Amended 2026-2028 Qualified Allocation Plan

Housing Tax Credit Program

Last Updated: December 2025

Table of Contents

Chapter 1 – Introduction and Preparation of the Qualified Allocation Plan

The Federal Tax Reform Act of 1986 created the Low-Income Housing Tax Credit (Housing Tax Credit) Program (refer to Section 42 of the Internal Revenue Code) for qualified residential rental properties. The Housing Tax Credit (HTC) offers a reduction in federal income tax liability to owners and investors in eligible low-income rental housing projects involving new construction, rehabilitation or acquisition with rehabilitation.

The Minnesota Housing Finance Agency (Minnesota Housing) was designated by the Minnesota Legislature as the primary HTC Allocating Agency for the State of Minnesota, with certain other cities and counties also designated as Suballocators of HTCs.[1]

Section 42 of the Internal Revenue Code (IRC) requires that HTC allocating agencies develop and adopt a Qualified Allocation Plan (QAP) for the distribution of HTCs within the jurisdiction of the Allocating Agency.

Minnesota Housing's QAP is developed in accordance with federal law, and all applicable federal requirements are hereby incorporated by reference.[2] The QAP sets forth selection criteria that are appropriate to local conditions and priorities for allocating HTCs to housing projects. The selection criteria include project location, housing needs characteristics, project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan, sponsor characteristics, tenant populations with special housing needs, public housing waiting lists, tenant populations of individuals with children, projects intended for eventual tenant ownership, the energy efficiency of the project and the historic nature of the project.

The QAP gives preference as required by federal law to:

1. Projects serving the lowest income tenants;
2. Projects obligated to serve qualified tenants for the longest periods; and
3. Projects in Qualified Census Tracts (QCTs) that are part of a concerted community revitalization plan.

[1] Minnesota Statutes sections 462A.221 to 462A.225

[2] Section 42(m) of the Internal Revenue Code; IRS Treasury Regulation 1.42-17.

This document and the Self-Scoring Worksheet, make up Minnesota Housing's QAP. The QAP is subject to modification or amendment to help ensure the provisions conform to the requirements of Section 42 and applicable state statutes.

Minnesota Housing's policies and procedures are incorporated into multiple resources and guides. The list below includes key documents, but this list is not an exclusive list of all Minnesota Housing materials. Visit Minnesota Housing's website (www.mnhousing.gov) or contact Minnesota Housing for more information.

- **Affordable Housing Plan:** Sets forth Minnesota Housing's business plan to carry out the Agency's core work and implement the Strategic Plan.
- **Housing Tax Credit Program Compliance Guide:** Sets out the procedures to be followed by Minnesota Housing and the owners of HTC projects in order to comply with the requirements of Section 42 and the applicable Treasury Regulations.
- **Multifamily Underwriting Standards:** Outlines the Minnesota Housing's general approach to underwriting.
- **Multifamily Rental Housing Design/Construction Standards:** Contains design/construction standards to meet Minnesotans' needs for decent, safe and sustainable affordable housing.
- **Qualified Allocation Plan Methodology Guide:** Provides additional information related to application of Minnesota Housing's geographic priorities, as reflected in the Self Scoring Worksheet, for effectively distributing HTCs throughout the state.
- **Strategic Plan:** Outlines how the Agency will use its financial, programmatic, operational and human resources to achieve its strategic priorities and sustain a healthy organization over the long term.
- **Tenant Selection Plan Guidelines:** Provides requirements and best practices for the tenant selection plans, required of all developments receiving Minnesota Housing funding and those that receive HTC in accordance with this QAP.

Minnesota Housing has no jurisdiction to interpret or administer Section 42, except in those instances where it has specific delegation.

Minnesota Housing is required to monitor HTC projects during the compliance period and to notify the Internal Revenue Service (IRS) of any noncompliance, with the requirements of Section 42 of which it becomes aware. All applicants should review IRS Treasury Regulation 1.42-5 Monitoring Compliance. In addition, Minnesota Housing will monitor the projects during the remaining term of the Declaration of Land Use Restrictive Covenants (LURA) following the conclusion of the compliance period.

Minnesota Housing is under no obligation to undertake an investigation of the accuracy of the information submitted in an application. Minnesota Housing's review of a proposed housing project does not constitute a warranty of the accuracy of the information, nor of the quality, suitability, feasibility or marketability of the housing to be constructed or rehabilitated. If any information submitted to Minnesota Housing by the applicant is later found to have been incorrect or there has been a subsequent change in any material respect, it is the responsibility of the applicant to inform Minnesota Housing and to request a reexamination of the application.

This QAP is provided solely for use in applying for HTCs from Minnesota Housing and may not be relied upon in structuring or investing in specific transactions or complying with the IRC, IRS Treasury Regulations or any other laws or regulations governing HTCs. Interested parties should consult with a knowledgeable tax professional prior to entering into any commitment concerning the use and claiming of HTCs.

Minnesota Housing maintains the right not to award or allocate HTCs for any project if it determines, in its sole discretion, that an Allocation or Award for such project does not further the purpose and goals as set forth in this QAP.

Chapter 2 – Policies and Procedures

A. Definitions

As used in this QAP, the following capitalized terms have the definitions set forth below.

4% HTC: HTC which are not taken into account in the state's annual credit ceiling, pursuant to Section 42(h)(4).

9% HTC: HTC which are taken into account in the state's annual credit ceiling, pursuant to Section 42(h)(1).

Allocating Agency: Any entity authorized by the state of Minnesota and Section 42 to allocate or award HTCs in Minnesota.

Allocation: Any amount of HTCs issued to a building which are taken into account in the state's annual credit ceiling, pursuant to Section 42(h)(1).

Award: Any amount of HTCs issued to a building which are not taken into account in the state's annual credit ceiling, pursuant to Section 42(h)(4).

Federally Assisted Building: The term "Federally Assisted Building" as defined by Section 42(d)(6)(C) means any building which is substantially assisted, financed or operated under Section 8 of the United States Housing Act of 1937, Section 221(d)(3), 221(d)(4) or 236 of the National Housing Act, Section 515 of the Housing Act of 1949 or any other housing program administered by the United States Department of Housing and Urban Development (HUD) or by the Rural Housing Service of the United States Department of Agriculture Rural Development (RD).

Greater Minnesota: Greater Minnesota means any area which is not included in the Metropolitan Area as defined below.

Internal Revenue Code (IRC): Title 26 of the United States Code.

Metropolitan Area: As set out in Minnesota Statutes, section 473.121, subdivision 2, Metropolitan Area means the area over which the Metropolitan Council has jurisdiction, including the counties of Anoka, Carver, Dakota (excluding the cities of Northfield and Cannon Falls), Hennepin (excluding the cities of Hanover and Rockford), Ramsey, Scott (excluding the city of New Prague) and Washington.

Qualified Allocation Plan (QAP): As defined in Section 42 (m)(1)(B) and including the Self-Scoring Worksheet and this document.

Section 42: Low-Income Housing Tax Credit (26 USC § 42), as amended.

Selection: For purposes of an Allocation, the Minnesota Housing board action to select a project for future reservation and allocation of HTC through Round 1 or Round 2. For purposes of an Award, the issuance of the preliminary determination letter by Minnesota Housing.

Suballocator(s): Any Allocating Agency, other than Minnesota Housing, authorized by the state of Minnesota and Section 42 to allocate HTCs in Minnesota.

Substantial Rehabilitation: As used in this QAP, Substantial Rehabilitation means rehabilitation that meets the definition of "Substantial rehabilitation" as defined in Minnesota Statutes, section 462A.221, subdivision 5 and that also meets the rehabilitation expenditure requirements set forth in Section 42(e).

B. Geographic Distribution

The HTC available for allocation within the state of Minnesota are divided into two general geographic pools: (1) the Metropolitan Area pool; and (2) the Greater Minnesota pool. Distribution of HTCs between the two general pools is based on the share of the state's public assistance recipients residing in each area, pursuant to Minnesota Statutes, section 462A.222, subdivision 1a.

Under Minnesota Statute 462A.222, certain cities and counties have been designated as Suballocators to allocate HTCs to eligible projects in their cities or counties. Some Suballocators have entered into a Joint Powers Agreement with Minnesota Housing under which Minnesota Housing will perform the HTC allocation and compliance monitoring. These Suballocators currently are the cities of Duluth, St. Cloud and Rochester. Minnesota Housing will post updates to Suballocator information on Minnesota Housing's website.

The HTC distribution plans for Greater Minnesota and the Metropolitan Area will be formulated in accordance with Minnesota Statutes, section 462A.222, subdivision 4. The Greater Minnesota distribution plan will provide for the allocation of the following HTC: (1) the Rural Development (RD)/Small Project set-aside (refer to Chapter 2.D.); (2) any HTC reserved to a Suballocator located in Greater Minnesota; (3) the portion of the nonprofit set-aside (refer to Chapter 2.C.) allotted to Greater Minnesota; and (4) the balance of the Greater Minnesota pool.

The Metropolitan Area distribution plan will provide for the allocation of the following HTCs: (1) any HTC reserved to a Suballocator located in the Metropolitan Area; (2) the portion of the nonprofit set-aside (refer to Chapter 2.C.) allotted to the Metropolitan Area; and (3) the balance of the Metropolitan Area pool.

Minnesota Housing will update the distribution between the Greater Minnesota pool and the Metropolitan Area pool for the 2026-2028 QAP based upon updated demographic data in early 2025, 2026 and 2027. The applicable distribution will be posted on Minnesota Housing's website.

C. Nonprofit Set-Aside

Federal law requires that 10% of the state's HTC credit ceiling be reserved exclusively for projects involving qualified nonprofit organizations (Nonprofit Set-Aside). Minnesota Housing administers the Nonprofit Set-Aside. On an annual basis, Minnesota Housing and Suballocators may agree to reserve an additional 5% of the total annual HTC credit ceiling for a total annual Nonprofit Set-Aside of 15%. Applicants to the Nonprofit Set-aside can also compete in Round 2 if there are Nonprofit Set-Aside HTC still available. If the Nonprofit Set-Aside is not exhausted in Round 1, the Nonprofit Set-Aside will be available in Round 2. If a project is necessary to meet the Nonprofit Set-Aside requirement in Round 2, at Minnesota Housing's sole discretion, the project will have priority over other applicants in Round 2. If the Nonprofit Set-Aside is exhausted during a round, nonprofit applicants with proposed projects in Minnesota Housing's jurisdiction may be eligible for HTCs from the general pool. Any proposal that receives HTCs from the Nonprofit Set-Aside must comply with the nonprofit requirements of IRC Section 42(h)(5)(C) and (D), including material participation for the term of the LURA. This requirement will be recorded as a covenant on the land that will apply to all subsequent owners.

To qualify for the Nonprofit Set-Aside, a qualified nonprofit organization must own an interest in the project (whether directly or through a partnership) materially participate (within the meaning of IRC 469(h)) in the development and operation of the project throughout the term of the LURA. A qualified nonprofit organization means an organization that meets the following requirements:

1. The organization must be exempt from taxation under IRC 501(a) as an organization meeting the requirements of either IRC 501(c)(3) or IRC 501(c)(4);
2. One of the exempt purposes of the organization must include the fostering of low-income housing;
3. The organization must be organized and incorporated in the state of Minnesota and have experience in Minnesota as a sponsor, owner or manager of low-income housing; and
4. The organization must be determined by the Allocating Agency not to be affiliated with or controlled by a for-profit organization.

The intent of Section 42 is to ensure that a for-profit entity or individual does not set up a sham nonprofit organization in order to secure the Nonprofit Set-Aside. This could include establishing a nonprofit organization for the specific project, without any history, experience, local community involvement or financial strength.

The nonprofit organization must demonstrate that the nonprofit is acting independently and free from influence of control by the for-profit project team members. Minnesota Housing reserves the right to contact the officers and directors of the nonprofit organization to determine their independence.

Minnesota Housing requires that all nonprofits applying for the Nonprofit Set-Aside disclose all identities of interest between the nonprofit and any member of the for-profit project team. An identity of interest would include any officer, director, partner, stockholder, relative, seller or owner of land or building involved, processing agent, real estate salesperson or broker, employee or other person acting to represent any for-profit member of the project team who controls or influences, or has the power to control or influence, the decisions of the nonprofit.

If there is an identity of interest between or other appearance of affiliation with or control by a for-profit organization, as determined by Minnesota Housing, an applicant may not qualify to receive HTCs from the Nonprofit Set-Aside. In making this determination, Minnesota Housing will consider the following:

1. The nonprofit's funding sources and composition of its board;
2. Past experience and anticipated future activities of the nonprofit, including involvement in the local community;
3. The nonprofit's financial strength and ability to materially participate in the development and operation of the project during the term of the LURA;
4. The relationship of the principals involved in the formation and/or management of the nonprofit organization with for-profit members of the project team; and
5. If requested by Minnesota Housing, an attorney opinion letter.

Determinations will be based on all relevant facts and circumstances. Unless determined otherwise by Minnesota Housing, the following relationships are presumed to show that the nonprofit organization is affiliated with or controlled by a for-profit organization:

a. Having more than a 25% share of common board members/principals; or
b. Having more than 25% of its funding, directly or indirectly, from the parent entity; or

D. Rural Development/Small Project Set-Aside

Minnesota Housing designates a portion of the state's HTC volume cap to Rural Development (RD) -financed or other small projects. The amount of HTCs reserved to the RD/Small Project set-aside will be:

- $500,000 in 2026
- $525,000 in 2027
- $525,000 in 2028

Eligible projects must either:

1. Have an RD financing commitment or application for RD financing; or

2. Be a small project located in a Rural/Tribal Designated Area, as defined in the Rural/Tribal Methodology in the Methodology Guide, and consist of 24 or fewer units.

First priority will go to projects with applications for financing or a commitment from RD. Applicants to the set-aside first compete in the general pool and if not competitive then move to the RD/Small Project set-aside for consideration. Applicants to the set-aside can also compete in Round 2 if there are RD/Small Project set-aside HTC still available. IRS Form 8609 may not be issued to a new RD project until after financing commitment has been executed.

E. Application Rounds

Minnesota Housing has two HTC application rounds, Round 1 and Round 2, to allocate the state's HTC credit ceiling for a calendar year. Applications for HTCs in association with tax-exempt volume limited bonds are accepted year-round on a pipeline basis.

Round 1

Round 1 is offered through the Multifamily Consolidated Request for Proposals (RFP) and uses a forward selection process, with selections generally taking place in the year proceeding the allocation year of the HTCs. Projects that have previously received a partial reservation or Allocation of HTCs from Minnesota Housing may have priority over other applicants in Round 1.

During Round 1, for-profit applicants must apply directly to the Suballocator for an HTC Allocation if the project falls within a Suballocator's jurisdiction. Except for the nonprofit set-aside, Minnesota Housing will not accept applications for developments located within the jurisdiction of Suballocators in Round 1 unless the Suballocator has entered into a Joint Powers Agreement with Minnesota Housing or has returned all their HTCs to Minnesota Housing. Minnesota Housing will administer the HTCs for all areas outside the jurisdiction of Suballocators. Any unused HTCs are returned by the Suballocators to Minnesota Housing prior to Round 2.

In Round 1, the nonprofit set-aside is divided proportionally between the two geographic pools, the Metropolitan Area pool and the Greater Minnesota pool. Nonprofit applicants with projects located within the jurisdiction of a Suballocator may apply for HTCs from Minnesota Housing, but only in the nonprofit set-aside. Nonprofit applicants with projects located in the jurisdiction of a Suballocator may apply simultaneously to the Suballocator and to the Minnesota Housing nonprofit set-aside. Nonprofit developments not located in the jurisdiction of a Suballocator will compete for HTCs in the respective geographic pool once the nonprofit set-aside has been exhausted.

In Round 1, Minnesota Housing will establish a preservation allocation ceiling of 2/3 for each geographic pool, Metropolitan and Greater Minnesota, but not including the RD/Small Project set-aside or the nonprofit set-aside. Minnesota Housing reserves the right to exceed the 2/3 ceiling if qualifying new construction proposals are not available or do not rank competitively.

Round 2

Round 2 makes available for allocation any HTCs remaining or returned since Round 1. All remaining or returned HTCs, excluding a return of HTCs for projects requesting a reallocation, will be combined into one unified pool for allocation by Minnesota Housing on a statewide basis, without regard to geographic distribution and with no set-asides. Additionally, Minnesota Housing may, at its sole discretion, establish a waiting list following Round 2 for HTCs that may be returned or otherwise become available. Refer to Chapter 2.T. for additional details.

In Round 2, all projects located in Suballocator jurisdictions may apply directly to Minnesota Housing. Projects that have previously received HTCs from Minnesota Housing or a Suballocator and have an annual HTC shortfall of at least 5%, but not more than 33.33%, of the total qualified annual HTC amount, subject to Minnesota Housing approval, will have priority over other applicants in Round 2 and under the waiting list. If more than one project qualifies under the supplemental priority, Minnesota Housing will evaluate and rank eligible requests according to points awarded.

The RD/Small Projects set-aside will be carried forward until the end of Round 2, or until it is determined that there are no eligible applications for the set-aside. If Minnesota Housing has not met the 10% IRS requirement in Round 1, the nonprofit set-aside will also be carried forward until the end of Round 2.

F. Suballocator Procedures

A city or county is eligible to receive a reserved portion of the state credit ceiling under Minnesota Statutes, section 462A.222, subdivision 1 if it submitted a written request to Minnesota Housing within 45 days after June 2, 1987, to act as a designated Housing Credit Agency as provided in Section 42. A city or county may designate its housing and redevelopment authority as a suballocating agent to allocate HTCs on behalf of the city or county. The city of Minneapolis or the city of Saint Paul may designate the Minneapolis/Saint Paul Housing Finance Board to allocate HTCs on behalf of each city. Minnesota Housing will administer the HTCs for areas outside the jurisdiction of the Suballocators.

A Suballocator may elect to enter into a Joint Powers Agreement with Minnesota Housing. Under a Joint Powers Agreement, Minnesota Housing will perform certain functions related to the HTC Allocation or Award and compliance monitoring. As a condition of the Joint Powers Agreement, the participating Suballocator will transfer its entire annual HTC distribution to Minnesota Housing.

Minnesota Housing, in consultation with the Suballocators, will determine application competition deadlines as required by statute. Minnesota Housing will make an effort to align the application deadline for the suballocating agencies in Round 1 with Minnesota Housing's deadline. No Allocating Agency may allocate or award HTCs prior to the Minnesota Housing application closing date for Round 1.

Before the application deadline for Round 2, the Suballocators must return all uncommitted and unallocated HTCs to Minnesota Housing, along with copies of the HTC application and commitment agreements for all selected projects.

If a Suballocator determines at any time before Round 2 that a project is no longer eligible for all or a portion of the HTCs committed or allocated to the project, the HTCs must be transferred to Minnesota Housing to be reallocated. If the HTCs for which the project is no longer eligible are from the current year's annual credit ceiling and the Suballocator maintains a waiting list, the Suballocator may continue to commit or allocate the HTCs until no later than the date of application for the Round 2. At that time, any uncommitted HTCs must be transferred to Minnesota Housing.

So that all a project's HTCs are allocated by a single Allocating Agency, Minnesota Housing may apportion additional HTCs to a Suballocator for a project that has already received a commitment or Allocation of HTCs from the Suballocator. These supplemental HTCs must be used only for the selected project allocation year for which the apportionment was made. If at any time after the apportionment of the HTCs a Suballocator determines the project cannot use or is no longer eligible for all or a portion of the HTCs apportioned to the project, the HTCs must be returned to Minnesota Housing within 10 business days for reallocation.

Suballocators are responsible for the issuance of the IRS Form 8609 for all projects for which they have allocated HTCs, including HTCs that have been apportioned by Minnesota Housing to the Suballocator. In instances where both a Suballocator and Minnesota Housing have allocated HTCs, that have not been apportioned, both Allocating Agencies will prepare an IRS Form 8609.

As the primary and lead HTC agency for the state of Minnesota, Minnesota Housing is responsible for collecting and filing certain required forms with the IRS each year. Minnesota Housing will prepare a comprehensive IRS Form 8610, incorporating all carryover allocations and IRS Form 8609s issued in the state of Minnesota for filing with the IRS. The local Suballocators shall submit the following materials to Minnesota Housing no later than January 31 for all HTC activity that has occurred in the preceding year:

1. A copy of all resolutions of the Suballocator governing body relating to the reservation and Allocation of HTC;
2. A copy of all Reservation/Binding Agreements, Carryover Agreements and IRS Form 8609s, completed and issued to all projects (including those in connection with tax-exempt volume-limited bonds);

3. A completed HTC application form (Multifamily Workbook) for each development receiving an Allocation or Award through a reservation, carryover or issuance of IRS Form 8609 for HTCs allocated from the credit ceiling or awarded in connection with tax-exempt volume limited bonds;
4. A completed IRS Form 8610 Schedule A for each development receiving a carryover allocation;
5. A Suballocator Monitoring Activity Report containing the results of inspection activity conducted during the calendar year with copies of any forms 8823 filed with the IRS; and
6. Any other information requested by Minnesota Housing necessary to meet federal and state reporting requirements.

Suballocators are responsible for monitoring HTC projects, to which they have allocated or awarded HTC, for the term of the LURA, including any Minnesota Housing requirements if such HTC were apportioned by Minnesota Housing to the Suballocator, in accordance with Section 42(m)(1)(B)(iii) to help ensure compliance with applicable federal, state and local requirements. Compliance records must be available upon request to Minnesota Housing from the Suballocator or its monitoring agent. Projects that receive HTCs that were apportioned to a Suballocator by Minnesota Housing must incorporate Minnesota Housing restrictions that are a condition of the HTC Allocation or Award (e.g., nonprofit set-aside, homeless households).

Before January 31, Suballocators will submit to Minnesota Housing compliance staff a comprehensive updated Suballocator Monitoring Activity report listing all HTC projects allocated or awarded HTCs by the Suballocator. Include the following items in the report:

1. Project name;
2. Address;
3. Building identification number(s) (BIN(s));
4. Ownership entity and taxpayer identification number (TIN);
5. Total number of residential units;
6. Number of HTC units;
7. Year of Allocation or Award;
8. Amount of HTCs allocated or awarded; and
9. Other information as needed.

In addition, Suballocators will submit a list of the projects that have been in noncompliance during the calendar year inspection date and type of noncompliance, along with copies of all IRS Form 8823s and the report of noncompliance findings sent to the owner. Upon request, Suballocators will also submit a copy of their monitoring requirements, procedural manual, forms and, if applicable, a copy of the monitoring contract with an outside vendor.

G. Multiple Buildings

Projects may include multiple buildings having similarly constructed housing units, provided the buildings are located on the same tract of land, have the same owner for federal income tax purposes and are financed pursuant to a common plan of financing. Scattered site buildings on different tracts of land will also qualify if the project meets all the other requirements described above and all units in the project are low-income units. The Scoring Guide provides additional information on how thresholds and selection criteria will apply to scattered site projects.

H. Developer and Development Limits

For applicants applying for a portion of the state's HTC credit ceiling, the per-developer or general partner/managing member HTC limit is the greater of 1) the amount representing 10% of the population component of the state's annual credit ceiling or 2) the amount needed to support two developments in the case that two developments selected are being developed by the same developer or general partner/managing member. Such projects are subject to a development limit of no more than $1,850,000 in 2026 and $1,950,000 in 2027 and 2028 in cumulative HTCs allocated to any one development.

At the sole discretion of Minnesota Housing, these limits may be waived. Applicants should not assume that this waiver will be automatically provided or rely on this statement when determining the scope of the proposed project. Minnesota Housing's goal is to optimize the use of all available sources of funding for multifamily developments, including private investor equity, amortizing loans and deferred loans, to produce the maximum number of affordable rental units that meet the priorities adopted by Minnesota Housing and represent developments that are sustainable, cost effective and geographically diverse. Consistent with this goal, the following criteria will be used to determine if and when Minnesota Housing may provide a waiver to the developer or development limit.

Developer Limit

1. Developer/Sponsor capacity – The ability and capacity of the development team to proceed expeditiously to complete multiple developments, including other projects selected by Minnesota Housing for funding that have not yet been completed.
2. Financial Feasibility – The applicant must demonstrate that the HTCs are necessary for the financial feasibility of the proposed project and that a significant funding gap will remain if the waiver is not granted.

Development Limit

1. Financial Feasibility – The applicant must demonstrate that the HTCs are necessary for the financial feasibility of the proposed development and that a significant funding gap will remain if the waiver is not granted.

I. Transfer of Ownership

From Selection through the term of the extended use period, any transfer of title of a selected project, replacement of a general partner or managing member, transfer of more than a 50% interest in a general partner or managing member or change in a nonprofit partner is subject to Minnesota Housing's approval prior to the transfer of ownership.

To request Minnesota Housing's approval for a transfer of ownership, the Owner must submit a completed Request for Action Form (RFA), a transfer of ownership fee if the transfer occurs after Allocation and prior to the issuance of IRS Form 8609 (refer to Chapter 8) or an RFA processing fee if the transfer occurs after issuance of IRS Form 8609 (refer to Servicing Fee on Minnesota Housing's website) and any other documentation that Minnesota Housing deems necessary.

J. Unacceptable Practices

Applicants applying for an Allocation or Award from Minnesota Housing pursuant to this 2026-2028 QAP may be subject to unacceptable practice penalties in the following three circumstances. Additionally, failure to comply with the terms of the Selection of may result in cancellation or other loss of HTC. See Chapter 3.S.

1. For projects that receive an Allocation or Award from Minnesota Housing pursuant to this 2026-2028 QAP, the following occurrences constitute unacceptable practices. If Minnesota Housing, in its sole discretion, determines that an unacceptable practice has occurred, it may impose penalties of up to negative 35 points on any/all parties involved in the development, ownership and/or management of the project. Such penalties will be applied in one or more future application cycles.

   a. **Unapproved Transfer of Ownership**

      From Selection through the term of the LURA, failure to obtain prior approval for any transfer for which Minnesota Housing approval is required pursuant to Chapter 2.I is an unacceptable practice.

   b. **Displacement of Section 8 Tenants**

Rent increases for existing Section 8 tenants above HUD's Payment Standard Rents which result in the displacement of the existing Section 8 tenant(s), whether prior to submission of the application for HTC or after completion of rehabilitation, is an unacceptable practice.

c. Changes to Project

From selection until the project is placed in service, any material change to the project or building design that impacts the selection criteria for which the project received points or a preference is an unacceptable practice.

d. Late 8609 Application Submissions Resulting in the Loss of HTC Authority to the State

Late submission of a complete and acceptable 8609 application package by or on behalf of an owner that results in the loss of any volume of HTC authority to the state of Minnesota is an unacceptable practice.

e. Filing of Non-Allocating Agency Approved IRS Form 8609 with the IRS

Filing with the IRS any IRS Form 8609 which is not the Allocating Agency-signed version of the approved IRS Form 8609 is an unacceptable practice.

f. Non-Compliance with Minnesota Housing's Fair Housing Policies or Tenant Selection Plan Guidelines, Procedures and/or Requirements

Any failure to comply with Minnesota Housing's Fair Housing policies (refer to Chapter 3.W.) or Tenant Selection Plan Guidelines, procedures or requirements is an unacceptable practice.

g. Non-Compliance with Minnesota Housing's Compliance Policies, Procedures and/or Requirements

Failure to comply with Minnesota Housing's compliance policies, procedures or requirements after repeated notices is an unacceptable practice.

h. Violations of Local, State or Federal Law

Violations of local, state, or federal law, including but not limited to violations of law related to habitability, utilities, prevailing wage, wage theft and fair housing, are unacceptable practices.

2. For projects that received an Allocation or Award from Minnesota Housing under a prior QAP, penalties may be applied in the 2026, 2027 and 2028 application rounds for unacceptable

practices identified in that prior QAP. In its sole discretion, Minnesota Housing may impose a lesser penalty than the penalty indicated in such prior QAP. If Minnesota Housing determines that an unacceptable practice has occurred, it will notify the parties to which the penalty will be applied.

3. For applicants for an Allocation or Award pursuant to this 2026-2028 QAP, the following occurrences constitute unacceptable practices. If Minnesota Housing, in its sole discretion, determines that an unacceptable practice has occurred, it may impose penalties, as set forth below, on the applicant which will be applied in the 2026, 2027 and 2028 application rounds.

   a. Failure to Notify

   Throughout the term of the LURA, failure to notify Minnesota Housing in advance of a transfer of title to the project, replacement of a general partner or managing member, transfer of more than a 50% interest in a general partner or managing member or change in a nonprofit partner is an unacceptable practice. Penalties of up to negative 35 points may be applied to any/all individuals/entities that transferred or acquired an ownership interest through the transfer for which notice was not provided.

   b. Displacement of Section 8 Tenants

   Minnesota Housing will not accept applications that have displaced or will displace Section 8 tenants because rents will be increased above the Section 8 Payment Standard limit.

   c. Non-Compliance with Minnesota Housing's Fair Housing Policies or Tenant Selection Plan Guidelines, Procedures and/or Requirements

   Failure to comply with Minnesota Housing's Fair Housing Policies or Tenant Selection Plan Guidelines, procedures or requirements is an unacceptable practice. Penalties of up to negative 35 points may be applied to any/all parties involved in the ownership and/or management of the development.

   d. Non-Compliance with Minnesota Housing's Compliance Policies, Procedures and/or Requirements

   Failure to submit an acceptable correction plan within the time allotted after receipt of a notice of failure to comply involving any of the following violations is an unacceptable practice:

      i. Failure to meet minimum set-aside;

ii. Any exigent health and safety violation under HUD's National Standards for the Physical Inspection of Real Estate;
iii. Rent violations, as stated in the Housing Tax Credit Compliance Guide, including:
    1. Charging rent on any HTC unit in excess of the allowable rent limit;
    2. Violating Minnesota Housing's policy limiting rent increases to once annually;
    3. Violating Minnesota Housing's policy requiring 120 day written notice to the tenant for any rent increase in excess of 5%;
    4. HTC unit rented to an ineligible household (e.g. household not properly certified, over income at initial occupancy or ineligible full-time student);
iv. Project not available to general public;
v. Failure to respond to Minnesota Housing request for inspection; and
vi. Other compliance violations, as determined by Minnesota Housing.

Penalties of up to negative 35 points may be applied to any/all parties involved in the ownership and/or management of the development.

Minnesota Housing may reject applications from any applicant if the applicant, or any party with an identity of interest with the applicant who will have an ownership interest in the proposed development:

i. Has an ownership interest in any development that has been reported to the IRS by Minnesota Housing or a Suballocator as no longer in compliance nor participating in the Section 42 program as indicated on line 11p of IRS Form 8823;
ii. Has an ownership interest in any development that is on Minnesota Housing's list of Properties Not in Good Standing in the Extended Use Period or a similar list maintained by a Suballocator; or
iii. Is on the Minnesota Housing Participant Suspension List.

e. Violations of Local, State or Federal Law

Minnesota Housing may reject applications from any applicant if the applicant, or any party with an identity of interest with the applicant who will have an ownership interest in the proposed development has been found by an enforcement agency or court to have violated local, state, or federal law, including but not limited to violations of law related to habitability, utilities, prevailing wage, wage theft and fair housing.

f. Ineligible Significant Parties

Minnesota Housing may reject applications if any of the significant parties (refer to Chapter 2.L.) are not eligible to participate in the HTC Program.

K. Minimum Underwriting Standards

A development selected for a reservation of or preliminary determination of eligibility for HTCs is selected based upon underwriting standards, including but not limited to, acquisition costs, maintenance and operating expenses and permanent financing as approved by Minnesota Housing (refer to Chapter 5. I. and the Minnesota Housing Multifamily Underwriting Standards). These factors will be monitored throughout the HTC process until Minnesota Housing's issuance of the approved IRS Form 8609. **Modifications from these standards require prior approval from Minnesota Housing.** Not complying with these standards could lead to loss of the HTC Allocation or Award.

L. Identity of Interest and Related Parties

The applicant must disclose any and all relationships (generally based on financial interests or family ties) with others involved in the project. A written disclosure to Minnesota Housing detailing the nature of all identity of interest relationships is required for all parties. An entity will be deemed, at the sole discretion of Minnesota Housing, to have an identity of interest with, or to be a related party to, an applicant if there is a financial and/or familial relationship between the entities, including parent and subsidiary entities.

M. Disclosure and Eligibility of Development Team

The applicant must disclose on the Multifamily Workbook the names and addresses, including corporate officials where applicable, of all parties that have a significant role in the project (the "significant parties"). These significant parties include, but are not limited to, general partners (or managing members), accountants, architects, engineers, financial consultants, any other consultants, processing agents, management agents and the general contractor. **NOTE:** Each team member may be required to complete a Qualification Form. Minnesota Housing must be satisfied that those who will own and operate the project are familiar with and prepared to comply with the requirements of the program.

The following significant parties are not eligible to participate in the HTC Program:

1. Significant parties who have been convicted of, enter an agreement for immunity from prosecution for or plead guilty, including a plea of *nolo contendere*, to a crime of dishonesty, fraud, bribery, payment of illegal gratuities, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records;

2. Significant parties who are currently debarred from any Minnesota program, other states' program(s) or any federal program(s);
3. At the sole discretion of Minnesota Housing, significant parties who have serious and persistent compliance monitoring violations may not be eligible; and
4. At the sole discretion of Minnesota Housing, significant parties having an identity of interest with persons or entities falling into any of the above categories may not be eligible.

N. Determination of HTC Amount

Federal law mandates that, although a proposed project may be eligible for a certain present value HTC amount, Minnesota Housing may not allocate or award more HTCs than is necessary for the financial feasibility of the project and its viability as a qualified affordable housing project throughout the compliance period.

After a project meets the development selection criteria, Minnesota Housing will evaluate each proposed project, taking into consideration in accordance with Section 42:

1. Development costs, including acquisition costs, developer fees, builder profits, contractor overhead and general conditions;
2. All sources and uses of funds;
3. Projected income and expenses;
4. Proceeds expected to be generated from the sale of HTCs, including historic tax credits; and
5. The difference between total project costs and total available financing resources, which is referred to as the gap. A calculation is made to determine the amount of HTCs needed by the project to fund the gap over a 10-year period, based on the estimated market value of the HTCs.

Based on this evaluation, Minnesota Housing will estimate the amount of HTCs to be allocated or awarded for each application. This determination is made solely at Minnesota Housing's discretion and is not a representation as to the feasibility of the project. Rather, it will serve as the basis for making an Allocation or Award of HTCs. The amount of the HTCs can change during the process due to variations in cost, mortgage amount, HTC percentage, syndication proceeds, etc. Minnesota Housing reserves the right not to allocate or award any HTCs.

This analysis to determine the maximum amount of HTCs must be performed by both Minnesota Housing and the owner/developer at the time of application, at the time of allocation and at the time the project is placed in service, provided all project costs are finalized and certified. For each analysis, the applicant must submit the most recent financial information on the project. Misrepresentations of information will result in failure to receive IRS Form 8609, debarment from participation in the HTC Program and possible criminal penalties.

If there are changes in resources and/or uses of funds or other changes, Minnesota Housing will adjust the HTC amount to reflect the changes, and the HTC amount may be reduced. HTC amounts will not automatically be increased above the initial reservation request or Allocation amount. Requests for additional HTCs for the project must follow the procedures in Chapter 2.O. and will depend upon the availability of HTCs.

O. Requests for Additional HTC Amounts

Projects that have had a justifiable increase in eligible basis or previously received a partial Allocation may be eligible to apply for supplemental HTC amounts. Under extenuating circumstances, such as significant changes in the market, Minnesota Housing may allow additional requests. The determination and approval are at the sole discretion of Minnesota Housing.

For 9% HTC projects to receive a supplemental HTC amount, the owner must submit an application when applications are due for Round 1, Round 2 or at the time the carryover application is submitted. Developers who have a Minnesota Housing reservation from the current year will be required to submit a revised Multifamily Workbook, documentation supporting the increased amount of HTCs requested, an updated and revised Self-Scoring Worksheet, any new or revised documentation obtained since the previous application and a supplemental application fee. A complete application package with all attachments and a full application fee will be required for an application for additional HTCs for developments initially awarded HTCs from a Suballocator or that have an HTC Allocation from a prior year. Minnesota Housing permits only one supplemental or additional HTC Allocation for each development. Allocations of additional HTCs requested as part of a carryover application are not counted against this limit.

For 4% HTC projects to receive an additional HTC amount, the owner must submit an application at the time of the 8609 application.

All applications that are submitted for an additional HTC amount will be subject to the eligibility requirements, the determination of HTC amount, the availability of HTCs, as well as limitations on the time period for allocation of additional HTCs under Section 42.

P. Round 2 Resubmission Process for Non-Select Projects

In a current allocation year, if a project fails to receive 9% HTCs in Round 1, it may be considered for a reservation of HTCs in Round 2 by following the guidelines listed below. Resubmittal must occur by Minnesota Housing’s HTC Round 2 application deadline. Minnesota Housing will not consider applications resubmitted after the deadline. A resubmitted application must include the following:

1. Re-signed and re-dated Multifamily Workbook (all changes from the initial application must be clearly identified);

2. Any new or revised documentation obtained since the previous application;
3. An updated and revised Self-Scoring Worksheet, including all documentation that clearly supports the points claimed;
4. Any requested documentation Minnesota Housing deems necessary; and
5. The supplemental application fee.

Minnesota Housing reserves the right to require a full, new application for any project.

Q. Qualified Census Tracts, Difficult Development Areas and State Designated Basis Boosts

Projects that meet the following criteria may be eligible for a greater amount of HTCs than the legislated maximum HTC percentage.

Qualified Census Tracts

Pursuant to Section 42(d)(5)(B), buildings located in Qualified Census Tracts (QCTs) qualify for a basis boost. QCTs are census tracts designated by HUD in which 50% or more of the households have an income of less than 60% of the area median or which has a poverty rate of at least 25%, where such areas do not comprise more than 20% of the overall population of a metropolitan statistical area. (For a current list of the HUD-designated QCTs, go to Minnesota Housing's website under HTC Reference Materials or go directly to the Qualified Census Tract Table Generator or Qualified Census Tract Map). HUD designates QCTs annually, and each list has a specified effective date. If the designation of the area in which a project is located changes over the course of the pre-development and development of the project, the project may or may not qualify for the basis boost. Effective dates can be based upon year of application, allocation, bond issuance and/or placement in service. Refer to the HUD Designation Notice found on HUD's website for additional details and consult with appropriate legal and tax professionals as necessary.

Difficult Development Areas

Pursuant to Section 42 (d)(5)(B), buildings located in Difficult Development Areas (DDAs) qualify for a basis boost. DDAs are areas designated by HUD as having high construction, land and utility costs relative to area median income. For DDA information, reference the same website as QCTs above. HUD designates DDAs annually, and each list has a specified effective date. If the designation of the area in which the project is located changes over the course of the pre-development and development of the project, the project may or may not qualify for the basis boost. Effective dates can be based upon year of application, allocation, bond issuance and/or placement in service. Refer to the HUD Designation Notice found on HUD's website for additional details and consult with legal and tax professionals as necessary.

State Designated Basis Boost

Pursuant to Section 42(d)(5)(B)(v), Minnesota Housing can designate buildings requesting HTC from the state's credit ceiling for a basis boost. Requests by applicants or developers to Minnesota Housing to apply the 30% state designated basis boost must be made in writing at the time of the HTC Allocation request. The request must clearly demonstrate how the proposal meets the criteria established by Minnesota Housing for receiving boost considerations.

It is the goal of Minnesota Housing to optimize the use of all available sources of funding for multifamily developments to produce the maximum number of affordable rental units in the most sustainable, quality, cost effective and geographically diverse developments possible that meet Minnesota Housing's priorities. Consistent with this goal, the following criteria will be used to determine if, when and in what HTC amount, Minnesota Housing will provide a state-designated basis boost for HTC developments on a building-by-building basis to obtain financial feasibility.

1. The development must meet at least one of the following selection criteria requirements:
    a. Permanent Supportive Housing: Projects that will serve People with Disabilities or High Priority Homeless Households under the Permanent Supportive Housing for High Priority Homeless selection criterion or the People with Disabilities selection criterion;
    b. Preservation: Projects that preserve existing federally-assisted housing or other critical affordable housing projects and are eligible for points under the Preservation selection criterion; or
    c. Tribal: Projects that are sponsored by, or have received a significant financial contribution (as determined by Minnesota Housing) from, a Tribal government, Tribally designated housing entity or Tribal corporate entity.
2. The application must demonstrate that without the basis boost, a significant funding gap will remain for the proposed development, and the HTCs allocated in connection with the basis boost must be no more than needed to achieve financial feasibility.

R. Reservations

Once Minnesota Housing has ranked applications and determined allowable HTC amounts for each application, staff will make recommendations to Minnesota Housing's board for final approval of the reservation of 9% HTCs.

Reservations are site specific. Changing a development's site could lead to the revocation of the HTC reservation/Allocation.

Minnesota Housing's HTC program permits owners to elect the applicable percentage either at the time of reservation or when placed in service. If the election is not made at the time the reservation letter is issued, the percentage will be fixed for the month in which the building is placed in service or as otherwise established by Section 42. Once made, the election is irrevocable. Upon receipt of the required documents, Minnesota Housing will complete its reservation review and send reservation agreements to be executed by the owner.

Choosing the gross rent floor date as the date of allocation or the date placed in service can be done at any time from reservation forward, but the election must be made, and the completed election form must be received by Minnesota Housing no later than the date the project is placed in service. If you choose to make the election as of the date of the reservation, submit a fully executed Gross Rent Floor Election Form including each building of the development in which there are HTC units. If the required owner-executed forms with all elections made by the owner are not submitted to Minnesota Housing by a date no later than the placed in service date, the gross rent floor date will be effective on the allocation date of the HTCs.

Selected applicants that will not place a project in service in the allocation year for which the reservation was issued may request a carryover allocation by submitting the required carryover application submissions.

S. Administrative Errors/Appeals Process

Minnesota Housing will consider appeals for applications requesting HTCs from the state's HTC credit ceiling. If the applicant believes that Minnesota Housing has misinterpreted, was not aware of a submission item or miscalculated the applicant's selection points or HTC amount, at the time of application/reservation, the applicant may submit an appeal by the appeal due date and time determined by Minnesota Housing, which is generally five business days after notification of application status. Notification of the appeal request deadline will be in the form of the selection or non-selection letter. The first business day after the date on this letter will be the first day of the appeal period.

The appeal must be written in letter form containing a signature from an authorized representative of the applicant and stating that the communication is an appeal under Chapter 2.S. of this QAP. The applicant should articulate their position and may call Minnesota Housing's attention to particular application submissions that were properly and timely submitted by the application deadline. Minnesota Housing will **not** consider any supporting documentation not previously submitted as part of the application. The appeal letter must be submitted via email to mhfa.htc.appeals@state.mn.us.

An applicant is not permitted to contest the scores of other applicants.

If appeal is resolved in favor of the applicant and the selection points of the project are affected, Minnesota Housing will re-rank all projects in the order of descending selection points.

T. Waiting List

In Round 2, eligible applications that were not selected or that were selected to receive a partial Allocation may be maintained on a waiting list until the end of the year in the event Minnesota Housing receives an increase in credits due to an IRS formula adjustment, National Pool or unused and/or returned HTCs. This excludes a return of credit from projects requesting a reallocation. A project on the waiting list that is selected for its HTC request through the subsequent Round 1 will no longer be eligible to receive HTCs through the waiting list and will be removed from the list. Projects determined to meet the supplemental priority in accordance with this QAP will receive priority over other applicants. The waiting list will follow Minnesota Housing's order of ranking of competitive HTC points. Generally, projects will be chosen in order; however, depending on IRS rules and requirements, time and funds available, Minnesota Housing reserves the right to make modifications to the waiting list or incorporate HTCs into subsequent rounds.

Projects placed on the waiting list must be fully evaluated for underwriting and market and financial viability prior to receiving consideration for an HTC Allocation. A project must satisfy these reviews to be eligible for selection from the waiting list. If an application is not selected for a reservation of HTCs by the end of the calendar year, there will be no further consideration. An applicant on the waiting list whose application is not selected for a reservation of HTCs by the end of the calendar year must submit a completely new application packet in the next funding round, which is a new HTC year, to receive consideration for an HTC Allocation.

U. Carryover Allocations

Federal law (IRC Section 42(h)(1)(E) - (F); IRS Treasury Regulation 1.42-6 Carryover Allocation) provides that Minnesota Housing may give a carryover allocation to certain qualified building(s), which are to be placed in service prior to the deadline established by Section 42, as may be extended by relief issued by the IRS. To receive a carryover allocation, the owner must submit a complete carryover application package to Minnesota Housing no later than October 1 of the allocation year for which the reservation was issued.

In the event Minnesota Housing receives an increase in HTCs due to an IRS formula adjustment, National Pool or unused and/or returned HTCs, Minnesota Housing may allocate HTCs for any additional HTC requests based upon the score of the project's allocation request. This excludes a return of HTCs for projects requesting a reallocation. Generally, projects will be chosen in order; however, depending on IRS rules and requirements, time and funds available, Minnesota Housing reserves the right to incorporate HTCs into subsequent rounds.

Federal law requires that more than 10% of the expected basis in the project (including land) must be expended by the date which is one year after the date that the allocation is made. A written certified public accountant (CPA) certification must be submitted verifying the owner has incurred required expenditures. As decided by the owner, submission of the CPA certification may be made at the time of carryover application or at a later date as provided for by Section 42 and this QAP. However, the carryover allocation agreement must be executed prior to December 31 of the allocation year for which the reservation was issued.

For a carryover agreement to be valid, it must include, among other things:

1. The amount of the reasonably expected basis at the end of the second year after the allocation is made; and
2. The amount of that expected basis that must be expended or incurred by the date which is one year from the date of the allocation.

If the final CPA-certified carryover basis and expenditure information is not available at the time the carryover application is due, an estimate of the expenditure of greater than 10% of the expected basis must be performed by the owner and submitted to Minnesota Housing no later than October 1 of the allocation year for which the reservation was issued. The final CPA certifications must be submitted to Minnesota Housing prior to the deadlines established by Section 42, as may be extended by relief issued by the IRS, and by no later than Minnesota Housing's submission deadlines identified in Chapter 6.B. Failure to comply with the submission dates will result in significant penalties as outlined in Chapter 8.E. Additional carryover requirements are given in Chapter 6.B.

Minnesota Housing's HTC program carryover procedures are intended to conform to the federal laws and are based upon the limited guidance received from the IRS. At any time, additional IRS guidance may be issued that will require further adjustments to the QAP and additional reviews of developments relating to carryover.

V. Reallocation

Notwithstanding any other provisions of this QAP, when a project that has received a carryover allocation of 9% HTCs from Minnesota Housing has determined that it will be unable to place in service by the date required pursuant to Section 42, an owner may request 1) that they be able to return the original Allocation of HTC and 2) that Minnesota Housing reallocate the same amount of HTC in a future credit year.

Minnesota Housing reserves the right, at its sole discretion, to provide a new Allocation of 9% HTCs to a project that received a carryover allocation in a prior calendar year. An owner that requests a return and reallocation will not be required to submit a new application or be scored again under the QAP applicable to the future credit year. To be eligible for this return and reallocation of HTC, at a minimum, the following conditions must be met to Minnesota Housing's satisfaction:

1. The owner must provide written notice to Minnesota Housing in a timely fashion, describing the circumstances surrounding the request, all remedial measures attempted by the developer to mitigate the delay and any other pertinent information related to the inability to meet the required placed in service deadline, as part of their request to return their Allocation;
2. The reason for the request must be extenuating circumstances beyond the reasonable control of the owner. These circumstances may include but are not limited to delays such as fire, natural disaster, pandemic or other large-scale issues with a significant impact to the housing industry;
3. The project is economically viable without additional HTCs or other deferred funding from Minnesota Housing; and
4. Minnesota Housing must find that the project in all respects, except time to place in service, still meets the selection criteria and conditions upon which the HTC were originally allocated and the minimum requirements of the QAP applicable to the future credit year and that the project continues to meet affordable housing needs in the community for which it is planned.

An owner may only return and receive a reallocation once per project. A developer may only return and received a reallocation once per year.

The owner shall submit the required fee listed in Chapter 8 with the written request. The fee is non-refundable regardless of outcome. The request is subject to Minnesota Housing board approval. Applicants should not assume that this reallocation will be automatically provided or rely on this statement when determining the timeline of the proposed project.

Minnesota Housing, in its sole discretion, may assess negative ranking points on subsequent applications from the applicant (or related entity).

A project located in a HUD-designated DDA or QCT at the time of original Allocation may retain its designation if consistent with Section 42. Effective dates can be based upon year of application or allocation. Refer to the HUD Designation Notice found on HUD’s website for additional details.

W. Final Allocations and Awards

Except for carryover allocations, no Allocation or Award of HTCs will be made until a building or project is placed in service and the proper documentation and fees have been received. The final amount of HTCs is determined when the project is placed in service.

Final Allocations and Awards (IRS Form 8609) may be requested when all eligible buildings are placed in service and the proper documentation and fees have been received. Minnesota Housing may establish, at its sole discretion, required deadlines prior to year-end for final requests in order to permit timely processing of documents.

If an owner of an HTC development does not intend to obtain a carryover allocation, but instead intends to take a project from HTC reservation directly to placed-in-service status, an Allocation via issuance of IRS Form 8609 must be obtained prior to year-end of the allocation year for which the reservation was issued. For an IRS Form 8609 to be issued by Minnesota Housing prior to year-end, the 8609 application must be submitted to Minnesota Housing on or before October 1 of that year.

A project that has neither received a carryover allocation nor has been placed in service and issued appropriate IRS Form 8609s before December 31 of the year of allocation will lose its entire Allocation of HTCs.

The HTC amount that will be allocated or awarded is based on Minnesota Housing's final determination of the qualified basis for the building or project and a review of the project costs as outlined in the QAP. The Allocation or Award may be reduced to comply with federal law based on the final review of the project.

Prior to final Allocation or Award, the project owner is required to execute and record a LURA.

Non-compliance with the terms of a preliminary determination of HTCs or a carryover allocation may result in a loss of HTCs.

X. Monitoring for Compliance

Federal law requires that Minnesota Housing provide a procedure to monitor for compliance with Section 42 and to notify the IRS of noncompliance. Minnesota Housing is required to apply the monitoring procedure to all HTC projects developed within Minnesota Housing's jurisdiction, including HTCs issued in connection with tax-exempt volume limited bonds since the inception of the HTC program. Minnesota Housing will perform such duties in accordance with its Housing Tax Credit Compliance Guide. HTC projects must comply with the Housing Tax Credit Compliance Guide as it may be amended. In general:

1. All HTC recipients must submit an annual certification to Minnesota Housing in a manner, form and time established by Minnesota Housing. Owners are required to certify whether or not the property is in compliance with Section 42 and the applicable Treasury Regulations and whether or not the property complies with the restrictions and/or set-asides under which the HTCs were allocated or awarded. The certification will include, but is not limited to, certification statements required under IRS Treasury Regulation 1.42-5, the submission of completed IRS forms and occupancy data including demographic data, income, student status and rent. Annual monitoring fees will be due when the owner certification is due.
2. Minnesota Housing will conduct periodic inspections, including reviewing tenant files (including tenant applications, verification of income and income from assets, the tenant income

certification, documentation of eligible student status, etc.), a completing a physical inspection using HUD's National Standards for the Physical Inspection of Real Estate and reviewing administrative records (including utility allowance and source documentation, tenant selection plans, marketing, Affirmative Fair Housing Marketing Plan, etc.) in accordance with the HTC Compliance Guide. If a property received its HTC Allocation or Award based on serving specific targeted population(s), administrative records and/or tenant files must demonstrate that the property and/or unit is serving such population(s). Minnesota Housing will conduct its first monitoring inspection no later than the end of the second year of the compliance period.

3. A similar monitoring inspection will be conducted at least once every three years during the 15-year compliance period. Less frequent inspections may be conducted after the 15-year compliance period has expired. Minnesota Housing, at its sole discretion, reserves the right to conduct more frequent inspections.
4. All official project records or complete copies of such records, including IRS reporting forms, must be made available to Minnesota Housing upon request.
5. To accomplish its compliance monitoring responsibilities, Minnesota Housing will charge a per-unit monitoring fee beginning with the first credit year. The fee will be due annually throughout the compliance period and extended use period. Refer to Sections 4.02 and 9.05 of the Housing Tax Credit Compliance Guide for details on the fee amount. Minnesota Housing reserves the right to adjust the fee depending upon the requirements of the U.S. Treasury, IRS or Minnesota Housing's increased cost to monitor. The fee will be due in a manner and time as prescribed by Minnesota Housing. Minnesota Housing will provide prompt written notice to the owner of a low-income housing project if Minnesota Housing does not receive the annual certification and supporting documentation described above or discovers in an audit, inspection or review, or in some other manner, that the project is not in compliance (or Minnesota Housing cannot determine the project is in compliance because the owner will not cooperate with or respond to monitoring requests) with the provisions of Section 42 and the applicable Treasury Regulations. The owner will be given a period of time to make corrections and supply evidence to Minnesota Housing that corrections have been made. Minnesota Housing will file Form 8823, Housing Credit Agencies Report of Non-Compliance, with the IRS no later than 45 days after the end of the correction period regardless of whether the noncompliance has been corrected.
6. Properties that received an HTC Allocation in 1990 and later are subject to a minimum 15-year extended use period, which begins after the close of the 15-year compliance period. Compliance requirements and monitoring procedures for properties in the extended use period are contained in Chapter 9 of the HTC Compliance Guide.
7. All project owners must maintain records in accordance with IRS Treasury Regulation 1.42-5. Refer to Chapter 3 of the HTC Compliance Guide for details.

Y. Qualified Contract

All properties will be subject to a LURA with a term of 30 years or longer. Section 42(h)(6)(E)(i)(II) of the IRC created a provision that housing credit agencies respond to the request for presentation of a Qualified Contract for HTC developments with expiring compliance periods. The request for presentation of a Qualified Contract is a request that the housing credit agency find a buyer (who will continue to operate the property as a qualified low-income property) to purchase the property for a qualified contract price pursuant to IRS regulations. If the housing credit agency is unable to find a buyer within one year, the extended-use period is terminated, subject to a three-year period following its termination, where existing low-income tenants cannot be evicted or have their tenancy terminated, other than for good cause, and rents cannot exceed the allowable HTC rent limits.

Owners of properties that receive 4% or 9% HTCs are required by Minnesota Housing to waive the right to request a Qualified Contract.

Z. Tenant Selection Plan

Minnesota Housing requires that a Tenant Selection Plan (TSP) be readily available to anyone interested in such TSP for review and/or retention. Minnesota Housing will not develop or provide a TSP to owners or management companies. The TSP must be developed and implemented in accordance with Minnesota Housing's Tenant Selection Plan Guidelines document, which is published on Minnesota Housing's website.

AA. Other Conditions

No member, officer, agent or employee of Minnesota Housing will be personally liable concerning any matters arising out of, or in relation to, the allocation, award or monitoring of HTCs.

BB. Amendments and Revisions to the Qualified Allocation Plan

This QAP has been prepared to comply with Section 42 and applicable state and federal requirements. The QAP is subject to modification or amendment at any time to help ensure that the provisions conform to the requirements of the IRC and other federal and state requirements, to make population and date changes as needed, to facilitate the allocation of HTCs that would not otherwise be allocated, and to address unforeseen circumstances.

Minnesota Housing may make non-substantive administrative modifications to provisions of the QAP not mandated by Section 42 to the extent deemed necessary to facilitate the administration of the HTC program.

A substantive amendment to this QAP will occur only after public notice and public hearing. Any substantive amendments will require approval of the Minnesota Housing board and the governor or appropriate approval entity. Non-substantive amendments may be made by the Minnesota Housing board. The Minnesota Housing board is authorized to waive any conditions of this QAP that are not mandated by Section 42 on a case-by-case basis for good cause shown. Written explanation will be made available to the general public via the Minnesota Housing website for any Allocation or Award of HTCs that is not made in accordance with Minnesota Housing's established priorities and selection criteria.

To the extent that anything contained in the QAP does not meet the minimum requirements of federal law or regulations, such law or regulation will take precedence.

Chapter 3 – Federal Program Requirements

A. Eligible Activities

Eligible activities for HTCs include new construction, rehabilitation or acquisition with rehabilitation.

B. Applicable Percentage

There are two levels of applicable percentage, depending upon whether the building is new or existing, whether there are rehabilitation expenditures and whether the buildings are federally subsidized.

1. **New Buildings and Qualifying Rehabilitation Expenditures (if neither is federally subsidized):** With respect to new buildings or qualifying rehabilitation expenditures that are not subsidized, the applicable percentage is an amount resulting in aggregate HTCs having a present value of 70% of qualified basis. Traditionally, this has resulted in an HTC percentage of approximately 9%.
2. **New Buildings and Qualifying Rehabilitation Expenditures that are Federally Subsidized and Existing Buildings:** With respect to new buildings and qualifying rehabilitation expenditures that are federally subsidized and the acquisition of existing buildings that are rehabilitated, the applicable percentage is an amount that results in aggregate HTCs having a present value of 30% of qualified basis. Traditionally, this has resulted in an HTC percentage of approximately 4%.

Applicants are strongly advised to consult closely with their HTC professionals (legal and tax) for guidance with respect to structuring a project to use either the 9% or the 4% HTC.

C. Qualifying Rehabilitation

Rehabilitation expenditure requirements are established both by state and federal law.

Under Section 42(e), rehabilitation expenses qualify for HTCs if the expenditures for each building:

1. Are able to be allocated to one or more low-income units or substantially benefit one or more low-income units; and
2. Are equal to the greater of:
    a. An average qualified basis amount per low-income unit for a building that meets the inflation adjusted amount published by the IRS annually in accordance with Section 42(e)(3)(D); or
    b. An amount that is not less than 20% of the adjusted basis of the building, as determined pursuant to Section 42(e)(3).

In addition to the Section 42(e) requirements, Minnesota Statutes, section 462A.221, subdivision 5 requires rehabilitation expenditures for the project of an average of at least $5,000 per unit.

It is necessary to acquire an existing building in order to incur qualifying rehabilitation expenditures with respect to that building. In such a case, the costs of acquiring the existing building may be eligible for the 30% present value HTC and the rehabilitation expenditures may be eligible for the 70% present value HTC.

D. Existing Buildings

Existing buildings must meet the requirements of Section 42(d)(2). In order for an existing building to qualify for the 30% present value acquisition HTC in connection with rehabilitation, the building must meet the 10-year requirement (10-year rule), in accordance with Section 42(d)(2)(B) and have a period of at least 10 years between the date the building was acquired and the date it was last placed in service.

The 10-year rule also applies to existing HTC projects applying for a new Allocation of acquisition HTCs at the end of the original 15-year compliance period.

E. Exceptions to the 10-Year Rule

Exceptions to the 10-year rule are provided in Section 42(d)(6) for federally- or state-assisted buildings, certain low-income buildings subject to mortgage prepayment and buildings acquired from insured financial institutions in default. Certain other situations may be exempt from the 10-year rule, such as:

1. A person who inherits a property;
2. A government unit or qualified nonprofit group if income from the property is exempt from federal income taxation;
3. A person who gains a property through foreclosure (or instrument in lieu of foreclosure) of any purchase money security interest, provided the person resells the building within 12 months after placing the building in service following foreclosure; and/or
4. Single family residences that had no use during the prior 10-year period, except as an owner-occupied principal residence, will not be treated as being placed in service for purposes of the 10-year holding period. Note that although the 10-year rule does not apply, the property must still be rehabilitated to claim the acquisition costs of such a property.

F. Federal Subsidies

The determination of whether a building is federally subsidized is addressed in Section 42(i)(2). In general, a building is treated as federally subsidized if there is financing with interest that is exempt from tax under Section 103 of the IRC, and the proceeds of which were used (directly or indirectly) in the building or its operation.

Federal grants are not to be taken into account in determining eligible basis. The eligible basis of a building must not include any costs financed with the proceeds of a federally funded grant.

Owners of a property receiving a federal subsidy have the option of treating the subsidy amount as if it were a federal grant and deducting the amount of the subsidy from the qualified basis or costs against which the amount of the HTC is calculated.

G. Federal Subsidy Layering Review

Section 911 of the Housing and Community Development Act of 1992 requires that specific procedures be followed for subsidy laying review when HTCs and HUD assistance are combined in a single project. Sponsors of projects that combine HUD assistance and HTCs should be aware that a subsidy layering review must be completed for their projects and should contact Minnesota Housing to receive additional information prior to submitting their application.

Suballocators are responsible for ensuring that subsidy layering reviews are completed for developments within their jurisdiction where they are the Allocating Agency.

Subsidy layering review is required for, but not limited to, the following programs:

1. HUD Risk Sharing Insurance
2. Section 8 Project-Based Rental Assistance
3. HOME Investment Partnerships Program (HOME)
4. National Housing Trust Fund (NHTF)

H. Minimum Set-Aside Election

Applicants must set aside a minimum number of units that meet both rent and income restrictions to qualify for HTCs for each year of the HTC period. Multifamily Tax Subsidy Project (MTSP) income limits, which are published by HUD, are established for different geographical areas. A project must meet one of the following minimum tests no later than the close of the first year of the credit period and for the full term of the LURA:

1. **20/50 Test (20% at 50% MTSP):** To meet the 20/50 test, a minimum of 20% of the residential units must be both rent restricted and occupied by individuals whose income is at or below the 50% MTSP income limit, adjusted for family size.

2. **40/60 Test (40% at 60% MTSP):** To meet the 40/60 test, a minimum of 40% of the residential units must be both rent restricted and occupied by individuals whose income is at or below the 60% MTSP income limit, adjusted for family size.
3. **Average Income Test (AIT):** To meet the AIT, a minimum of 40% of the residential units must be both rent restricted and occupied by individuals whose imputed income average at initial occupancy is at or below the 60% MTSP income limit, adjusted for family size. The set-aside allows projects to restrict a percentage of units at higher rent and income levels by agreeing to restrict a percentage of its units at lower rent and income levels. The allowable income and rent limit restrictions are the 20%, 30%, 40%, 50%, 60%, 70% and 80% MTSP limits. Only properties that are 100% HTC restricted are eligible to elect the AIT, and the owner must agree to and make a proper election per IRS instructions to treat all buildings as one multiple building project. If the AIT is elected, the owner also agrees to maintain the number of 20%, 30% and 40% units throughout the extended use period that it represented it its application. The required number of units will be set forth in the LURA and cannot be changed without Minnesota Housing's prior written approval. The units may float throughout the property, but the owner should be aware of potential fair housing concerns if the lower income and rent restrictions are not available in units with larger bedroom sizes.

After the initial HTC application has been submitted to Minnesota Housing and the project has been selected, the minimum set-aside cannot be changed without Minnesota Housing's prior written approval. Owners must demonstrate good cause for requesting a change. Once the IRS Form 8609(s) are filed with the IRS, the minimum set-aside election is irrevocable.

All HTC units must comply with the respective minimum set-aside income and rent election. For example, for a 20/50 minimum set-aside, if a building's applicable fraction is 100%, all units must have an income and rent restriction at or below 50% MTSP.

The actual number of restricted units within the project must be consistent with the initial applicable fraction selected at the time of application. Also, the IRS defines each building as a separate project unless the owner elects to treat certain buildings as a multiple-building project on IRS Form8609. Refer to the 8609 instructions for making a multiple-building election on IRS Form 8609.

The AIT is not an available minimum set-aside election under IRC Section 142 for tax-exempt bonds. Owners of properties financed with tax-exempt bonds may elect the AIT for the HTC Allocation but will have to comply with the 20/50 or 40/60 minimum set-aside for bonds **AND** the AIT minimum set-aside for HTCs.

I. Affordable Rents

The rent restrictions for the units are governed by Section 42 and regulations, rulings and other announcements by the IRS. The following summary is not intended to be comprehensive. A violation of the tenant income or rent restrictions in Section 42 may result in project ineligibility or a reduction in basis and/or HTC amount.

For a unit to count as a low-income unit, the gross rent may not exceed 30% of the imputed tenant income limitation. The imputed income limitation applicable to a unit equals the permissible income limitations that would apply if the number of individuals occupying the unit were:

1. One individual in the case of a studio apartment; and
2. 1.5 individuals per bedrooms in the case of a unit with one or more separate bedrooms.

Therefore, the rent restrictions applicable to a low-income unit are determined by which test is elected and how many bedrooms are contained in the unit. Current income limits, as published by HUD, for Minnesota counties are described in the Rent and Income Limits tables found on the Housing Tax Credit page of the Minnesota Housing website.

For HTC compliance purposes, “gross rent” means all payments by the tenant, including non-optional charges and payments for utilities other than telephone and cable. If the tenant pays utilities directly, the maximum rent that can be paid to the landlord is reduced by a utility allowance. IRS Treasury Regulation 1.42-10 Utility Allowance, as amended, provides guidance relating to utility allowances and lays out options for establishing them.

The following is a summary of the sources of utility allowances:

1. USDA Rural Housing Service (RHS) financed projects, or units with tenants receiving RHS assistance, must use the RHS utility allowance.
2. HUD regulated buildings must use the HUD utility allowance (project-based HUD financing).
3. Any individual apartments occupied by residents who receive HUD assistance (Section 8 Existing, etc.), must use the HUD utility allowance from the Public Housing Authority (PHA) administering the assistance.
4. For Section 42 buildings without RHS or HUD assistance, the following options may be used:
    a. A PHA utility allowance from the local housing authority administering Section 8 Housing Choice Vouchers for the area in which the property is located;
    b. A utility company estimate;
    c. An Average of Actual Consumption using methodology described in the HUD published Multifamily Notice H2015-4A HUD Utility Schedule Model; or
    d. An Energy Consumption Model using an energy and water and sewage consumption and analysis model.

The HTC Compliance Guide provides additional information and instructions for implementing utility allowances.

Federal, state and local rental assistance payments (such as Section 8 payments) made on behalf of the tenant are not included in gross rent.

Additional rent restrictions may apply if the Allocation or Award of HTCs was made based on such additional restrictions.

J. Tenant Eligibility

To be a low-income unit for purposes of determining the qualified basis, the tenant must have income at or below 50% of the applicable MTSP income limits if the 20/50 test is elected or 60% of MTSP income limits if the 40/60 test is elected. If the AIT is elected, the tenant must have income at or below the correct percent of MTSP income limits according to unit designation. The allowable income limit restrictions under the AIT are the 20%, 30%, 40%, 50%, 60%, 70% and 80% MTSP limits. The unit must be rent restricted as set forth above, and the unit must be suitable for occupancy.

The combined household income of all tenants occupying an HTC eligible unit must be less than or equal to the elected income requirements as shown on Rent and Income Limits. Section 42 does not allow households comprised of full-time students to qualify as low-income units unless certain exceptions are met. There are five exceptions to the limitation on households where all members are full-time students. Full-time student households that are income eligible and satisfy one or more of the following conditions are considered eligible:

1. Students are married and entitled to file a joint tax return. A married couple that is entitled to file a joint tax return, but has not filed one, still satisfies the exception;
2. The household consists of a single parent with child(ren), the parent is not a dependent of someone else and the child(ren) is/are not dependent(s) of someone other than a parent;
3. At least one member of the household receives assistance under Title IV of the Social Security Act (formerly Aid to Families with Dependent Children (AFDC), now known as Temporary Assistance for Needy Families (TANF), or in Minnesota, the Minnesota Family Investment Program (MFIP));
4. At least one member of the household participates in a program receiving assistance under the Job Training Partnership Act (JTPA) or other similar federal, state or local laws; or
5. At least one member of the household was previously in foster care.

Households are required to certify student status annually, no later than the anniversary date of the previous certification. Refer to Section 5.11 of the HTC Compliance Guide and Chapter 17 of the IRS

Guide for Completing Form 8823, Low-Income Housing Credit Agency's Report of Noncompliance or Building Disposition Audit Technique Guide, for additional guidance.

K. Eligible Basis

In general, the eligible basis of a building is equal to the building's adjusted basis for acquisition, rehabilitation or construction costs for the entire building, subject to certain conditions and modifications set forth in Section 42(d). As a general rule, the adjusted basis rules of IRC Section 1016 apply, with the exception that no adjustments are made for depreciation. Some of the special provisions for determining eligible basis under Section 42(d) are:

1. The eligible basis may be increased for new buildings and rehabilitation to existing buildings that are located in designated QCTs, DDAs or in 9% HTC developments utilizing the state designated basis boost. See Chapter 2.Q.
2. The cost of the non-low-income residential units in a building is included in eligible basis only if the quality of those units does not exceed the average quality of the low-income units. If the cost of a non-low-income unit exceeds the cost of a low-income unit (using the average cost per square foot and assuming the same size) by more than 15%, the entire cost of the non-low-income unit must be excluded from the building's eligible basis. If the excess cost is not more than 15%, the owner may make an election to exclude only the excess cost of the non-low-income unit(s) from eligible basis.
3. The cost of depreciable property used in common areas or provided as comparable amenities to all residential units (e.g., carpeting and appliances) is included in determining eligible basis. The cost of tenant facilities (e.g., parking, garages and swimming pools) may be included in eligible basis if there is no separate charge for use of the facilities and they are available to all tenants in the project.
4. The cost of a community service facility is included in basis only if the building is located in a QCT. The eligible basis of that facility must not exceed 25% of the first $15 million of eligible basis plus 10% of additional basis in the project. All community service facilities that are part of the same qualified low-income housing project will be treated as one facility. A community service facility is defined as a facility that is part of the qualified low-income housing project designed to serve primarily individuals, including tenants and non-tenants, whose income is 60% or less of area median income.
5. Eligible basis is reduced by federal grants, residential rental units that are above the average quality standard of the low-income units, historic rehabilitation credits and nonresidential rental property. Buildings located in areas designated as a QCT, DDA or developments utilizing the state designated basis boost may qualify for an increase in eligible basis.

L. Qualified Basis

Qualified basis is the portion of the eligible basis applicable to low-income housing units in a building. Qualified basis is the product of a building's eligible basis multiplied by the applicable fraction.

M. Applicable Fraction

The applicable fraction is the lesser of:

1. The unit fraction, which is the number of low-income units in a building divided by the total number of residential rental units in the building; or
2. The floor space fraction is the total floor space of the low-income units in the building divided by the total floor space of the residential rental units in the building.

A full-time resident manager's unit is not considered a residential unit and shall be excluded from the numerator and denominator for calculating the applicable fraction.

At initial application and at carryover, the **estimated project applicable fraction** will be used. It is calculated by project in order to obtain a rough estimate of the percentage of eligible units and square footage needed and an estimate of the total amount of HTCs necessary for a particular project.

At the time that the placed in service application for 8609 is made, the **targeted applicable fraction for each building** is calculated. The targeted applicable fraction is determined on a building-by-building basis. Each building in a multiple building development could have a different applicable fraction. Because the estimated project applicable fraction is approximate, the targeted applicable fraction calculated by building will frequently differ unless the project has a 100% applicable fraction. The targeted applicable fraction is also listed as part of the extended use criteria in the LURA, which is recorded and remains with the property.

N. Annual HTC Amount

The HTC is available each year for 10 years. The amount of HTCs allocated or awarded is based on the qualified basis multiplied by the applicable percentage. However, Section 42(m)(2) requires Minnesota Housing to limit the amount of HTCs to the amount necessary to help ensure project feasibility under the rules established by the IRS; therefore, the actual amount of HTCs allocated or awarded could be less than the maximum allowable if the analysis reveals the project would still be feasible with fewer HTCs.

The IRS publishes the applicable percentages on a monthly basis. These figures are used to calculate the maximum allowable annual HTC amount for which the project will be eligible (also refer to Chapter 3.B.).

O. Declaration of Land Use Restrictive Covenants

As a condition of receiving HTCs, a project will be subject to a Declaration of Land Use Restrictive Covenants (LURA) between the owner and Minnesota Housing through which the owner commits the building(s) to low-income use for an extended use period of at least 15 years after the conclusion of the 15-year compliance period (a total of 30 years). The owner can elect to extend the term of the LURA and Section 42 income and rent restrictions up to 50 years. Owners of properties that receive 4% or 9% HTCs are required by Minnesota Housing to waive the right to request a Qualified Contract (refer to Chapter 2.Y.).

The LURA terminates upon foreclosure of the building (or deed in lieu of foreclosure) unless the IRS determines that such acquisition is part of an arrangement with the taxpayer, a purpose of which is to terminate such period.

Throughout the term of the LURA and for a three-year period after the termination or expiration of the LURA, the owner must not evict or terminate the tenancy of an existing tenant of any low-income unit other than for good cause and must not increase the gross rent above the maximum allowed under the IRC with respect to such low-income unit.

The LURA must be recorded in accordance with Section 42(h)(6) as a restrictive covenant and submitted to Minnesota Housing prior to Minnesota Housing issuing the IRS Form 8609. The LURA will set forth the commitments made by the owner to Minnesota Housing in obtaining points, including any additional long term requirements placed upon the building at the time of Selection. Non-compliance with the LURA may result in serious penalties, including but not limited to HTC disallowance or recapture and ineligibility for Minnesota Housing resources, including HTCs. Both Minnesota Housing and certain prospective, current or former tenants have, in addition to all other remedies provided by law or in equity, the right to enforce specific performance of the LURA. At its sole discretion, Minnesota Housing reserves the right to waive any criteria or requirement not required by law.

P. Ineligible Properties

Any residential rental unit that is part of a hospital, nursing home, sanitarium, life care facility, trailer park or intermediate care facility for the mentally and physically handicapped is not for use by the general public and is not eligible for HTCs under Section 42. Projects with buildings having four or fewer residential units must comply with Section 42(i)(3)(C).

Q. Passive Loss Restrictions

There is a limit on the amount of HTCs any individual may effectively use due to passive loss restrictions and alternative minimum tax provisions. Consult your tax attorney or accountant for clarification of this regulation.

R. State Credit Ceiling Limits

Each state is limited to the amount of 9% HTCs it may allocate annually. An estimate of Minnesota's annual credit ceiling is published on Minnesota Housing's website prior to allocation in Round 1.

Projects financed by tax-exempt volume limited bonds that are subject to a separate volume limitation are not counted against the state HTC credit ceiling (refer to Chapter 7 for further details).

S. Loss of Credits

Minnesota Housing reserves the right to cancel a Selection or Allocation of HTCs to projects that do not provide evidence satisfactory to Minnesota Housing of progress toward completion of the project in accordance with the project schedule or noncompliance with the terms of the Selection or Allocation.

Part of the HTCs will also be disallowed or recaptured by the IRS if the qualified basis at the close of any year is less than the amount of such basis at the close of the preceding taxable year or if the minimum number of qualified low-income units is not maintained for the complete extended use period.

T. Market Study

IRC Section 42(m)(1)(A)(iii) requires that all HTC projects conduct a comprehensive market study before an Allocation or Award is made. The study must examine the housing needs of low-income individuals in the area to be served by a developer's HTC project and must be conducted by a disinterested party, at the developer's expense, who is approved by the housing credit agency (refer to the Market Study Guidelines on Minnesota Housing's website).

U. Right of First Refusal

IRC Section 42(i)(7) permits qualified nonprofit organizations to hold a right of first refusal (ROFR) to purchase the property after the close of the compliance period. Minnesota Housing requires that all 4% and 9% HTC projects that involve ownership by a qualified nonprofit organization grant such a ROFR to the nonprofit, on the condition that the nonprofit continue to operate the project as an HTC project for at least the remaining term of the LURA. This includes all HTC projects that involve ownership by a qualified nonprofit organization, not only projects that receive HTC under the nonprofit set aside. Projects that elect Eventual Tenant Ownership as described in Chapter 3.W. are exempt from this requirement.

The ROFR permitted by Section 42(i)(7) is not the same as a right of first refusal under statutory, court-interpreted or common law. The ROFR cannot be conditioned upon receipt of a bona fide purchase offer from any party, including an unrelated third party. The ROFR purchase price must be calculated as the minimum purchase price permissible under Section 42. This ROFR purchase price must not automatically include unpaid fees or loans and must be calculated by the project accountants and deemed final other than due to manifest error. The ROFR must be included in the partnership/operating agreement, must be recorded against the property and will be reflected in the HTC legal agreements and in the LURA.

V. Eventual Tenant Ownership

Minnesota Housing will review projects incorporating eventual tenant ownership (ETO) provisions in accordance with Section 42(h)(6), IRS Revenue Ruling 95-49 and Minnesota Housing's requirements. Projects that include ETO will receive a preference during the selection process when reviewing tie breakers (refer to Chapter 5.D.).

The LURA will contain provisions ensuring compliance with these ETO commitments by the owner, including a ROFR allowing tenants to purchase their units.

Until the time the HTC units are purchased by qualified tenants or in the event that not all HTC units are acquired by qualified tenants, the owner will extend the duration of low-income use for the full term of the LURA (refer to the Eventual Tenant Ownership Guide on Minnesota Housing's website).

W. Contract Compliance, Equal Opportunity and Fair Housing Policy

It is the policy of Minnesota Housing to practice affirmative action to provide equal opportunity in all our projects, programs and other endeavors. Minnesota Housing's goal is to achieve a client and recipient mix that is representative of the people who live in our state and our communities so that all employment and contractual benefits that develop as a result of our programs will be shared by all Minnesotans. This policy applies to all Minnesota Housing employees and Minnesota Housing's external partners.

Purpose

The purpose of this policy is to make Minnesota Housing's commitment to act affirmatively to achieve equal opportunity in all facets of its operation, clear to both internal staff and outside parties with whom we do business.

Goals

Our goal is to make certain that Black-, Indigenous-, People of Color-owned business enterprises and women-owned business enterprises have equal access to business opportunities resulting from Minnesota Housing-assisted developments. Minnesota Housing expects that projects that receive Allocations or Awards of HTC from Minnesota Housing will comply with the marketing and outreach requirements and performance goals described in the Multifamily Division Black, Indigenous, and People of Color-owed Business Enterprise and Women-owned Business Enterprise Compliance Standards available on the Minnesota Housing website.

Requirements

Minnesota Housing is required to comply with all applicable local, state and federal laws. These requirements extend to everyone that Minnesota Housing does business with, either by contractual agreement or as a Minnesota Housing policy.

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 require those in the business of buying and selling dwellings to make reasonable accommodations and to allow persons with disabilities to make reasonable modifications.

Applicants will be required to submit an Affirmative Fair Housing Marketing Plan (AFHMP) 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 receiving HTC 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.

X. Occupancy Restrictions

Under the HTC general public use requirement, residential rental units must be for use by the general public, which incorporates HUD housing policy governing non-discrimination. Residential units provided only for a member of a social organization or provided by an employer for its employees are not considered use by the general public and are examples of restrictions not allowed under the HTC program. Minnesota Housing has an obligation to affirmatively further fair housing, and occupancy restrictions must comply with the Fair Housing Act, the Minnesota Human Rights Act and other civil rights laws. Projects must also comply with any occupancy restrictions imposed in connection with any other funds provided by Minnesota Housing. Age-related occupancy restrictions or preferences will be approved only if set out in the QAP or if the property qualifies as housing for older or elderly persons under the Fair Housing Act, the Minnesota Human Rights Act and their federal regulations.

Chapter 4 – Development Standards

All applications to Minnesota Housing for HTCs will be evaluated according to the following standards. (Small projects, local Community Development Initiative projects and projects developed in a DDA may be considered eligible for variances from these standards, if justified).

A. Project Cost Reasonableness

Minnesota Housing will evaluate the costs of each proposed project in comparison to current comparable projects to determine whether the proposed costs are reasonable, taking into consideration unique characteristics of the project and its comparability to similar projects. Additional documentation will be required if the proposed costs are not comparable or reasonable.

HTC projects are subject to Minnesota Housing's Development Costs and Predictive Cost Model policy. Minnesota Housing will use its Predictive Cost Model to test cost reasonableness for all projects. The model uses cost data from properties that have received Minnesota Housing funding or HTC, industry cost data from RSMeans and a regression analysis to predict total project costs. Based on a project's characteristics (type of development activity, building type, building characteristics, average unit size, project size, project location, population served, financing, etc.), the model predicts the total development costs. If a project's proposed costs exceed the applicable threshold set out in board policy, board action may be required. Developments with costs above the Predictive Cost Model may be notified and, if requested by the owner, will follow Minnesota Housing's process to determine if a waiver will be granted.

Minnesota Housing will evaluate the cost reasonableness of proposed acquisition costs through an as-is appraisal. Refer to the Minnesota Housing Multifamily Underwriting Standards for additional as-is appraisal requirements and details.

Minnesota Housing reserves the right to reject applications that appear, at Minnesota Housing's sole discretion, to have excessive costs or to size an Allocation or Award based on the lesser of the option/purchase agreement purchase price or the appraised value of the property.

B. Eligible Basis HTC Fees

Minnesota Housing will limit the amount of developer fees and general contracting fees (contractor's profit, general requirements, contractor's overhead) based on the requirements contained in the Minnesota Housing Multifamily Underwriting Standards for the purposes of calculating eligible basis to determine the amount of HTCs.

Syndication-related consultant fees are not to be included in the eligible basis of the project.

C. Reserves/Contingencies

Minnesota Housing will require documentation of the amount and disposition of reserves/contingencies. If they revert back to the developer, general partner/managing member or any entity with an ownership interest in the project, Minnesota Housing will consider the reserves/contingencies as deferred developer fees and the above limits will apply. For letters of credit, bonds, etc., use the actual cost, not face value, when completing the development cost section of the Multifamily Workbook.

D. Comparative Analysis

Notwithstanding these development standards and the selection criteria within this QAP, each proposed project is analyzed on a comparative basis in a variety of categories to ensure the highest value for the HTCs allocated and awarded.

E. Property Standards

Minnesota Housing encourages sustainable, healthy housing that optimizes the use of cost-effective durable building materials and systems and that minimizes the consumption of natural resources during construction, and in the long-term maintenance and operation.

All completed developments **must** comply with the Minnesota Overlay to the Enterprise Green Communities Criteria and Minnesota Housing’s Rental Housing Design/Construction Standards. **Significant adjustments to these standards require prior approval from Minnesota Housing**

Additional design requirements will also be imposed if a developer claims and is awarded certain points on the Self-Scoring Worksheet (refer to Chapter 6).

The owner and architect must certify compliance with all required Minnesota Housing Rental Housing Design/Construction Standards, and where points have been awarded, that all applicable standards and development features have been incorporated into the final working plans.

Chapter 5 – Project Selection

A. First Round – Application Requirements

Minnesota Statutes, section 462A.222, subdivision 3(e) requires that all applications statewide applying for a portion of the state's HTC credit ceiling in Round 1 meet one of the following minimum threshold types. The threshold type that the applicant applies under will become part of the HTC Reservation and Commitment and will be included in the LURA. An Allocating Agency will allocate HTCs only to the following types of projects:

1. In the Metropolitan Area:
    a. New construction or Substantial Rehabilitation in which, for the term of the extended use period (term of the LURA), at least 75% of the total HTC units are single room occupancy, efficiency or one-bedroom units with rents affordable to households whose income does not exceed 30% of the area median income;
    b. New construction or Substantial Rehabilitation family housing projects that are not restricted to persons 55 years old or older in which, for the term of the extended use period (term of the LURA), at least 75% of the total HTC units contain two or more bedrooms and at least one-third of the 75% contain three or more bedrooms; and
    c. Substantial Rehabilitation projects in neighborhoods targeted by the city for revitalization.
2. Outside the Metropolitan Area:
    a. Projects that meet a locally identified housing need and which are in short supply in the local housing market, as evidenced by credible data submitted with the application.
3. Projects that are not restricted to persons of a particular age group and in which, for the term of the extended use period (term of the LURA), a percentage of the units are set aside and rented to persons:
    a. With a serious and persistent mental illness as defined in Minnesota Statutes, section 245.462, subdivision 20, paragraph (c);
    b. With a developmental disability as defined in United States Code, Title 42, Section 6001, paragraph (8), as amended through December 31, 1990;
    c. Who have been assessed as drug dependent persons as defined in Minnesota Statutes, section 254A.02, subdivision 5, and are receiving or will receive care and treatment services provided by an approved treatment program as defined in Minnesota Statutes, section 254A.02, subdivision 2;
    d. With a brain injury as defined in Minnesota Statutes, section 256B.093, subdivision 4, paragraph (a); or

    e. With permanent physical disabilities that substantially limit major life activities, if at least 50% of the units in the project are accessible as provided under Minnesota Rules, chapter 1341.
4. Projects, whether or not restricted to persons of a particular age group, which preserve existing subsidized housing, if the use of HTCs is necessary to (1) prevent conversion to market rate use or (2) to remedy physical deterioration of the project, which would result in loss of existing federal subsidies.
5. Projects financed by Rural Development, which meet statewide distribution goals.

B. Strategic Priority

To be eligible for HTCs from the state's credit ceiling, a developer must demonstrate that the project meets at least one of the HTC statutory strategic priorities or a strategic objective in Minnesota Housing's Strategic Plan. Residential rental housing projects financed with an allocation of tax-exempt bonds under Minnesota Statutes, chapter 474A are the highest strategic priority for tax credits in accordance with Minnesota Statutes, section 462A.222, subdivision 3(d) and such projects need not meet a separate strategic priority.

C. Selection and Preference Criteria

All HTC applications are scored and/or reviewed in accordance with the Selection Criteria and Preference Criteria required by Section 42 and Minnesota Housing.

To be eligible for HTCs from the state's credit ceiling under Minnesota Housing's QAP, a developer must demonstrate that the project is eligible for no less than **80 points** in the Self-Scoring Worksheet. This excludes projects funded through the RD/Small Projects set-aside, which must be eligible for no less than **30 points.**

To be eligible for HTCs in association with tax-exempt volume limited bonds under Minnesota Housing's QAP, a developer must demonstrate that the project is eligible for no less than **40 points** in the Self-Scoring Worksheet.

For applicants requesting HTCs from the state's credit ceiling, Minnesota Housing will first rank proposals. The highest-ranking proposals will then be reviewed in accordance with the project selection requirements described in sections E through K of this chapter. Minnesota Housing reserves the right to reject applications not meeting these project selection requirements or to revise proposal features and decrease associated scoring, to help ensure the project meets the requirements. Lower ranking proposals will only be processed further if HTC remain available after the higher-ranking proposals are processed. Minnesota Housing may elect, at its sole discretion, not to give partial HTCs to a higher-ranking application but to give the HTCs to the next ranking application that can use the balance of the HTCs.

Selection Criteria consist of the following:

1. Large Family Housing;
2. Senior Housing;
3. Permanent Supportive Housing for Households Experiencing Homelessness: High Priority Homeless and Other Homeless;
4. People with Disabilities;
5. Preservation;
6. Rental Assistance: Project-Based Rental Assistance and Further Restricting Rental Assistance;
7. Serves Lowest Income Tenants/Rent Reduction;
8. Long-Term Affordability;
9. Access to More Affordable Housing;
10. Workforce Housing Communities;
11. Transit and Walkability;
12. Community Development Initiative;
13. Equitable Development;
14. Rural/Tribal;
15. Qualified Census Tracts/Community Revitalization or Tribal Equivalent Area;
16. Multifamily Award History;
17. Black-, Indigenous-, People of Color-owned Business Enterprises- or Women-owned Business Enterprises (BIPOCBE/WBE);
18. Local Actions to Support Housing;
19. Financial Readiness to Proceed/Leveraged Funds;
20. Other Contributions;
21. Intermediary Costs;
22. Innovative Construction Techniques;
23. Universal Design;
24. Enhanced Sustainability;
25. Sponsor Characteristics – Non-scoring selection criteria; and
26. Public Housing waiting lists – Non-scoring selection criteria.

Preference Criteria consist of the following:

1. Serves Lowest Income Tenants/Rent Reduction;
2. Rental Assistance: Project-Based Rental Assistance and Further Restricting Rental Assistance;
3. Long-Term Affordability;
4. QCT/Community Revitalization or Tribal Equivalent Areas; and

5. Eventual Tenant Ownership – Non-scoring selection criteria.

D. Tie Breakers

If two or more proposals have an equal number of points, the following will be used to determine selection:

1. **First tie breaker:** Priority will be given to the project with the greater number of points in Preference Criteria; if a tie still remains;
2. **Second tie breaker:** Priority will be given to the project that will have an Eventual Tenant Ownership component; if a tie still remains;
3. **Third tie breaker:** Priority will be given to a project located in a city, township or tribal reservation that has not received an Allocation of HTC from the annual credit ceiling from Minnesota Housing in the last two years; if a tie still remains;
4. **Fourth tie breaker:** Priority will be given to the project with the highest percentage of funds secured, awarded or committed, as measured by the Financial Readiness to Proceed/Leveraged Funds selection criterion; if a tie still remains;
5. **Fifth tie breaker:** Priority will be given to the project with the lowest percentage of intermediary costs as measured by the Intermediary Costs selection criterion; if a tie still remains;
6. **Sixth tie breaker:** Priority will be determined by lot.

E. Market Review

Minnesota Housing will conduct a market review (to determine the housing needs of low-income individuals in the area to be served by the project. Minnesota Housing will evaluate the in-house occupancy data to determine the marketability of the proposed project. Minnesota Housing may contact the applicant if there is a question as to the marketability of the proposed projects. The applicant may be given an opportunity to adjust the unit mix and/or number of units and resubmit information prior to Minnesota Housing scoring of selection priority points.

Minnesota Housing may consult with local communities, Public Housing Authorities (PHAs), Housing and Redevelopment Authorities (HRAs), RD and HUD to determine the marketability of projects. If, in the opinion of Minnesota Housing, the issuance of the HTCs to a project could be detrimental to existing rental property, Minnesota Housing may choose not to issue HTCs to the applicant. Proposed projects that do not appear marketable and do not modify their proposal will not receive further consideration in the current funding round.

F. Design Review

The proposed owner and architect must certify compliance with all required development features outlined in Chapter 5 of the Minnesota Housing Rental Housing Design/Construction Standards before the project will be scored and ranked (refer to Chapter 4.E.).

G. Development Team Review

Minnesota Housing will also consider the following factors when evaluating an application for an HTC Allocation or Award:

1. The ability and capacity of the development team to proceed expeditiously to complete the proposed development and any previously selected projects still in process;
2. The prior record of the development team in meeting Minnesota Housing and IRS reporting requirements; and
3. The experience of the development team in developing and managing similar residential housing.
4. The development team's successful management of projects in its portfolio and in compliance with Minnesota Housing's compliance policies, procedures or requirements.

Proposed projects from applicants that do not appear to have the experience, capacity or ability will not receive further consideration in the current funding cycle.

H. Site Review

Minnesota Housing staff may conduct a site inspection for each project passing the project selection requirements described in this chapter for consistency with the principles of sound, affordable housing developments. Site inspections may be conducted to analyze physical characteristics; the surrounding property and community; the location of schools, shopping, public transportation, employment centers, community and housing service facilities; availability of utilities, water and sewage treatment facilities; and the suitability of the site for the proposed housing.

For purposes of Minnesota Housing's investment in affordable housing, the principles are as follows:

1. **Linkage:** Housing development must be part of a comprehensive community development effort that links housing, jobs, transportation, recreation, retail services, schools and social and other services.
2. **Jobs:** Housing is part of the infrastructure necessary to sustain economic vitality. New housing must be located near jobs and in areas of job growth and must address housing needs of the local work force. Preference will be given to proposals that provide housing in communities with job growth.

3. **Land Use:** Housing must be developed to maximize the adaptive reuse of existing residential rental buildings and the use of existing infrastructure, where financially feasible. In cases of new developments, housing must maximize the efficient use of land and infrastructure and minimizes the loss of agricultural and green space.
4. **Transportation:** Housing must be developed near regional and interregional transportation corridors and transit ways.

Minnesota Housing will consider, but is not limited to, the following environmental criteria when evaluating a proposed site:

1. Noise;
2. Flood plains and wetlands;
3. Site safety;
4. Toxic and hazardous waste;
5. Underground storage tanks; and
6. Asbestos and lead-based paint.

Minnesota Housing may, at its sole discretion, reject applications or cancel an Award or Allocation of HTCs from projects that appear unsuitable for the housing proposed.

I. Multifamily Underwriting Standards

Proposals must meet all applicable Multifamily Underwriting Standards to receive an Allocation or Award of HTCs. The Multifamily Underwriting Standards will be used by Minnesota Housing for underwriting and sizing of the HTC Allocation or Award.

All operating assumptions, including for rent, vacancy, operating expenses, reserves, inflation assumptions and debt coverage ratios, must be consistent with the requirements of the Underwriting Standards. The structure of the development budget, including acquisition price; architect, general contracting and developer fees; sales tax and energy rebates; as well as construction contingency, must also meet the Underwriting Standards.

Refer to the Minnesota Housing Multifamily Underwriting Standards and Multifamily Application Instructions: Consolidated RFP and HTC Rounds 1 and 2 for additional information and requirements.

J. Financial Feasibility

Proposals that meet the project selection requirements will be evaluated for financial feasibility as required by Section 42(m)(2), IRS Treasury Regulation 1.42-17(a)(3) and Chapter 2.N. Projects determined not to be financially feasible will not be processed further in the current funding cycle.

An application's structuring may be revised by Minnesota Housing during this review to help ensure financial feasibility and/or to meet required components of the Multifamily Underwriting Standards, as applicable, and a reduction to the application's scoring may occur as a result of these revisions.

K. Development Cost Review

Minnesota Housing will review project costs based on comparability and reasonableness. Minnesota Housing may, at its sole discretion, reject applications that appear to have excessive project costs (also refer to Chapter 4.A. Project Cost Reasonableness).

Chapter 6 – Submission Requirements

It is the applicant's responsibility to be aware of the submission requirements needed to proceed to the next step in obtaining an HTC Allocation or Award. If the applicant is unable to meet the submission requirements (financing, zoning, site control, syndication, construction start, etc.) in a timely manner, or if approvals have expired, the application will no longer be processed, and the application fee will be forfeited. **Any submissions not meeting the requirements below will be returned to the applicant and fees paid will not be refunded.**

A. Application Requirements

Required HTC application materials are incorporated into the Application Checklist in the Multifamily Customer Portal (Portal), including the Intent to Apply, which is due in advance of the application. The Multifamily Consolidated RFP Standards and the Scoring Guide provide comprehensive resources for these application materials and submittal instructions. The Multifamily and Housing Tax Credit application materials can be found in the Portal and on Minnesota Housing's Application Resources and Housing Tax Credits webpages (www.mnhousing.gov).

If a Minnesota Housing multifamily first mortgage and/or deferred loan are sought in conjunction with the HTC application, many HTC forms and submissions are identical to the forms and submissions required for other Minnesota Housing funding sources under the Multifamily Consolidated RFP or open pipeline.

A complete application must be submitted no later than each of the application due dates in order to be considered for Selection, within the applicable competition.

Minnesota Housing will base its Selection decision upon the application and attachments received on the application due date. Minnesota Housing reserves the right, in its sole discretion, to request additional information or deem an error related to an application to be immaterial.

No project may be divided into two or more projects during a single funding round to receive HTCs. Multiple applications, determined by Minnesota Housing to be one project, will be returned to the applicant and all fees forfeited. Minnesota Housing will consider factors such as, but not limited to, ownership entities, general partner/managing members, sponsor relationships and location of project, if a contiguous site, to determine if a multiple application exists.

Upon receipt of an application, as required by federal law, Minnesota Housing will notify the Chief Executive Officer (or the equivalent) of the local jurisdiction where the proposed project is planned. This notification will include characteristics of the proposed HTC project and provide an opportunity for the local unit of government to comment on the project.

Much of the information submitted in an application for HTCs is information that is accessible to the public pursuant to Minnesota Statutes, chapter 13.

Self-Scoring Worksheet

The Self-Scoring Worksheet and the Scoring Guide provide comprehensive resources for the documentation materials and submittal instructions.

Minimum Threshold Evidence

For Round 1, all 9% HTC projects are required to provide evidence of meeting one of the threshold types defined in Chapter 5.A. Copies of this QAP and a sample letter format can be found in the Housing Tax Credit Allocation or Housing Tax Credits Reference Materials sections. In meeting the requirements of the minimum thresholds, fractions of units are not counted as a whole unit. Where unit percentage calculations result in a fraction of a unit being required, the fraction of a unit must be rounded up to next whole unit.

Local HRA/PHA Certification

Section 42 of the IRC requires an Allocating Agency to give preference to owners that agree to utilize the local HRA or PHA waiting list to identify eligible individuals and households to fill vacant units. Applicants applying for HTCs must sign a certification agreeing to utilize the public housing and Section 8 waiting lists as applicable.

People with Disabilities Performance Requirement Relief Provisions

Specific performance requirement relief provisions are available for projects receiving points under the People with Disabilities Selection Criterion of the Self-Scoring Worksheet for PWD Units.

If, for a particular unit meeting the criteria and receiving points under the People with Disabilities Selection Criterion (PWD Unit(s)), the necessary rental assistance or operating support (collectively PWD Unit Subsidy) is 1) withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; 2) such withdrawal or termination materially adversely impacts the financial feasibility of the project; 3) alternative funding is unavailable; and 4) the project is otherwise in full compliance with all the terms of the funding for the project, the owner may petition Minnesota Housing to eliminate its requirements for the affected PWD Unit(s). Such petition shall contain all material facts and supporting documentation substantiating the owner's request including, but not limited to, items 1), 2) and 3) above. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, the owner shall no longer be required to treat such PWD Unit(s) as PWD Unit(s) but must convert the rents of those units to the 50% HTC rent limit; **provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply**. If such conversion occurs, in order to retain the Allocation, the above described 50% HTC rent limit and the Section 42 minimum set-aside elected for the project by the owner must be maintained for the remainder of the HTC compliance and extended use periods.

If Minnesota Housing, at any time after approving such relief, in its sole discretion, determines that a PWD Unit Subsidy may be available for the remainder of the HTC compliance and extended use periods that would not adversely affect the full availability of the HTC Allocation and would permit the PWD Unit(s) to again serve PWD households, then, at Minnesota Housing's request, the owner shall promptly apply for such PWD Unit Subsidy for the affected PWD Unit(s), upon terms reasonably acceptable to such owner. If such PWD Unit Subsidy is obtained, the owner shall again set aside such PWD Unit(s), when and to the extent then available, to people with disabilities needs qualifying individuals.

If, for a particular PWD Unit(s), the necessary tenant support services funding is 1) withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; 2) alternative funding or an alternative service provider is unavailable; and 3) the project is otherwise in full compliance with all the terms of the funding for the project, the owner may petition Minnesota Housing to modify its requirements for the provision of such tenant services for the affected PWD Unit(s). Such petition shall contain all material facts and supporting documentation substantiating the owner's request including, but not limited to, items 1) and 2) of this paragraph. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, the owner shall modify its provision of such tenant support services for the affected PWD Unit(s) in a manner consistent with Minnesota Housing's modified requirements for the provision of tenant services for the PWD Unit(s), **provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply**.

If Minnesota Housing, at any time after approving such relief, in its sole discretion, determines that PWD Unit tenant support services funding may be available for the remainder of the HTC compliance and extended use periods that would not adversely affect the full availability of the HTC Allocation and would permit the affected PWD Unit(s) to again provide tenant support services to PWD households, then, at Minnesota Housing's request, the owner shall promptly apply for such PWD Unit tenant support services funding for the affected PWD Unit(s), upon terms reasonably acceptable to such owner. If such PWD Unit tenant support services funding is obtained, the owner shall resume providing PWD Unit tenant support services, when and to the extent then available, to people with disabilities needs qualifying individuals.

Evidence of Targeting Units for Permanent Supportive Housing for High Priority Homeless

In accordance with Minnesota's Plan to Prevent and End Homelessness, Minnesota Housing is the lead agency for the action plan to increase affordable and supportive housing units to address the housing gap for people at risk of and experiencing homelessness. HTCs represent one of several resources identified to attain this goal. To receive points under Permanent Supportive Housing for High Priority Homeless, the proposal must meet all of the requirements contained in the Self-Scoring Worksheet.

High Priority Homeless Performance Requirement Relief Provisions

Specific performance requirement relief provisions are available for projects receiving points under the Permanent Supportive Housing for High Priority Homeless (HPH) selection criterion of the Self-Scoring Worksheet for HPH Units.

The following relief provisions may be considered for developments with HPH Units and are subject to Minnesota Housing approval:

1. An owner may request approval in writing from Minnesota Housing to prioritize filling a vacant HPH Unit(s) with the next highest need household in accordance with the Supportive Housing HPH prioritization procedure, as determined at the sole discretion of Minnesota Housing, if the HPH Unit(s) is unable to be filled with highest priority household on the permanent supportive housing list in the Coordinated Entry system.
2. If, after a minimum 60-day period, or other time period approved by Minnesota Housing when reasonable options have been exhausted, an HPH Unit(s) is unable to be filled by a household through the Coordinated Entry system or the prioritization process outlined above, temporary relief from the HPH Unit may be requested from Minnesota Housing to permit a non-HPH household to fill the unit. The next comparable available unit is subject to the HPH Unit requirements when a vacancy occurs.
3. If a particular HPH Unit(s) experiences unexpected loss of rental or operating support or tenant support services funding (collectively HPH Unit Subsidy) and meets the conditions below, the owner may petition Minnesota Housing to eliminate its requirements for the affected HPH Unit(s):
    - (i) The HPH Unit Subsidy was withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner;
    - (ii) Such withdrawal or termination materially adversely impacts the financial feasibility of the project;
    - (iii) Alternative funding or an alternative service provider is unavailable; and
    - (iv) The project is otherwise in full compliance with all the terms of the funding for the project.

If all of the conditions of number three above are met, the owner may petition Minnesota Housing to eliminate its requirements for the affected HPH Unit(s). Such petition shall contain all material facts and supporting documentation substantiating the owner’s request including, but not limited to, items (i), (ii) and (iii) above. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, the owner shall no longer be required to treat such HPH Unit(s) as HPH Unit(s) but must convert the rents of those units to the 50% HTC rent limit; provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply. If such conversion occurs, in order to retain the Allocation, the above described 50% HTC rent limit and the IRC Section 42 minimum set-aside elected for the project by the owner must be maintained for the remainder of the HTC compliance and extended use periods.

If Minnesota Housing, at any time thereafter, in its sole discretion, determines that an HPH Unit Subsidy may be available for the remainder of the HTC compliance and extended use periods, that would not adversely affect the full availability of the HTC Allocation and would permit the HPH Unit(s) to again serve households experiencing homelessness, then at Minnesota Housing's request, the owner shall promptly apply for such HPH Unit Subsidy for the homeless unit(s), upon terms reasonably acceptable to such owner. If such HPH Unit Subsidy is obtained, the owner shall again set aside such HPH Unit(s), when and to the extent then available, to households experiencing homelessness.

Serves Lowest Income Tenants/Rent Reduction Units Performance Requirement Relief Provisions

Specific performance requirement relief provisions are available for projects receiving points under the Serves Lowest Income Tenants/Rent Reduction selection criterion of the Self-Scoring Worksheet for 30% MTSP Units.

If, for a particular unit meeting the criteria and receiving points under the Serves Lowest Income Tenants/Rent Reduction selection criterion for further restricting rents to at or below 30% MTSP (30% Unit(s)), the owner may petition Minnesota Housing to eliminate its requirements for the affected Further Restricted Rental Assisted Units (FRRA Unit(s)). Such petition shall contain all material facts and supporting documentation substantiating the owner's request. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, the owner shall no longer be required to treat such 30% Unit(s) as 30% Unit(s) but must convert the rents of those units to the 50% HTC rent limit; **provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply**. If such conversion occurs, in order to retain the Allocation, the above described 50% HTC rent limit and the Section 42 minimum set-aside elected for the project by the owner must be maintained for the remainder of the HTC compliance and extended use periods.

If Minnesota Housing, at any time thereafter, in its sole discretion, determines that a 30% Unit may be available for the remainder of the HTC compliance and extended use periods that would not adversely affect the full availability of the Allocation and would permit the 30% Unit(s) to again restrict rents to the 30% HTC rent limit.

Rental Assistance Performance Requirement Relief Provisions

Specific performance requirement relief provisions are available for projects receiving points under the Rental Assistance selection criterion of the Self-Scoring Worksheet for units with project-based rental assistance and Further Restricting Rental Assistance units (collectively, RA Units).

If, for a particular unit meeting the criteria and receiving points under the Rental Assistance selection criterion for RA Unit(s), the necessary rental assistance or operating support (collectively RA Unit Subsidy) is 1) not renewed, withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; 2) such nonrenewal, withdrawal or termination materially adversely impacts the financial feasibility of the project; 3) alternative funding is unavailable; and 4) the project is otherwise in full compliance with all the terms of the funding for the project, the owner may petition Minnesota Housing to eliminate its requirements for the affected RA Unit(s). Such petition shall contain all material facts and supporting documentation substantiating the owner's request including, but not limited to, items 1), 2) and 3) above. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, the owner shall no longer be required to treat such RA Unit(s) as RA Unit(s) but must convert the rents of those units to the 50% HTC rent limit; **provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply**. If such conversion occurs, in order to retain the Allocation, the above described 50% HTC rent limit and the Section 42 minimum set-aside elected for the project by the owner must be maintained for the remainder of the 15-year period.

If Minnesota Housing, at any time thereafter, in its sole discretion, determines that an RA Unit Subsidy may be available for the remainder of the 15-year period that would not adversely affect the full availability of the HTC Allocation, then at Minnesota Housing's request, the owner shall promptly apply for such RA Unit Subsidy for the RA Unit(s), upon terms reasonably acceptable to such owner. If such RA Unit Subsidy is obtained, the owner shall again set aside such RA Unit(s), when and to the extent then available, to income qualifying individuals.

B. Carryover Requirements

In addition to meeting requirements of federal law, the applicant of a selected project must provide no later than October 1 (or the next calendar business day if October 1 is not a business day) of the year in which the reservation was issued, a complete carryover package in final form containing all required documents in a form satisfactory to Minnesota Housing. Late fees will be enforced (refer to Chapter 8). All required carryover application materials are incorporated into the Carryover checklist and must be submitted through the Multifamily Customer Portal. See Appendix A for additional guidance.

New requests by applicants/developers to Minnesota Housing to apply the 30% state designated basis boost at the time of carryover application must be formally made in writing. The request must clearly outline the reasons supporting the request and clearly demonstrate how the proposal meets the criteria established by Minnesota Housing for receiving boost considerations. (Refer to Chapter 2.Q.)

C. Placed in Service/Application for Issuance of IRS Form 8609

Generally, the placed in service date for HTC purposes, for a newly constructed building or for rehabilitation expenditures in an existing building, is the date when the first unit in the building is certified as available for occupancy. The placed in service date must occur for all buildings within a project by the due date required by Section 42, as may be extended by relief issued by the IRS.

Subsequent to the project being placed in service and prior to Minnesota Housing issuing an IRS Form 8609 for the project, the owner must submit an application for the issuance of IRS Form 8609 to Minnesota Housing. All required application materials are incorporated into the 8609 checklist in the Multifamily Customer Portal. If Minnesota Housing is the Allocating Agency, all required 8609 application materials must be submitted through the Multifamily Customer Portal. The owner may be required to submit an IRS Form 8609 fee based upon the requested annual HTC amount (refer to Chapter 8). See Appendix A for additional guidance.

A Minnesota Housing approved IRS Form 8609 must contain the signature of the authorized Minnesota Housing representative. Minnesota Housing will make reasonable efforts to issue an approved IRS Form 8609 within 60 days after all the required items have been received by Minnesota Housing in a satisfactory form and substance. Issuance of the Minnesota Housing approved IRS Form 8609 is to be done only by Minnesota Housing or, as applicable, an authorized Suballocator. An approved IRS Form 8609 must not be created by any other entity. The owner/agent must not file a IRS Form 8609 with the IRS in advance of the owner/agent's receipt of the Minnesota Housing signed version of the approved IRS Form 8609. In addition, the owner/agent must not electronically file an IRS Form 8609 with the IRS that does not accurately reflect the information contained on the Minnesota Housing signed version of the approved IRS Form 8609 (also refer to Chapter 2.J. Unacceptable Practices). A condition to this effect will be added to the Carryover Agreement.

To optimize timely processing of requests for issuance of IRS Form 8609, it is recommended the owner make every effort to submit the complete 8609 application package to Minnesota Housing no later than 30 days following completion of the project and at least 60 days in advance of any required filing deadline. Applications that are not submitted within this timeframe may be considered late and subject to a fee (refer to Chapter 8).

If a complete 8609 application package is not received within 15 days of the last day of the first year of the HTC period, the application will be considered late and may be subject to a penalty and/or fee (refer to Chapter 2.J. and Chapter 8).

Chapter 7 – Projects Financed by Tax-Exempt Volume Limited Bonds Seeking HTCs

A. General

Section 42 of the IRC establishes a separate set of procedures to obtain 4% HTCs through the issuance of tax-exempt volume limited bonds.[3]

Section 42 (m)(1)(D) provides that in order for a project to receive an Award of HTCs through the issuance of tax-exempt volume limited bonds, the project must satisfy the requirements for allocation contained in the QAP applicable to the area in which the project is located. The Minnesota Housing QAP applies to all projects for which Minnesota Housing is the issuer of the bonds and all other projects for which the issuer is not located within the area covered by a Suballocator QAP.

The project must comply with the QAP that is in effect for the calendar year in which tax-exempt volume limited bonds are issued sufficient, together with any tax-exempt volume limited bonds issued in a prior calendar year, to finance at least the required minimum percentage of the aggregate basis of the building and the land it is located on. The “required minimum percentage” is established by federal law and is subject to changes in federal law. For each project, Minnesota Housing will determine and apply the minimum percentage required by federal law in accordance with federal effective dates.

Subject to future changes in federal law, the following minimum percentages apply:

1. The required minimum percentage is 25%, if
    a. a project is placed in service after December 31, 2025, and
    b. at least 5% of the aggregate basis of the building and land is financed with bonds issued after December 31, 2025.
2. For all other projects, the required minimum percentage is 50%.

If a development was selected or selected for further processing for tax-exempt bonds with a 4% HTC financial structure through a previous Minnesota Housing Consolidated RFP, and satisfied pointing and related requirements applicable to that Multifamily Consolidated RFP, the development may be deemed to meet the scoring and related requirements of the QAP in effect during the year in which

[3] Tax-exempt volume limited bonds are “residential rental bonds” that are taken into account under the state ceiling on the aggregate face amount of tax-exempt private activity bonds pursuant to Section 146 of the IRC. Residential rental bonds are exempt facility bonds issued pursuant to Section 142(d) of the IRC to finance a qualified residential rental project.

the tax-exempt volume limited bonds are issued sufficient to finance at least the required minimum percentage of the aggregate basis of the building and the land that it is located on.

Developers must also be aware of the requirements of Minnesota Statutes, section 474A.047, including subdivision 1, which require the extension of existing HUD Housing Assistance Payment (HAP) contracts to the full extent available.

For projects to which the Minnesota Housing QAP applies, Minnesota Housing must make a determination that all requirements are satisfied. After this determination, Minnesota Housing will issue a preliminary determination letter. **Except as determined by Minnesota Housing, applications for this determination (42(m) application) must be submitted to Minnesota Housing at least 60 days prior to the issuance of the tax-exempt volume limited bonds sufficient, together with any tax-exempt volume limited bonds issued previously for the same project, to finance at least the required minimum percentage of the aggregate basis of the building(s) and land it is located on. Applications that are not submitted within this timeframe may be considered late and subject to a fee (refer to Chapter 8).**

The threshold type requirements in Chapter 5.A. do not apply to projects not receiving HTCs counted in the HTC credit ceiling for the state.

To receive the preliminary determination described above, the applicant must submit to Minnesota Housing all documents required for an application for HTCs as established by the Minnesota Housing QAP and any additional information requested. These documents are those required for an application for HTCs under Chapter 6.A. incorporated into the Application Checklist in the Multifamily Customer Portal and any additional information required by Minnesota Housing. The developer must also submit to Minnesota Housing the required application fees identified. See Appendix A for additional guidance.

B. Pre-Application for Projects Seeking an Allocation of Tax-Exempt Volume Limited Bonds from Minnesota Management and Budget (MMB)

Applicants may receive a Predictive Cost Model and scoring determination prior to requesting preliminary determination via the pre-application process. Pre-application is strongly encouraged in order to receive a determination prior to seeking an allocation of a portion of the state ceiling for tax-exempt volume limited bonds.

Preliminary Predictive Cost Model Determination

A Predictive Cost Model analysis can be pursued earlier than the submission of the 42(m) application. Applicants must submit the Predictive Cost Model determination document and will receive a determination letter upon review. The letter will consist of Minnesota Housing's determination, the expiration date of the determination, the project's current percentage of the Predictive Cost Model and the project cap, beyond which a board action may be required, for per-unit costs. Developments with costs above the Predictive Cost Model will be notified and, if requested by the developer, will follow Minnesota Housing's process to determine if approval will be granted.

Preliminary Scoring Determination

Applicants **must** submit all required pre-application documentation a minimum of 30 days prior to the 42(m) application submittal in order for staff to make a preliminary determination of eligibility. Failure to submit all required pre-application materials may result in rejection of the pre-application.

Pre-application Documents:

1. Multifamily Workbook;
2. Self-Scoring Worksheet – Corresponding with the year in which bond issuance sufficient to meet the required minimum percent test is anticipated; and
3. Scoring Documentation.

If the project is determined to be eligible for the required minimum points, the applicant will receive a Preliminary Scoring Determination letter from Minnesota Housing that details the points awarded. This letter is to be submitted with the complete 42(m) application. The 42(m) application may only be submitted following an allocation of a portion of the state ceiling for tax-exempt volume limited bonds.

C. Application for Issuance of Preliminary Determination Letter

For projects in which Minnesota Housing is the Allocating Agency, the developer must submit an application fee (review fee) (refer to Chapter 8). In addition, if the issuer of the bonds is not Minnesota Housing, the 42(m) application must include evidence from the issuer that the project received an approval of an allocation of a portion of the state ceiling for tax-exempt volume limited bonds from the state of Minnesota and a preliminary determination issued by the issuer of the bonds addressing the HTC dollar amount and project costs pursuant to Section 42(m)(2)(D) of the IRC.

In addition to complying with the requirements for HTC allocation, Section 42(m)(2)(D) provides that in order for a project to receive an Award of HTCs through the issuance of tax-exempt volume limited bonds, the governmental unit that issues the bonds (or on behalf of which the bonds were issued) and the Allocating Agency must make a determination that the HTC amount to be claimed does not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the HTC period.

For projects to which the Minnesota Housing QAP applies, the determination by the issuer must be made in a manner consistent with Minnesota Housing's QAP. Evaluation of the issuer and Allocating Agency must consider in accordance with Section 42:

1. The sources and uses of funds and the total financing planned for the project;
2. Any proceeds or receipts expected to be generated by reason of tax benefits;
3. The percentage of the HTC dollar amount used for project costs other than the cost of intermediaries; and
4. The reasonableness of the developmental and operational costs of the project.

Section 42(h)(6)(C)(ii) provides that the HTC amount claimed for buildings financed by tax-exempt volume limited bonds by the taxpayer/owner under Section 42(h)(4) may not exceed the amount necessary to support the applicable fraction specified in the LURA for the buildings.

Based upon the submission of the 42(m) application, Minnesota Housing will prepare a letter with its preliminary determination pursuant to Section 42(m)(1)(D) as to whether the project satisfies the requirements and any additional conditions identified for an Award of HTCs under the QAP. A preliminary determination fee must be submitted to Minnesota Housing prior to release of the letter (refer to Chapter 8). **This process may take eight weeks or more from the time the full application package is submitted. All applicants should develop their timelines and schedules accordingly.**

D. Placed in Service/Application for Issuance of IRS Form 8609

Placed in service dates for HTC purposes must be established for all buildings using HTCs, including acquisition HTCs, which are treated as a separate building for HTC purposes. Generally, the placed in service date for a newly constructed building or for rehabilitation expenditures in an existing building, is the date when the first unit in the building is certified as available for occupancy. The placed in service date for acquisition HTCs is generally the date of the acquisition of the building. It is highly recommended that owners/developers of projects financed with the proceeds of tax-exempt volume limited bonds seek the appropriate legal and bond professional advice on these matters.

Subsequent to the project being placed in service and prior to Minnesota Housing issuing an IRS Form 8609 for the project, the owner must submit an application for the issuance of IRS Form 8609 to Minnesota Housing.

The application must contain all documents identified in this Chapter 7.G. and under Chapter 6.C., in addition to any other submissions deemed necessary and requested by Minnesota Housing. All required application materials are incorporated into the 8609 checklist in the Multifamily Customer Portal. The Owner must also submit an IRS Form 8609 fee based upon the requested annual HTC amount (refer to Chapter 8). See Appendix A for additional guidance.

A Minnesota Housing-approved IRS Form 8609 must contain the signature of the authorized Minnesota Housing representative. Minnesota Housing will make reasonable efforts to issue an approved IRS Form 8609 within 60 days after all of the following items have been received by Minnesota Housing in a satisfactory form and substance. Issuance of the Minnesota Housing approved IRS Form 8609 is to be done only by Minnesota Housing or, as applicable, an authorized Suballocator. An approved IRS Form 8609 must not be created by any other entity. The owner/agent must not file an IRS Form 8609 with the IRS in advance of the owner/agent's receipt of the Minnesota Housing signed version of the approved IRS Form 8609. In addition, the owner/agent must not electronically file an IRS Form 8609 with the IRS that does not accurately reflect the information contained on Minnesota Housing's signed version of the approved IRS Form 8609 or information contained in the preliminary determination. (Also refer to Chapter 2.J. Unacceptable Practices.)

To optimize timely processing of requests for issuance of IRS Form 8609, it is recommended the owner make every effort to submit the complete 8609 application package to Minnesota Housing no later than 30 days following completion of the project and at least 60 days in advance of any required filing deadline. Applications that are not submitted within this timeframe may be considered late and subject to a fee (refer to Chapter 8).

If a complete 8609 application package is not received within 15 days of the last day of the first year of the HTC period, the application will be considered late and may be subject to a fee (refer to Chapter 8).

Chapter 8 – Fees

For estimates of HTC fees, reference the Multifamily Loan Programs and Housing Tax Credit Fee Schedule on the Minnesota Housing website. All fees are non-refundable and will not be adjusted if the final HTC amount is reduced or recaptured or the HTCs are returned or unused.

A. Application Fee

An application fee must be submitted with all applications. For dual applications, Minnesota Housing will require a single fee. For multi-building projects, Minnesota Housing will require only one application and a single fee.

B. Supplemental Application Fee

A fee for projects requesting supplemental HTCs. This fee will be charged to projects that resubmit their proposals in Round 2 of the allocation year and were underwritten by Minnesota Housing in Round 1.

1. A non-selected project will be required to submit a new application package as described in Chapter 2.P.
2. A selected project (must have been selected in the same year) requesting additional HTCs will be required to submit a new application package as described in Chapter 2.O.

C. Reservation Fee

After the project has been selected to receive HTCs from the state's HTC credit ceiling, a reservation fee must be paid to Minnesota Housing. An additional reservation fee must also be paid for any additional HTCs allocated through carryover and must be paid following issuance of the Carryover Agreement.

D. Allocation Fee – Carryover, 8609, Reallocation

At the time the taxpayer/owner submits an application for a carryover allocation or for issuance of IRS Form(s) 8609 (whichever occurs earlier), an allocation fee will be due. Refer to Section C. (immediately above) for fee information relating to additional HTCs allocated at carryover.

A reallocation fee must be submitted to Minnesota Housing for projects requesting a return and reallocation of HTCs.

E. Application Late Fee – 42M, Carryover, 8609

42M or 8609 applications that are not submitted for processing within the applicable timeline set out in this QAP (refer to Chapter 7.A and Chapter 6.C) may be considered late and subject to a fee.

A Taxpayer/owner submitting a carryover application or, if an owner has elected not to request a carryover, an 8609 application prior to the end of the year of allocation for which the reservation was issued who does not submit a carryover/8609 application by the established due date and time (refer to Chapter 7.B), submits a substantially incomplete carryover/8609 application by the established due date and time or does not submit the carryover CPA final certification by the established due date and time may be subject to a fee plus an additional penalty fee for each business day from the original due date and time through the date on which Minnesota Housing receives a substantially complete carryover/8609 application.

The fee will not be allowed as an eligible cost in carryover/8609 basis and must be paid at the time the carryover/8609 application is substantially complete.

F. Preliminary Determination Fee

A preliminary determination fee must be submitted to Minnesota Housing prior to issuance of a preliminary determination letter for projects for which Minnesota Housing is the Allocating Agency.

G. Monitoring Fee

Minnesota Housing will charge a per-unit monitoring fee beginning with the first credit year. The fee will be due annually throughout the compliance period and extended use period. Refer to Sections 4.02 and 9.05 of the Housing Tax Credit Compliance Guide for details on the fee amount. Minnesota Housing reserves the right to adjust the fee depending upon the requirements of the U.S. Treasury, IRS or Minnesota Housing's increased cost to monitor. The fee will be due in a manner and time as prescribed by Minnesota Housing.

H. Transfer of Ownership Fee

Projects that have a transfer of ownership subject to Minnesota Housing approval, as described in Chapter 2.I., may be subject to a transfer of ownership fee.

If the transfer occurs after Allocation and prior to the issuance of IRS Form 8609, a transfer of ownership fee must be submitted to Minnesota Housing. After the issuance of IRS Form 8609, owners must submit an RFA for transfer of ownership and may be subject to an RFA fee. Refer to the Servicing page on Minnesota Housing's website (also refer to Chapter 2.J.– Unacceptable Practices) for further details on Transfer of Ownership.

I. Check Cashing Procedure

Applicant's payments for fees (in the form of checks) will be held pending verification of the accuracy of the amount tendered and submitted materials.

J. Right to Adjust Fees

Minnesota Housing reserves the right to adjust fees due to changing circumstances in order to cover its costs associated with producing and delivering Minnesota's HTC Program.

K. Appraisal Fee

If the as-is appraisal is ordered by Minnesota Housing, all costs will be the responsibility of the applicant. The appraisal fee will be determined based on fees charged by the appraiser to complete Minnesota Housing's requirement for an as-is appraisal. These fees are subject to change at Minnesota Housing's sole discretion based upon changes in fee structures found in the appraisal marketplace and on the type of appraisal required by Minnesota Housing for a particular application type.

Chapter 9 – Tentative Allocation Schedule of Critical Dates

A. Allocation Dates

A list of important allocation dates is identified in the Multifamily RFP Standards available on the Minnesota Housing website.

B. Previous Year's Allocation of HTCs

8609 application: To optimize timely processing of requests for issuance of IRS Form 8609, it is recommended that the owner make every effort to submit the complete application for 8609 to Minnesota Housing no later than 30 days following completion of the project.

At the latest, complete 8609 application packages are due no later than 15 days after the last day of the first year of the HTC period. Section 42 states the owner must elect the first year of the HTC period in the year the project is placed in service or the year following.

C. Compliance Dates

Annual Owner Certifications, compliance reporting and monitoring fees are due February 15 (or the next business day if February 15 is not a business day) of each year.

When filed with IRS: Completed first year IRS Form 8609 with Part II completed.

Chapter 10 – Index of HTC Forms

A. Application Materials

All HTC Application Forms are available on Minnesota Housing’s website and in the Multifamily Customer Portal.

B. Post-Selection Materials

All Post-Selection materials are available on Minnesota Housing’s website and in the Multifamily Customer Portal.

Appendix A: Carryover Allocations, 42M and Placed in Service/Issuance of IRS Form 8609 Application Requirements

The table below outlines certain application requirements for carryover, 42M and Placed in Service/Application for Issuance of IRS Form 8609. For additional information, refer to the help text found in the Multifamily Customer Portal and other resources found on Minnesota Housing's website. See descriptions of the application requirements below the table.

Table 1: Application Requirements for Housing Tax Credits

Application Requirements	Chapter 6B Carryover Application	Chapter 7C 42M Application	Chapter 6C Placed in Service 8609 9% HTC	Chapter 7H Placed in Service 8609 4% HTC
Market Study	Yes	Yes	Not applicable	Not applicable
Owner Certification/Application for Carryover Allocation	Yes	Not applicable	Not applicable	Not applicable
Election of Applicable Percentage	Not applicable (Election completed at Reservation)	Yes	Not applicable- (Election completed at Reservation)	Yes
Building Information (HTC 5)	Yes	Yes	Not applicable	Not applicable
Attorney's Opinion Letter	Yes	Not applicable	Yes	Yes
Certified Public Accountant Certification	Yes	Yes (Minimum Percent Test Verification Letter)	Yes	Yes
Gross Rent Floor Election	Yes	Yes	Yes	Yes
Affirmative Fair Housing Marketing Plan	Yes	Yes	Yes	Yes
Tenant Selection Plan	Yes	Yes	Yes	Yes
Identity of Interest	Yes	Yes	Yes	Yes
Determination of Bond Issuer	Not applicable	Yes	Not applicable	Yes
Placed in Service Evidence	Not applicable	Not applicable	Yes	Yes
Utility Allowance	Yes	Yes	Yes	Yes
Reserves, Contingencies and any Cash Savings	Yes	Yes	Yes	Yes

Application Requirements	Chapter 6B Carryover Application	Chapter 7C 42M Application	Chapter 6C Placed in Service 8609 9% HTC	Chapter 7H Placed in Service 8609 4% HTC
Minnesota Housing Declaration of Land Use Restrictive Covenants (LURA)	Not applicable	Not applicable	Yes	Yes
8609 Certification by Owner/Application Form	Not applicable	Not applicable	Yes	Yes
Final Loan or Grant Documents	Not applicable	Not applicable	Yes	Yes
Partnership/Operating Agreement	Yes, if available	Yes	Yes	Yes
Building Map Form	Not applicable	Not applicable	Yes	Yes
Evidence of Tax-Exempt Volume Limited Bonds	Not applicable	Yes	Not applicable	Yes

Carryover Allocations, 42M and Placed in Service/Issuance of IRS Form 8609 Application Requirements Descriptions

Market Study

Minnesota Housing will conduct a market study review to determine the housing needs of low-income individuals in the area to be served by the project. Minnesota Housing will evaluate the market study and in-house occupancy data to determine the marketability of the proposed project. For market consideration, applicants are responsible for providing evidence to document market feasibility. Minnesota Housing may contact the applicant if there is a question as to the marketability of the proposed projects.

Minnesota Housing may consult with local communities, Public Housing Authorities (PHAs), Housing and Redevelopment Authorities (HRAs), RD and HUD to determine the marketability of projects. If, in the opinion of Minnesota Housing, the issuance of the HTCs to a project could be detrimental to existing rental property, Minnesota Housing may choose not to issue HTCs to the applicant. Proposed projects that do not appear marketable and do not modify their proposal may not receive further consideration.

Owner Certification/Application for Carryover Allocation

Provide a signed Owner Certification/Application for Carryover Allocation Form.

Election of Applicable Percentage

Section 42 of the IRC requires that the owner make an election to determine the applicable percentage for the project. The applicable percentage will, by default, be the appropriate percentage for the month that the building is placed in service, unless the owner makes an alternate, timely election. For Allocations of 9% HTC, the owner may elect the month in which the owner and Allocating Agency enter into the reservation agreement. For Awards of 4% HTC, the owner may elect the month in which the tax-exempt volume limited bonds are issued. Such an election must be made no later than the 5th day after the close of the month in which the bonds were issued. . Once made, the election is irrevocable.

Building Information (HTC 5)

Provide a completed Building Information Form.

Attorney’s Opinion Letter

Provide an attorney’s opinion letter in the approved Minnesota Housing form applicable to the application stage. The approved form of opinion can be found in the Multifamily Customer Portal and on Minnesota Housing’s Tax Credits webpage.

Certified Public Accountant Certification

Provide a written certification in the approved Minnesota Housing form applicable to the application stage. The approved forms of certification can be found in the Multifamily Customer Portal and on Minnesota Housing’s Tax Credits webpage.

Gross Rent Floor Election

The gross rent floor date will, by default, be the date of allocation (for 9% HTC) and the date that the preliminary determination letter is issued (for 4% HTC), unless the owner makes an alternate, timely election. By election, owners may choose to set the gross rent floor date as the date the building is placed in service. To make such an election, the completed election form must be received by Minnesota Housing no later than the date the project is placed in service. Supply a fully executed Statement of Election of Gross Rent Floor and include each building of the development in which there are HTC units. Once made, the election is irrevocable.

Affirmative Fair Housing Marketing Plan

It is the policy of Minnesota Housing to take affirmative action to provide equal opportunity in all of its endeavors. Complete, execute and return the Affirmative Fair Housing Marketing Plan (AFHMP) describing the marketing strategies that the owner will use including, but not limited to, special efforts the owner will make to attract people who are least likely to apply, in addition to a broad cross section of the local population without regard to protected classes under federal fair housing law: race, color, religion, sex, national origin, disability or familial status; or under Minnesota law: marital status, status with regard to public assistance, creed and sexual orientation.

Tenant Selection Plan

Provide a written Tenant Selection Plan (TSP) describing the tenant selection policy that the owner will use. The TSP should be in place prior to closing but in any case, must be submitted and reviewed by Minnesota Housing prior to the issuance of IRS Form 8609. The TSP must be developed and implemented in accordance with Minnesota Housing’s Tenant Selection Plan Guidelines document, which is published on Minnesota Housing’s website.

Identity of Interest

Provide a written disclosure as to any and all Identity of Interest parties (refer to Chapter 2.L. and 2.M.).

Determination of Bond Issuer

If the issuer of the bonds is not Minnesota Housing, provide evidence from the issuer that the project received an allocation of a portion of the state ceiling for tax-exempt volume limited bonds from the state of Minnesota and the issuer's determination, preliminary or final as applicable to the application stage, that the HTC amount to be claimed does not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the HTC period. The issuer must consider the sources and uses of funds and the total financing planned for the project; any proceeds or receipts expected to be generated by reason by tax benefits; the percentage of the HTC dollar amount used for project costs other than the cost of intermediaries; and the reasonableness of the developmental and operational costs of the project.

Placed in Service Evidence

Provide evidence that all buildings have been placed in service. Submit a copy of the Certificate of Occupancy or Temporary Certificate of Occupancy provided by the local governmental authority having jurisdiction for each building. If not available from the local government, a Certificate of Substantial Completion prepared by the architect will be accepted. For acquisition and rehabilitation, the developer must provide supporting documentation for the elected date(s).

Utility Allowance

Provide a current utility allowance in a manner consistent with the options provided in IRS Treasury Regulation 1.42-10 (i.e., as appropriate, a utility allowance from RD, HUD, a PHA/HRA, a local utility company, an Agency Estimate Minnesota Housing Average of Actual Consumption using the methodology described in the HUD published Multifamily Notice H-2015-4, a HUD utility Schedule Model, an Energy Consumption Model). Include a breakdown of the utilities that a tenant pays directly or through a submetering arrangement (heat, electricity, etc.), the utility allowance for each type of utility (gas, electric, etc.), for the various unit types (one-bedroom, two-bedroom, etc.) and housing types (apartments, townhomes, etc.). Also include a list of each unit type, total tenant paid utilities, contract rent and gross rent (refer to Chapter 3.I.). For utilities paid through a submetering arrangement, Minnesota Housing may require additional documentation.

Reserves, Contingencies and any Cash Savings

Provide a signed and dated statement documenting the amount and disposition of reserves, contingencies and any cash savings. If any of the above reverts back to developer/owner, general partner/managing member or any entity with an ownership interest in the project, Minnesota Housing will consider them deferred developer fees and, for purposes of the HTC Allocation or Award, restrict the developer fees as specified in the Underwriting Standards.

Minnesota Housing Declaration of Land Use Restrictive Covenants (LURA)

The LURA must be completed, executed and recorded before the end of the first year of the HTC period to preserve the HTCs allocated or awarded to the project. Check with your tax advisor as to timing of filing and claiming of HTCs. HUD may require that certain riders be attached to your HTC LURA if your development has primary financing via a HUD direct insured loan. Check with your financing and legal advisors to determine if this may be required of your development. Minnesota Housing will amend and restate and record all LURAs that have been executed and recorded prior to submission of the 8609 application.

8609 Certification by Owner/Application Form

Provide a completed and executed 8609 Certification by Owner/Application Form (HTC 3), verifying:

1. The placed in service date as defined in IRS Notice 88-116 for each building and/or type of HTC. The month and year must correspond with the Placed In Service evidence (see above).
    a. If the month and year do not correspond, submit a written statement indicating the reason.
    b. It is highly recommended that owners/developers of projects financed with the proceeds of tax- exempt volume limited bonds seek the appropriate legal and bond professional advice on these matters.
2. Compliance with all applicable design requirements.
3. Compliance with all requirements of this QAP, Selection and additional or special conditions of reservation, commitment or carryover or the preliminary determination letter issued by Minnesota Housing on the project.

Final Loan or Grant Documents

Provide copies of the final executed permanent loan and/or grant documents for all sources of funds (loan/grant agreements, mortgage and note) that support the amount, terms and conditions stated on the Multifamily Workbook. Minnesota Housing must evaluate all final sources of funds to help ensure the amount of HTCs allocated or awarded to a project does not exceed the amount necessary for financial feasibility. Therefore, Minnesota Housing will not issue an IRS Form 8609 prior to the execution of the final permanent loan documents, or its equivalent, for all funding sources.

Partnership/Operating Agreement

Provide a copy of the partnership/operating agreement. The executed final agreement and amendments must be submitted at 8609.

Building Map Form

Provide a completed Building Map Form for each building. The applicable fraction on the building map must be the same applicable fraction for each respective BIN on Exhibit B of the LURA.

Evidence of Tax-Exempt Volume Limited Bonds

If the issuer of the bonds is not Minnesota Housing, submit evidence from the issuer of the bonds that the project received an allocation and issuance, as applicable, of a portion of the state ceiling for the issuance of tax-exempt volume limited bonds from the state of Minnesota.