F.R. 5.609 in accordance with the requirements of 24 C.F.R. 92.203(a)(1).

All rental housing units that are acquired, rehabilitated, or constructed using HOME ARP Program funds must be primarily targeted to all four Qualifying Populations.

Homeless

As defined in 24 C.F.R. 91.5 *Homeless (1), (2), or (3)*:

- An individual or family who lacks a fixed, regular, and adequate nighttime residence meaning:
 - (i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - (ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or 4
 - (iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- (2) An individual or family who will imminently lose their primary nighttime residence, provided that:
 - (i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
 - (ii) No subsequent residence has been identified; and
 - (iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;
- (3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
 - (i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the

- Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
- (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
 - (iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
 - (iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment;

At Risk of Homelessness

As defined in 24 C.F.R. 91.5 *At risk of homelessness*:

- (1) An individual or family who:
 - (i) Has an annual income below 30 percent of median family income for the area, as determined by HUD;
 - (ii) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the “Homeless” definition in this section; and
 - (iii) Meets one of the following conditions:
 - (A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - (B) Is living in the home of another because of economic hardship;
 - (C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
 - (D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low income individuals;
 - (E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

- (F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
- (G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;
- (2) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(l) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(l)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or
- (3) A child or youth who does not qualify as “homeless” under this section but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD

For the HOME ARP Program, this population includes any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This population includes cases where an individual or family reasonably believes that there is a threat of imminent harm from further violence due to dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual’s or family’s primary nighttime residence or has made the individual or family afraid to return or remain within the same dwelling unit. In the case of sexual assault, this also includes cases where an individual reasonably believes there is a threat of imminent harm from further violence if the individual remains within the same dwelling unit that the individual is currently occupying, or the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer.

Domestic violence, which is defined in 24 C.F.R. 5.2003, includes felony or misdemeanor crimes of violence committed by:

- (1) A current or former spouse or intimate partner of the victim (the term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship);
- (2) A person with whom the victim shares a child in common;

- (3) A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- (4) A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving HOME ARP Program funds; or
- (5) Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating violence, which is defined in 24 C.F.R. 5.2003, means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (i) The length of the relationship;
 - (ii) The type of relationship; and
 - (iii) The frequency of interaction between the persons involved in the relationship.

Sexual assault, which is defined in 24 C.F.R. 5.2003, means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent.

Stalking, which is defined in 24 C.F.R. 5.2003, means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's individual safety or the safety of others; or
- (2) Suffer substantial emotional distress.

Human Trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7102). These are defined as:

- (1) Sex trafficking means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (2) Labor trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Other Populations

Other populations where providing supportive services or assistance under section 212(a) of the National Affordable Housing Act (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability. HUD defines these populations as individuals and households who do not qualify under any of the populations above but meet one of the following criteria:

- (1) Other Families Requiring Services or Housing Assistance to Prevent Homelessness is defined as households (i.e., individuals and families) who have previously been qualified as “homeless” as defined in 24 C.F.R. 91.5, are currently housed due to temporary or emergency assistance, including financial assistance, services, temporary rental assistance or some type of other assistance to allow the household to be housed, and who need additional housing assistance or supportive services to avoid a return to homelessness.
- (2) At Greatest Risk of Housing Instability is defined as household who meets either paragraph (i) or (ii) below:
 - (i) has annual income that is less than or equal to 30% of AMI, as determined by HUD and is experiencing severe cost burden (i.e., is paying more than 50% of monthly household income toward housing costs);
 - (ii) has annual income that is less than or equal to 50% of AMI, as determined by HUD, AND meets one of the following conditions from paragraph (iii) of the “At risk of homelessness” definition established at 24 C.F.R. 91.5:
 - (A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;
 - (B) Is living in the home of another because of economic hardship;
 - (C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;
 - (D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;
 - (E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;
 - (F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or
 - (G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan

1.04 HOME ARP 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 ARP Program Guide agrees to comply with the additional requirements and obligations as described in Appendix C (Legal Addendum), which is attached and incorporated into this Program Guide.

Chapter 2 – Eligible Uses and Eligibility Criteria

2.01 Eligible Activities

The HOME ARP 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

The 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

HOME ARP Program funding *cannot* be used for any of the following ineligible property types:

- **Emergency Shelters:** Properties that function as emergency shelters are not eligible for HOME ARP Program funding. The program focuses on providing permanent housing solutions rather than temporary or emergency accommodations.
- **Nursing Homes and Convalescent Homes:** Facilities that provide long-term care and medical services, such as nursing homes and convalescent homes, are not eligible for funding under the HOME ARP Program.

- **Hospitals and Residential Treatment Facilities:** Properties that operate as hospitals or residential treatment facilities, which provide medical or therapeutic services, are not eligible for HOME ARP Program funding.
- **Correctional Facilities and Halfway Houses:** Properties used for correctional purposes, including prisons, jails, and halfway houses, are not eligible for funding. The program aims to provide housing that supports community integration and stability.
- **Student Housing and Dormitories:** Housing specifically designed for students, including dormitories and farmworker dormitories, are not eligible for HOME ARP Program funding. The focus is on providing housing for low-income individuals and families, as well as those experiencing homelessness or housing instability.

Additionally, 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
- 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 the HOME ARP Notice section VI.B.3.c which refers to the HOME Program regulation at 24 C.F.R. 92.206(a).
 - 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 the HOME ARP Notice section VI.B.11 referring to the HOME Program regulations under 24 C.F.R. 92.251, Minnesota Housing's Multifamily Rental Housing Design/Construction Standards, and National Standards for Physical Inspection of Real Estate (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 ARP 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(a)-(c) per the HOME ARP Notice section VI.B.7.

Soft Costs

Eligible soft costs include those contained in 24 C.F.R. 92.206(d):

- Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, work write-ups; for 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 Written Agreement that commits the funds to the property or during the construction phase
- Fees for recordation and filing of legal documents, building permits, and 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 that are approved by Minnesota Housing in advance of incurring the soft costs

Eligible Operating Cost Assistance

The HOME ARP Program allows grantees to request a capitalized operating cost assistance reserve (COCAR) for HOME ARP Program Assisted Units restricted for occupancy by Qualifying Populations when project-based rental assistance is not available, and underwriting determines that a reserve is necessary for operational feasibility. Minnesota Housing may make funds available for a COCAR based on the projected operating deficits for approved units. HOME ARP Program Assisted Units restricted for occupancy by Low-Income Households are not eligible for operating cost assistance.

Owners that accept a COCAR as a component of the funding for their project will be required to enter into a Written Agreement for the COCAR as well as a Deposit Control Agreement with Minnesota Housing. These documents will identify the obligations of the owner in regard to holding and drawing the reserve funds.

Any HOME ARP Program funds for a COCAR must be held in a separate interest-bearing account by the project owner. The project owner must request written approval from Minnesota Housing prior to disbursing funds from the COCAR. Minnesota Housing will review each requested distribution to ensure that distributions are reasonable and necessary to cover the operating deficit associated only with the HOME ARP Program units occupied by Qualifying Population households.

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 details for ineligible activities and fees can be found under 24 C.F.R. 92.214. Note that the HOME ARP Program waives 24 C.F.R. 92.214 as it relates to operating cost assistance as described in the Appendix at III. Subpart C.10.

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:

- 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 ARP Program funding can be provided in the form of a construction loan or an end loan.

Features of these loans include:

- 0% interest rate
- The full loan amount, including any principal and interest, is due at the end of the loan term—a minimum of 15 years, or longer depending on other funding sources and requirements. However, payment may be triggered earlier because of 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 ARP Program assistance is \$1,000 per HOME ARP Program Assisted Unit in the 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

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

2.07 Eligible Owners, Sponsors, Developers, and Capacity

Eligible Entities for the HOME ARP 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 Federally recognized American Indian Tribe located in Minnesota or its Tribally Designated Housing Entity
- 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.

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 and listed as debarred, they will not be eligible to receive HOME ARP Program funds.
- If the owner(s) are listed on Minnesota Housing's suspension list, they will not be eligible to receive HOME Program 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 ARP Program must follow Minnesota Housing's [HOME ARP Program 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 ARP 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 [HOME ARP Program 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 [HOME ARP Program 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 ARP Program 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 standards 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 per the HOME ARP Notice section VIII.F.q.

HUD does not apply specific site and neighborhood standards to rehabilitation projects under the HOME ARP Program.

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

2.10 HOME ARP Program Compliance Period

The HOME ARP Program Compliance 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 HOME ARP Program Compliance Period as a condition of funding. The HOME ARP Program Compliance 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.

All HOME ARP Program loans, regardless of the amount or number of units, must adhere to a fifteen-year HOME ARP Program Compliance Period.

2.11 Cost Allocation

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

The federal funding must only pay the share of project eligible costs proportionate to the number of HOME ARP Program 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 ARP Program Written Agreement. If there are any changes to eligible project costs during underwriting and construction, the number of HOME ARP Program Assisted Units and maximum funding will be recalculated. This recalculation may result in revising the number of HOME ARP Program Assisted Units.

2.12 Applying for Funds

Funds allocated for HOME ARP Program activities are available through Minnesota Housing's HOME ARP Program Request for Proposals (RFP).

Minnesota Housing's HOME ARP Program RFP will be a one-time opportunity to apply for HOME ARP Program funds, unless subsequent RFPs are necessary to expend the full allocation. Notification is posted with resources and requirements for program eligibility found on Minnesota Housing's [HOME American Rescue Plan Program](#) webpage. Technical assistance and web training are made available prior to the date applications are due.

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

HOME ARP funding selections are subject to approval by Minnesota Housing's board.

Chapter 3 – Federal Requirements

3.01 Federal Cross Cutting Requirements

The HOME ARP Program provides federal funds that require compliance with various cross-cutting requirements, which may impact the entire project. These cross-cutting requirements are triggered by Minnesota Housing Funding Selection for a HOME ARP Program project.

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 1: Federal Cross-Cutting Requirements

Requirement	Trigger Point	Term of Requirement
Environmental Reviews – including choice-limiting actions	Funding Selection	Selection until HUD environmental clearance received
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 ¹	Funding Selection	Selection until project construction closeout
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	N/A	Not applicable to the HOME ARP Program
Fair Housing – Accessibility	Funding Selection	Selection and ongoing
Fair Housing – Marketing	Funding Selection	Selection and ongoing

¹ 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
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 ARP Program requires an environmental review prior to execution of the Written Agreement.

The environmental review requirements for the HOME ARP Program are found in the Notice section VII.C which refer to the applicability of 24 C.F.R. 92.352 to HOME ARP Program projects. This section’s regulations align with the environmental review requirements found under 24 C.F.R. 58.

After Minnesota Housing Funding 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 ARP 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.

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.

For lower income residents displaced as a direct result of demolition and conversions in HOME ARP Program assisted projects, section 104(d) of the Housing and Community Development Act of 1974 may also apply.

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 Enterprises² (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:

² 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.

- 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

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 ARP Program 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

Each HOME ARP Program assisted project that contains 12 or more HOME Program and/or HOME- ARP 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 ARP Program assistance with other federal sources, follow the Davis-Bacon standards of the program that applies the standards to the fewest number of units. HOME and HOME ARP cannot be combined in a unit to reduce the number of units. The number of

HOME Program and HOME ARP Program Assisted Units are cumulative, therefore, Davis-Bacon would apply to a project with four HOME Program Assisted Units and eight HOME ARP Program Assisted Units since there are 12 total HOME Program and HOME ARP Program Assisted 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 ARP Program funds.

3.07 Lead Hazard Evaluation and Reduction

All rehabilitation or conversion projects built prior to 1978 that are funded through the HOME ARP 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 ARP 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 requirements do not apply to any HOME ARP Program projects. If a project is receiving other federal funding in the project, BABA may apply if awarded funds from Federal Fiscal Year 2024 or later. Contact Minnesota Housing staff to confirm whether your project is subject to BABA requirements.

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](https://sam.gov) website and listed as debarred, they will not be eligible to receive HOME ARP Program funds.
- If the owner(s) are listed on Minnesota Housing's suspension list, they will not be eligible to receive HOME ARP Program funds or any other funding.
- 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 ARP 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 Compliance 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 ARP Program funds that the project may receive and the required number of HOME ARP Program Assisted Units.

Minnesota Housing will work with the owner to determine if the HOME ARP Program Assisted Units will be designated as fixed or floating. When HOME ARP Program Assisted Units are fixed, the units remain the same during the Compliance Period. Units designated as fixed must be occupied by tenants that meet the eligibility criteria for the duration of the Compliance Period. When HOME ARP Program Assisted Units are floating, the units may change during the Compliance Period so long as both the total number of HOME ARP Program 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 ARP 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 HOME ARP Program Assisted Units and maximum funding will be recalculated.

Refer to Minnesota Housing’s Multifamily HOME ARP Program Compliance Guide for more information and compliance requirements during the Compliance Period.

4.02 Income and Rent Limits

The HOME ARP Notice establishes gross rent limits for HOME ARP Program, using the HOME Program rent limits that are published annually by HUD. Gross rent limits include the contract rent plus a utility allowance (UA) for any tenant-paid utilities. 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.

Every HOME ARP 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 ARP Program rents. The HOME ARP Program uses HOME Program rent limits. There are two HOME Program rents established for properties; High and Low HOME Program Rents represent the maximum that owners can charge for rent, including an allowance for tenant-paid utilities.

In the absence of other project-based or tenant-based rental subsidies, the maximum amount of rent allowable for HOME ARP Program Assisted Units restricted for occupancy by Qualifying Populations (Qualifying Population Units) is equal to the Low HOME Rent. For HOME ARP Program Assisted Units

restricted for occupancy by Low-Income Households (Low-Income Units), rent limits match the High HOME Rent.

If a HOME ARP Program Assisted Unit receives federal or state project-based or tenant-based rental assistance and the unit is occupied by a household who pays not more than 30% of the household's adjusted income for rent, the maximum rent (tenant contribution plus the rental subsidy) is the rent allowable under the federal or state project-based or tenant-based rental subsidy program.

The HOME ARP Program requires an annual review and approval of rents for the Assisted Units. Rent limits and rent increases must be determined and verified in accordance with the requirements of Minnesota Housing's Multifamily HOME ARP Program Compliance Guide.

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. Minnesota Housing's Multifamily HOME ARP Program Compliance Guide describes this process.

HOME ARP Program Income Limits

The HOME ARP Program is intended to serve primarily those who meet the definition of a Qualifying Population rather than targeted to specific income levels. Income determinations for eligibility may be required for some Qualifying Populations whose definition includes a defined median income (at-risk of homelessness, other populations). A household must meet the definition upon admission to the HOME ARP Program Assisted Unit – changes in income do not impact their Qualifying Population status.

For units restricted for Low-Income Households, tenants must meet the definition of low-income. Refer to the HOME ARP Notice section IV.A and B for a more detailed definition.

Housing Support

Applicable to properties receiving HOME ARP 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).

- 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

Owners are required to establish maximum monthly allowances for utilities and services (excluding telephone) and update these annually.

Owners may use a project-specific UA or use the local Public Housing Authority's (PHA) established utility allowance that is also used for the tenant-based Section 8 Housing Choice Voucher Program for that local area.

If using a project-specific UA, 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. Once approved a project specific utility allowance must be updated annually and include the required supporting documentation regardless of when lease up occurs.

4.04 Minnesota Housing Rental Housing Design/Construction Standards

All projects funded through the HOME ARP Program 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 Compliance 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 ARP Program 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, the HOME ARP Program requires 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.

Any violations discovered during the initial inspection found to fall under the Life Threatening or Severe category will require correction within 24 hours. Any remaining violations, including those categorized as routine maintenance, will be reviewed for possible integration 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 Compliance 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.

Capitalized Operating Cost Assistance Reserves (COCAR)

- A COCAR may be funded for the amount estimated to be necessary for 15 years from the start of the Compliance 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 and maintained by either Minnesota Housing or a depository designated by Minnesota Housing. The owner must submit draw requests with documentation for Minnesota Housing review prior to disbursement.
- If the property fails to meet the compliance 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 help ensure that each project is financially sustainable over its Compliance 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 Compliance Period as outlined in the HOME ARP Notice section VI.B.5 and 24 C.F.R. 92.251(b)(ii) and (viii).

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 Compliance Period. A Minnesota Housing architect reviews and approves the assessment before the

project starts its Compliance Period. Handling of reserves during the Compliance 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

Each project with 12 or more HOME/HOME ARP Program Assisted Units must obtain a wage decision from the [SAM.gov](https://sam.gov) website. The owner's architect is responsible for obtaining the wage decision and ensuring it is included in all bid documents. Note: Under certain circumstances, awards of Minnesota Housing funds may also trigger state prevailing wage requirements under [Minnesota Statutes Chapter 177](#) or [Minnesota Statutes Section 116J.871](#), resulting in a dual wage decision.

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 ARP 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](https://sam.gov) website, 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 ARP Program requires an assessment of market demand for HOME ARP Program Assisted Units restricted for occupancy by Low-Income Households. 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 HOME ARP Request for Proposals Standards and HOME ARP Underwriting Standards.

A market study is required for any project which will contain HOME ARP Low-Income Units or market rate units that will cross-subsidize the HOME ARP units. The study must, at a minimum, demonstrate sufficient current demand for these units. If a project is funded through another source other than HOME ARP and that source requires a market study, a market study will be required.

A market study is not required for the HOME ARP Program Assisted Units restricted for occupancy for Qualifying Populations. If a project is seeking HOME ARP Program funding for units that will be 100% restricted for Qualifying Populations, the need was already established in the accepted HOME ARP Program Allocation Plan and an additional market study is not required.

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 for the project are reasonable and only the necessary amount of HOME ARP Program funds is invested in the housing project.

Minnesota Housing will refer to the HOME ARP Program 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, operating cost assistance reserve (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 ARP Program capital funds
- HOME ARP Program COCAR 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 ARP 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 Compliance 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.

HOME ARP Program funds must be fully expended by September 30, 2030. Funds remaining after September 30, 2030 will be cancelled by HUD and no longer available for draw from Minnesota Housing. While funds for a HOME ARP COCAR must be committed by the deadline, the HOME ARP COCAR will remain available for draw through the HOME ARP Compliance Period.

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 purpose of providing housing for Qualifying Populations and Low-Income Households, and housing must be limited to eligible households.
- 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. Or the Tenant Selection Plan must use a waiting list to receive referrals from a Continuum of Care (CoC) Coordinated Entry (CE) and other referral agencies for a project, where a referral agency refers an applicant that is placed on the waiting list for that project in chronological order as described in the HOME ARP Notice section IV.2.ii.
- Any preferences for households must comply with Minnesota Housing's preferences established in the accepted HOME ARP Program Allocation Plan and must not violate nondiscrimination requirements in 24 C.F.R. 92.350.
- 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.
- Owners must comply with VAWA requirements as described in 24 C.F.R. 92.359.

In addition, projects selected for HOME ARP 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 ARP Program requires written leases. Leases for HOME ARP 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 ARP 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 ARP Program prohibits the following terms within tenant leases for HOME ARP 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:** 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 ARP Program requirements related to evictions as well as state law regarding eviction procedures. Refer to Minnesota Housing's Multifamily HOME ARP 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 ARP Program. Compliance with VAWA regulatory requirements under the 2022 VAWA Final Rule is required for all HOME ARP 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 ARP 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)
- 49 C.F.R. 24: The implementing regulations for URA
- Section 104(d) of the Housing and Community Development Act of 1974
- HOME ARP Program uses HOME Program regulations found in 24 C.F.R. 92.353
- 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 ARP 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 by 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 versus 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

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.

Owners may use the templates of all notices found on Minnesota Housings [HOME Investment Partnerships \(HOME\)](#) and [National Housing Trust Fund \(NHTF\)](#) webpage for HOME ARP Program assisted projects. The Ninety-Day Notice 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)³: The NOE informs tenants who will be permanently or temporarily 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).

Notice of Intent (NOI): A notice of intent to acquire, rehabilitate, and/or demolish is an agency's written communication that is provided to a person to be displaced, including persons required to temporarily move, which clearly sets forth that the agency intends to acquire, rehabilitate, and/or demolish the property. A notice of intent to acquire, rehabilitate, and/or demolish establishes eligibility for relocation assistance prior to the initiation of negotiations and/or prior to the commitment of HOME ARP Program funds.

Ninety-Day Notice: Owners/developers will develop their own vacate notices, which must be provided to tenants who will be permanently or temporarily 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.

³ 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.

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 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.

Comparable Replacement Dwellings Before Displacement

No residential tenant to be permanently or temporarily displaced shall be required to move unless at least one comparable replacement dwelling unit has been made available to them. Information on comparable replacement dwellings that were used in the determination process must be provided to permanently or temporarily displaced persons. When possible, three or more comparable replacement dwellings shall be made available. More information on these requirements can be found at 49 C.F.R. 24.202(a)(2) and 49 C.F.R. 24.204.

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.

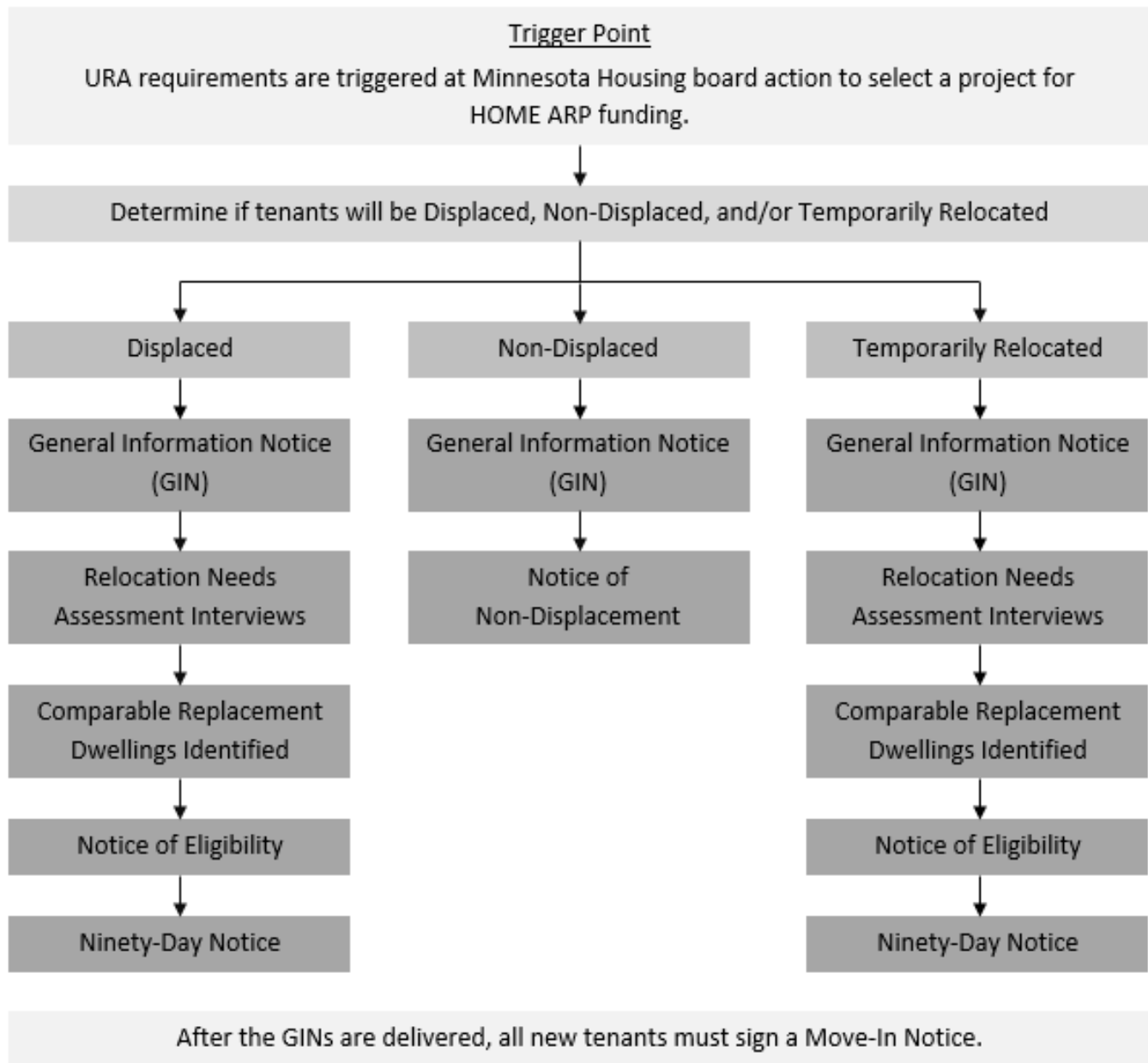
Records Retention

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

The HOME ARP Program requires regular reporting throughout the underwriting period for certain activities. These include:

- URA requirements
- Section 3 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 ARP 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 Compliance 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

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 ARP Program prior to disbursement of any funds. Minnesota Housing cannot approve a draw or disburse HOME ARP 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

The HOME ARP Program requires regular reporting throughout the construction period for certain activities. These include:

- URA requirements
- Section 3 requirements
- Labor Standards (Davis-Bacon), when applicable

5.07 Labor Standards and Payment of Wages Disputes

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 processes described below are specific to Davis-Bacon labor standards, please note state prevailing wage requirements may also be applicable to the project. See Minnesota Housing's [Prevailing Wage website](#) for more information.

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 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 an applicant is not well versed in labor standards issues and compliance, they may want to consider hiring an experienced consultant to ensure full compliance.

5.08 Owner's Letter Certifying Compliance

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 ARP 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)

HOME ARP Program assisted rental units must be occupied by eligible qualifying households or low-income households within 12 months of project completion; for units that remain vacant six months following completion, a report containing efforts to coordinate with the local CoC, homeless providers, social services, and other public agencies to fill units for qualifying households and, if appropriate, an enhanced marketing plan to fill units for Low-Income Households will be required to be submitted to HUD (HOME ARP Notice section VI.B.21).

To help ensure that new construction properties fully comply with HUD's HOME ARP 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 ARP Program responsibilities have been met and that all associated documentation needed for project closeout is complete. Reference HOME ARP Notice section VI.B.

5.10 Funds for Final Draw

Minnesota Housing may withhold a portion of the HOME ARP 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 ARP Program requirements and compliance responsibilities have been met and that all associated documentation needed for project closeout is complete.

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

Chapter 6 – Compliance Period

The federal HOME ARP Program establishes specific compliance responsibilities for the duration of the fifteen-year Compliance Period and the term of the loan. For information on compliance using HOME ARP Program funds, refer to applicable regulations as referenced throughout this 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

For projects that receive HOME ARP Program funds, Minnesota Housing may require the owner to establish a replacement cost reserve account any time prior to repayment of the HOME ARP 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 ARP Program Compliance Period, 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 Compliance Period, 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.

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 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 Compliance 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 assigned Asset Manager 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 Compliance 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 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 Compliance Period as noted in the HOME ARP Notice section VI.B.11 which references 24 C.F.R. 92.251.

Minnesota Housing's inspection schedule for HOME ARP Program projects can be found in Minnesota Housing's Multifamily HOME ARP Program Compliance Guide. The first monitoring inspection will be conducted in conjunction with project completion.

6.04 Rent and Income Eligibility During Occupancy

All HOME ARP Program Assisted Units in a rental housing project must be occupied by households that are eligible as either a Qualifying Population or Low-Income Household based on the unit type, with the following additional requirements. More restrictive requirements may be applicable based on project underwriting.

Initial and subsequent occupancy:

- At least 70% of all HOME ARP Program Assisted Units must be initially occupied by households who meet the definition of one of the Qualifying Populations, with rents at or below the Low HOME Rent.
 - Tenants meeting a definition of a Qualifying Population upon admission retain their eligibility throughout their tenancy, regardless of income or other status changes.
- No more than 30% of the HOME ARP Program Assisted Units may be occupied by households with annual gross incomes at or below 80% of AMI, with rents at or below the High HOME Rent.

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 ARP 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 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 ARP 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 ARP Program Compliance Guide for more information.

Appendix A – Terms

Table 1: Terms and Definitions

Term	Definition
Assisted Unit	A unit that is subject to the HOME ARP Program requirements.
Capitalized Operating Cost Assistance Reserves (COCAR)	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 HOME ARP Program Assisted Units restricted for occupancy for Qualifying Populations for which project-based rental assistance is not available.
Compliance Period	The 15-year period during which HOME ARP Program funding requirements must be adhered to, including rent and income restrictions and occupancy targeting.
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.
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.
High HOME Rent	If a Low-Income Household is participating in a program where the household pays as a contribution toward rent no more than 30% of the household's monthly adjusted income or 10% of the household's monthly income, then the maximum rent due from the household is the household's contribution. For all other cases, the rent does not exceed the lesser of: (i) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 C.F.R. 888.111; or (ii) A rent that does not exceed 30% of the adjusted income of a family whose annual income equals 65% of the median income for the area, as determined by HUD. High HOME Rent is used in the HOME ARP Program for setting rents for HOME ARP Program Assisted Units restricted for occupancy by Low-Income Households in absence of other rental subsidies.
HOME American Rescue Plan (HOME ARP) Program	A federal program that provides funds for homelessness and supportive services assistance under the HOME statute of Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as waived and amended by the HOME ARP Notice.
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

Term	Definition
	federally and non-federally assisted multifamily rental housing for low-income individuals and families.
HOME ARP Notice	CPD Notice 21-10: Requirements for the Use of Funds in the HOME American Rescue Plan Program.
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% of the household's monthly adjusted income or 10% of the household's monthly income, then the maximum rent due from the household is the household's contribution. All other Low HOME Rent units must have rent that meet one of the following requirements: (i) The rent does not exceed 30% of the annual income of a family whose income equals 50% of the median income for the area, as determined by HUD. If the rent determined under 24 C.F.R. 92.252(a)(2)(i) is higher than the fair market rent under 24 C.F.R. 92.252(a)(1)(i), then the maximum rent for units under 24 C.F.R. 92.252(a)(2)(i) is the fair market rent under 24 C.F.R. 92.252(a)(1)(i); (ii) The rent contribution of the family is not more than 30% of the family's adjusted income; or (iii) The unit is a LIHTC unit and has rents not greater than the gross rent for rent-restricted residential units as determined under 26 U.S.C. 42(g)(2). Low HOME Rent is used in the HOME ARP Program for setting rents for HOME ARP Program Assisted Units restricted for occupancy by Qualifying Populations in absence of other rental subsidies.
Low-Income Units	HOME ARP Program Assisted Units restricted for occupancy by Low-Income Households.
Low-Income Household	Household whose annual income does not exceed 80% 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.

Term	Definition
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 HOME ARP Program Assisted Units restricted for occupancy for Qualifying Populations 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 C.F.R. 92.105 to administer HOME Program and HOME ARP Program funds.
Period of Affordability	The period of time, as specified in 24 C.F.R. 92.252 and 24 C.F.R. 92.254, that HOME Program requirements apply to HOME Program-assisted housing.
Program Guide	HOME ARP 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.
Qualifying Population(s)	The HOME ARP Program requires that funds be used to primarily benefit individuals and households who meet the criteria of one of the four populations as defined in the HOME ARP Notice section III.A.
Qualifying Population Units	HOME ARP Program Assisted Units restricted for occupancy by Qualifying Populations.
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.
Tribally Designated Housing Entity	Entities that meet the requirements defined by United States Code, title 25, section 4103(22).
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.

Term	Definition
Written Agreement	A legally binding agreement with a project owner to commit a specific amount of HOME ARP Program funds to a specific local project.

Appendix B - Program Comparison Chart

Table 2: HOME ARP Program and HOME Program Characteristics and Requirements

Category	HOME ARP Program	HOME Program
Statutory Authority	Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended.	Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended.
Regulatory Authority	24 C.F.R. 92 , waived and amended by the HOME ARP Notice and Appendix to provide flexibility in the use of funds.	24 C.F.R. 92
Purpose	Produce affordable rental housing, tenant-based rental assistance, supportive services, and non-congregate shelter primarily for Qualifying Populations. The state determines priority housing need throughout the state.	Preserve the supply of decent, safe, and sanitary affordable housing for Low-Income Households. Meet identified priority housing needs through development or rehabilitation of rental housing. The state determines priority housing need throughout the state.
Allocation	Formula that uses several indicators to determine a state's need for affordable housing and determine each state's share of HOME ARP Program funds.	Formula that uses several indicators to determine a jurisdiction's need for affordable housing and determine each jurisdiction's share of HOME Program funds.
Minimum Income Targeting	The HOME ARP Program does not have specific income targeting requirements. At least 70% of the units must be restricted for occupancy to tenants meeting the definition of a Qualifying Population. No more than 30% of the units must be restricted for occupancy by Low-Income Households ($\leq 80\%$ of Area Median Income [AMI])	100% for Low-Income Households ($\leq 80\%$ of AMI). 90% of HOME Program rental units for households at $\leq 60\%$ of AMI. 20% of HOME Program Assisted Units in projects with five or more HOME Program units for households at $\leq 50\%$ of AMI.
Eligible Activities	• New construction • Acquisition Only • Acquisition and rehabilitation • Operating Cost Assistance	• New construction • Acquisition • Acquisition and rehabilitation
Limits on Eligible Activities	Minnesota Housing will use HOME ARP Program funds to construct or rehabilitate multifamily rental properties.	Minnesota Housing will use HOME Program funds to construct or rehabilitate multifamily rental properties.
Rents	Rent plus utilities for HOME ARP Program units must be at or below the HOME ARP Program rent limit for the geographic	Rent plus utilities for Low and High HOME Program units must be at or below the HOME Program rent limit for

Category	HOME ARP Program	HOME Program
	area, as determined by HUD, with adjustments for smaller and larger families. See Minnesota Housing’s HOME ARP Program Compliance Guide for more details.	the geographic area, as determined by HUD, with adjustments for smaller and larger families. See Minnesota Housing’s HOME and NHTF Program Compliance Guide for more details.
Maximum Per-Unit Subsidy Limits	No per unit subsidy limit. Maximum per-unit subsidy cannot exceed actual costs.	Limits are set by HUD. Cannot exceed 240% of the section 234 basic mortgage limit for elevator-type projects published by HUD.
Compliance Period/Period of Affordability	Rental Projects – New Construction, Rehabilitation, Rehabilitation and Acquisition: 15 years	Rental Projects – Rehabilitation, Rehabilitation and Acquisition: 5, 10, 15 years depending upon the amount of the HOME Program investment Rental Projects – New Construction: 20 years
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)

Appendix C – Legal Addendum

Any recipient of an award pursuant to the HOME Program (including the HOME ARP Program) and/or the 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."⁴ 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.

⁴ 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](#).

1.05 Assistance to Employees and Affiliated Parties

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

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

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

1.06 Suspension

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

1.07 Disclosure and Reporting

Minnesota Housing promotes a “speak-up, see something, say something” culture whereby internal staff must immediately report instances of fraud, misuse of funds, conflicts of interest or other

concerns without fear of retaliation through one of the communication channels listed below. External business partners (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;
- 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.

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

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