



# **Help Text for Minnesota Housing's Tenant Selection Plan (TSP) Review Checklist**

*September 2023*





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## Introduction

The Tenant Selection Plan (TSP) Guidelines outline TSP requirements and best practices for projects that receive financing through Minnesota Housing (Agency). The General Considerations section (found on page 1 of the TSP Guidelines document) outlines requirements that apply to all projects that are required by Agency financing to have a TSP.<sup>1</sup> The Tenant Screening Criteria section that follows the General Considerations section outlines requirements that apply to projects selected for financing as the result of a funding application submitted to Minnesota Housing after March 31, 2021. Projects that were funded prior to this date are not mandated to implement the tenant screening criteria but are encouraged to do so as best practice. The information found in both sections helps inform the structure of TSPs, outlines what elements must be included, and for some projects, what elements are encouraged as best practice. Note that specific program guidelines may require additional elements be implemented, no matter the funding date.

The TSP guidelines were updated in December 2020 and will be modified as needed as Minnesota Housing learns more from prospective and current tenants, external partners, and other state housing agencies. The most current TSP guidelines and accompanying TSP Review Checklist (TSP Checklist) and Help Text are posted on the [TSP webpage](#).

The TSP Checklist, which accompanies this Help Text, is a tool that Agency external partners must use to help ensure compliance to Agency and federal guidelines, as well as requirements related to Minnesota Housing managed funding streams. Using the checklist to verify particular elements are included in a TSP also creates transparency in review. Agency staff tasked with review and approval of TSPs will do so in conjunction with the submitted checklist, returning to owners/management agents (owners/agents) comments and/or questions based on the content of the TSP and accompanying checklist.

This Help Text is meant to provide more context and detail for Agency guidelines and the requirements of the funding sources managed by the Agency to inform both construction of a TSP and completion of the [TSP Checklist](#). The TSP webpage also includes a recorded training that provides an overview of the most updated TSP Guidelines.

## Programs Included in TSP Checklist and Help Text

The TSP Checklist and Help Text reflect Agency guidelines. Additionally, the TSP Checklist and Help Text incorporate funding streams that Minnesota Housing manages, such as Section 8 project-based rental assistance (Section 8), Section 811 project-based rental assistance (Section 811 PRA), and HOME Investment Partnerships Program/National Housing Trust Fund (HOME/NHTF). These programs have their own TSP and screening requirements that the

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<sup>1</sup> The TSP webpage includes a link to Minnesota Housing administered programs and funding sources, detailing which programs are subject to Agency TSP guidelines and for which programs the guidelines are encouraged as best practice.  
<http://www.mnhousing.gov/sites/multifamily/tenantselectionplan>

Agency reviews for compliance. As those programs modify or update their expectations for TSPs, Minnesota Housing will update the TSP Checklist and Help Text accordingly. Note, however, that if a project receives Section 8 from another entity, HOME/NHTF funds from another entity, or any other funding source from an entity that is not Minnesota Housing, Minnesota Housing will not review the TSP for compliance with those programs and instead encourages owners/agents to connect with the administering entity to determine any TSP expectations. Finally, the Housing Tax Credit (HTC) program does not have specific required TSP elements outside of what the Agency outlines, and thus the expectations for the HTC program are encompassed in the Agency Guidelines column of the TSP Checklist.

## Instructions

Owners/agents should use the [TSP Guidelines](#), the Help Text (this document), and the [TSP Checklist](#) as they construct their TSPs in order to verify that required elements are included in their plan. Use this Help Text as a reference during the review to answer questions pertaining to interpretation of Minnesota Housing (Agency) guidelines or clarification of the listed requirements. Owners/agents should also refer to respective program guides and other applicable program documents for more information related to specific programs.

Instructions and training on how to use the TSP Checklist can be found on our website [here](#), which includes a virtual tutorial that walks through the process of using the checklist and Help Text as you construct or update your TSP. Upload the completed checklist, along with a draft TSP, to the Portal for review by Minnesota Housing.

## Chapter 1 – Written Tenant Selection Plan

### Agency Guidelines

Projects under applicable programs and funding sources administered by Minnesota Housing must develop and make available a written tenant selection plan (TSP). The plan must be readable and accessible to applicants and must be made available to them before they apply and/or pay an application fee. The owner/agent must provide meaningful access to the TSP, especially for people with limited English proficiency and people with disabilities. This may mean translating the TSP or offering other reasonable accommodations that provide prospective applicants an overview of the eligibility and screening requirements associated with the application.

### Minnesota Housing Programs and Funding Sources Subject to TSP Guidelines:

- Asset Management Loans, Low and Moderate Income Rental (LMIR) and Flexible Financing Capital Costs (FFCC), Housing Infrastructure Bonds (HIB), Preservation Affordable Rental Investment Fund (PARIF), Economic Development and Housing Challenge (EDHC)
- 9% and 4% Housing Tax Credits (HTC), effective with the 2022-2023 QAP
- HOME Investment Partnerships Program (HOME) and National Housing Trust Fund (NHTF) Program, subject to applicable federal requirements
- Section 811 Project-based Rental Assistance Program (811 PRA), subject to applicable federal requirements and the 811 PRA program-specific [TSP Template for Properties](#)
- New programs and funding sources created by Minnesota Housing unless specifically exempted from the TSP Guidelines.

### Minnesota Housing Programs and Funding Sources Encouraged to Comply with TSP Guidelines:

- Workforce Housing Development Program
- Rental Rehab Development Loan (RRDL) Program
- Publicly Owned Housing Program (POHP) (Public and Indian Housing (PIH) Guidance and Regulations apply)

## **Chapter 2 – Project Eligibility Requirements**

Capital, rental, and operating funding sources for a project may have specific eligibility requirements. These should be outlined and included in the TSP. This section of the TSP Help Text and Checklist highlights the expectations per Minnesota Housing’s guidelines, as well as eligibility requirements of funding sources that Minnesota Housing manages.

### **2.01 Project-specific Requirements**

#### **Agency Guidelines**

The TSP must outline the project type (e.g., Section 8 property, HTC property with HOME units, HOME, NHTF, HIB property).

#### **Section 8, Section 811 PRA, HOME/NHTF Requirements**

Refer to Appendix A for definitions of elderly/disabled and program qualifications.

- Must list applicable programs (HTC, MARIF, Section 8, etc.)

#### **Section 8 Requirements**

- Must list project type (elderly, disabled) (refer to Appendix A for definitions)
- Must list correct definitions of elderly/disabled if the property is designated to a special population (refer to Appendix A for definitions)

### **2.02 Intended Population**

#### **Agency Guidelines**

The TSP must clearly state the intended population for any supportive housing units, including high priority homeless (HPH) units and people with disabilities (PWD) units. Include referral sources and the application process for supportive housing units, as applicable.

### **2.03 Referrals for Supportive Housing Units**

#### **Agency Guidelines**

For units designated as high priority homeless (HPH), referrals must be taken through the region’s Coordinated Entry (CE) system. Include an overview of this process. Referral sources and application processes for supportive housing (SH) units not utilizing CE should also be included, including people with disabilities (PWD) units and any other units set aside or designated to supportive housing populations.

### **2.04 Rental Assistance Eligibility**

#### **Agency Guidelines**

If rental assistance is associated with any of the units, the TSP should reflect any applicable eligibility requirements, specify the entity administering the rental assistance, and provide a

brief overview of the qualification process for the assistance. Detailed policies and processes associated with the rental assistance are not expected to be included, but if fundamental changes occur in the administration of the rental assistance, the TSP should be updated to reflect these changes.

## **2.05           Occupancy Standards**

### **Agency Guidelines**

Owners/agents must develop and follow occupancy standards that consider the size and number of bedrooms needed based on the number of people in the family.

Minnesota Housing recommends that written occupancy policies be established that reflect maximum utilization (at least one person per bedroom is recommended as a minimum) and maximum standards of no fewer than two persons per bedroom.

## **2.06           Citizenship Requirements**

### **Section 8 Requirements**

- The TSP must describe how citizenship/immigration requirements are implemented (what is provided to applicants, what is required to be submitted by applicants)
- The TSP must state policies on how verification of citizenship/immigration takes place (what does the owner/agent do with provided information; what/how will the owner/agent notify the tenant of eligibility)

## **2.07           Social Security Number Requirements**

### **Section 8, Section 811 PRA Requirements**

The TSP must indicate that applicants and tenants must disclose and provide verification of the complete and accurate social security number (SSN) assigned to each household member.

Exemptions:

- Individuals age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010
- Individuals who do not contend eligible immigration status
- A child under the age of six (6) being added to the applicant household within the six-month period prior to the household’s date of admission. The household will have 90 days after the date of admission to provide the SSN and adequate documentation that the SSN is valid. An additional 90 days may be granted under certain circumstances. If the household does not provide the SSN and adequate documentation to verify the SSN within the required timeframe, the U.S. Department of Housing and Urban Development (HUD) requires that the owner/agent terminate tenancy.

## **2.08           Eligibility of Students**

### **Agency Guidelines**

Refer to Appendix A for definitions (stated in the HTC entry). The TSP must indicate the student rules applicable for each program.

**Section 8, Section 811 PRA Requirements**

Refer to Appendix A for definitions (stated in the Section 8, Section 811, HOME entry). The TSP must indicate the student rules applicable for each program.

**2.09 Rent and Income Limits**

**Section 8, Section 811 PRA, HOME/NHTF Requirements**

Refer to Appendix A for an income limits chart. The TSP must identify the income limit schedule used for the property (can state which levels i.e., extremely low income (ELI), very low income (VLI), low income (LI), or reference the chart for the property).

**2.10 Income Targeting**

**Section 8 Requirements**

The TSP must describe what procedure the owner/agent will use to meet income targeting requirements. It must be descriptive and explain how and when applicants will be bypassed in order to house an extremely low income (ELI) household and what will happen to those who are bypassed (owner/agent can use one of the three methods that are outlined in [HUD Handbook 4350.3](#) or develop their own method).

## **Chapter 3 – Applications and Waiting Lists**

This chapter details the expectations for accepting applications and the use of a waiting list.

### **3.01 Accepting Applications Agency Guidelines, HOME/NHTF Requirements**

The TSP should outline application procedures that will be employed at the property.

#### **Section 8, Section 811 PRA Requirements**

The TSP must state the policy for taking/accepting applications/pre-applications (where they are submitted, whether they must be submitted in person, etc.).

### **3.02 Waiting List Processes Agency Guidelines, HOME/NHTF Requirements**

The TSP must state that a written property-specific waiting list will be used to select tenants in the chronological order of receipt of their application, insofar as is practicable.

As permitted in Minnesota Housing’s Consolidated Plan and Written Agreement, properties that limit eligibility to a particular segment of the population (i.e., HPH or PWD households) may prioritize, in chronological order of receipt of their application, applicants on the property specific waiting list who meet the preference eligibility requirements.

#### **Section 8, Section 811 PRA, HOME/NHTF Requirements**

The TSP must describe what method of advertising will be used to announce the opening and closing of the waiting list (rules for applying should be clear and reason for closure should be stated; this will be verified when viewing advertisements/affirmative fair housing marketing plan (AFHMP)).

### **3.03 Preferences Section 8, Section 811 PRA, HOME/NHTF Requirements**

The TSP must define each preference adopted for use in the property and any rating, ranking, or combining of the preferences the owner/agent has established that will affect the order in which applicants are selected from the waiting list. The TSP should also describe the acceptable sources of information to verify the qualification for preferences.

For properties receiving HOME and/or NHTF funds, a preference for a particular segment of the population must be stated in the Written Agreement with Minnesota Housing (and only if the preference is described in Minnesota Housing's Consolidated Plan).

## Chapter 4 – Applicant Screening Criteria

Programs may have specific requirements around what is allowable applicant screening criteria, what criteria must be considered, and/or what screening criteria cannot be considered. Include all relevant program or project-specific applicant screening criteria requirements in your TSP. The criteria outlined in Chapter 4 apply to all projects that are required by the Agency to have a TSP. This includes all projects currently in service, and those not yet in service but who received financing as a result of a funding application submitted prior to March 31, 2021.

Chapters 13 and 14 of the TSP Help Text describe more explicit screening criteria expectations required of projects selected for financing as a result of a funding application submitted to Minnesota Housing after March 31, 2021. While not required, these expectations are strongly encouraged for all other projects financed by the Agency.

### Agency Guidelines

#### Supportive Housing Applicant Screening Criteria:

Projects with supportive housing units should have applicant screening criteria that screen in households the units are intended to serve. This includes high priority homeless (HPH) units, people with disabilities (PWD) units, and projects intended to provide permanent supportive housing.

In projects with units designated for HPH households, or projects designated for populations with behavioral health issues, applicants may have experienced lengthy periods of homelessness or housing instability that resulted in eviction actions, lease terminations, conviction of public order crimes, or mental health or chemical health issues that impacted their rental, criminal, or credit history.

Given that these are the populations for whom these units are meant to serve, it is necessary to both expect applicants to come with these types of histories and to consider how rental assistance and/or supportive services may mitigate the impact and presumed risk of these prior issues. Considerations for screening criteria should consider the following:

- A policy that rejects applicants because of arrest (without conviction) is not acceptable.
- Convictions for criminal conduct that indicate a demonstrable risk to resident safety and/or property versus criminal conduct that does not present a demonstrable risk to resident safety and/or property.
  - a. An Amherst H. Wilder study examining tenant data from four prominent affordable and supportive housing providers in Minnesota indicate that many criminal offense categories have no significant effect on housing outcomes. These criminal offense categories include minor violence-related offenses, minor drug-related offenses, prostitution, and disorderly conduct, among others.

i. [Success in Housing: How Much Does Criminal Background Matter?](#)

- The nature and severity of a conviction and the amount of time that has passed since the criminal conduct has occurred.
  - a. An Amherst H. Wilder study found that the effect of a prior criminal offense on a resident’s housing outcome declines over time. Misdemeanors and offenses that occurred more than two years prior to move-in have no significant effect on housing outcome, and for many felonies, if more than five years have passed, there is no significant effect on housing outcome.

i. [Success in Housing: How Much Does Criminal Background Matter?](#)

- HUD advises a policy that considers mitigating circumstances (such as facts or circumstances surrounding the criminal conduct, the age of the individual at the time of the conduct, and evidence of good tenant history before and/or after the conviction or conduct, and evidence of rehabilitation efforts).
  - a. Minnesota Housing encourages providers to consider mitigating circumstances as early in the application process as possible to reduce the length of time between application and approval/denial.
    - i. Example: An initial intake meeting is held as soon as background checks are completed to discuss any concerns or circumstances surrounding criminal and/or rental history, potential for reasonable accommodations, and how supportive services and rental assistance may mitigate risk.
- The limited material relevance of credit history for units meant to serve households experiencing poverty and/or homelessness, and how rental subsidy and supportive services may mitigate perceived risk of low credit.
- Whether a rental subsidy and supportive services may mitigate past negative rental history.

### **HOME/NHTF Requirements**

The owner can only adopt and follow written tenant selection criteria that are reasonably related to the applicants’ ability to perform the obligations of the lease (e.g., to pay the rent; not to damage the housing; not to interfere with the rights and quiet enjoyment of other tenants).

### **Section 8, Section 811 PRA Requirements**

The plan must describe how drug related or criminal activity is screened, including the use of sex offender registration and Enterprise Income Verification (EIV) Existing Tenant Search, and what the owner/agent’s standards are. Also identify and describe other screening used by the owner/agent such as rental history, housekeeping history, credit history, and other allowable screening criteria.

## **Chapter 5– Procedures for Rejecting Ineligible Applicants**

Include in your TSP any programmatically required procedures for rejecting ineligible applicants. Refer to respective program guides and other applicable program documents for more specific information on how funding sources in the project may dictate processes or expectations for rejecting ineligible applicants.

### **Agency Guidelines**

Owners/agents must give applicants a prompt written notice of denial that states the criteria the applicant failed to meet and the process to appeal, including the reasonable accommodations policy and process (refer to Chapters 7 and 10). Consider whether the applicant has easy access to written mail or email and how this information might be best relayed.

### **Section 8, Section 811 PRA, HOME/NHTF Requirements**

The TSP must describe the circumstances for which an owner/agent may reject an applicant for occupancy or assistance, and it must include the policy for extenuating circumstances, if the owner/agent has developed one. Rejection notices must be in writing and must include **ALL** of the following:

- The specifically stated reason(s) for the rejection
- The applicant’s right to respond to the owner/agent in writing or request a meeting within 14 days to dispute the rejection
- That people with disabilities have the right to request reasonable accommodations to participate in the informal hearing process

## **Chapter 6 – Tenant-based Rental Assistance Policy**

### **Agency Guidelines, HOME/NHTF Requirements**

As a condition of funding through Minnesota Housing, owners/agents cannot refuse to lease a unit to, or discriminate against, a prospective resident because the prospective resident has a housing choice voucher (HCV) or any other form of tenant-based rental assistance. This requirement must be reflected in the TSP.

## **Chapter 7 – Appeals Process**

### **Agency Guidelines**

For all projects, Minnesota Housing requires inclusion of an appeals process for applicants that takes into account mitigating factors. Mitigating factors may include:

- The facts or circumstances surrounding any negative factor(s) related to rental or credit history to determine if it is a reliable indicator of future tenancy performance.
- Poor credit or outstanding debt may not be a reliable indicator if related to a previous lack of affordable housing or service supports or unrelated to housing, such as medical or student debt.
- A poor rental history may be due to previous unaffordability or other relevant circumstances. An unlawful detainer action that is dismissed or settled is likely not, without more evidence, a reliable indicator of tenancy performance.

Minnesota Housing encourages providers to consider the extent to which supportive services and/or rental assistance will help alleviate the presumed risk and for this consideration to occur as early in the application process as possible

### **Section 8, Section 811 PRA Requirements**

Any meeting with the applicant to discuss the applicant’s rejection must be conducted by a member of the owner/agent’s staff who was not involved in the initial decision to deny admission or assistance. Within five (5) business days of the owner/agent response or meeting, the owner/agent must advise the applicant in writing of the final eligibility decision and reasons for the decision.

## **Chapter 8 – Policies for Applying Violence Against Women Act Protections**

### **Federal Violence Against Women Act (VAWA) Protections:**

Federal programs are subject to VAWA policies, and the TSP will need to identify applicant/tenant rights and obligations under VAWA. Applicants cannot be denied housing or lose their HUD assisted housing as a consequence of domestic violence, dating violence, or stalking. Owners/agents must address the following in their TSP:

- Certification of domestic violence, dating violence or stalking: Provide the option to certify by completing HUD-5382 (within 14-days of reporting an incident), or provide police and/or court reports
- Confidentiality of information: Provide disclosure requirements
- Retention of information: File documents in a separate, secure location from other tenant files
- VAWA lease addendum: Must be signed by each adult tenant
- Lease bifurcation: Assistance may be terminated or a lease “bifurcated” in order to remove an offending household member
- Develop a VAWA emergency transfer plan
- State that the owner must provide a VAWA notice (Form HUD-5380) and certification form (Form HUD-5382) to the applicant at the time the applicant is admitted to a unit or denied admission to a unit based on the owner's tenant selection policies and criteria. The owner must also provide the notice and certification form with any notification of eviction.

### **Agency Guidelines**

Several federal programs are subject to VAWA policies; however, owners/agents not subject to VAWA are still prohibited from discriminating against victims of domestic violence under the federal Fair Housing Act and may consider adopting similar terms.

In addition to VAWA protections, because the overwhelming majority of domestic violence survivors are women, they are protected by the federal Fair Housing Act’s prohibition on sex discrimination; therefore, policies and practices that target or otherwise discriminate against women because of their status as domestic violence survivors are likely unlawful under federal law. Examples of circumstances that are related to abuse:

- Poor credit history resulting from the perpetrator using the victim’s name to open credit card accounts, take out loans, secure utilities, and failing to pay on these accounts; unpaid medical bills resulting from the abuse; or forcing the victim to work without pay

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- Poor rental history attributable to the perpetrator’s actions such as property damage, noise complaints, missed or late rent or utilities, or drug activity
- Criminal background due to the perpetrator forcing the victim to engage in criminal behavior such as sex work, drug use or sale; crimes committed by the victim to defend themselves or a third party from the abuse

## **Chapter 9 – Policies to Comply with Section 504 of the Rehabilitation Act of 1973, the Fair Housing Act and Other Relevant Civil Rights Laws and Statutes**

Chapter 9 covers policies related to Section 504 of the Rehabilitation Act of 1973, the Fair Housing Act, and other relevant civil rights laws and statutes. Owners of HUD subsidized multifamily properties are subject to several important federal civil rights laws affecting both admission and occupancy. The TSP should outline which laws are applicable to the property.

### **Section 8, Section 811 PRA, HOME/NHTF Requirements**

For Section 8, Section 811 PRA, HOME and NHTF, the TSP should specify that the following laws are applicable to the property

- Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in any program or activity receiving federal financial assistance.
- The Fair Housing Act prohibits discrimination in housing and housing-related transactions based on race, color, religion, sex, national origin, disability, and familial status. It applies to housing, regardless of the presence of federal financial assistance.
- Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance from HUD.

## Chapter 10 – Reasonable Accommodations Policy

Reasonable accommodations may be requested as part of an application process or during tenancy. Projects must have a written reasonable accommodations policy and process that can be made available to applicants and tenants with disabilities upon request. Section 8 outlines expectations for providing reasonable accommodations, listed below, but for PBRA Section 8 properties in Minnesota Housing’s portfolio without other Minnesota Housing funding, incorporating a written policy into the TSP is not required.

### Agency Guidelines

Owners/agents must have a written reasonable accommodations policy either outlined or referenced in the TSP, where a reasonable accommodation is defined as “a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.”<sup>2</sup> This information must be made readily available to applicants.

Owners/agents must also make sure that TSPs do not raise barriers to individuals with disabilities, such as imposing requirements that applicants be able to “live independently.”

### Section 8, Section 811 PRA Requirements

A reasonable accommodation is a change, exception, or adjustment to a program, service, building, dwelling unit, or workplace that will allow a qualified person with a disability to participate fully in a program, take advantage of a service, live in a dwelling, or perform a job. The owner/agent must make reasonable adjustments to their rules, policies, practices, and procedures in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy the unit and the common areas of a dwelling, or to participate in or have access to other activities conducted or sponsored by the owner/agent.

The owner/agent must provide the requested accommodation unless doing so would result in a fundamental alteration in the nature of the program or an undue financial and administrative burden. If it would result in an undue financial and administrative burden, the owner/agent must take any other action that would not result in an undue burden.

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<sup>2</sup> U.S. Department of Housing and Urban Development and U.S. Department of Justice. *Joint Statement: Reasonable Accommodations Under the Fair Housing Act*. Washington D.C., May 2004. Available at: <https://www.hud.gov/sites/documents/huddojstatement.pdf>

## **Chapter 11 – Unit Transfer Policy**

### **Section 8, Section 811 PRA Requirements**

The TSP must include procedures for selecting between applicants on the waiting list and current tenants who need any of the following:

- A unit transfer because of family size
- A new unit because of changes in family composition
- A deeper subsidy
- A unit transfer for a medical reason certified by a doctor
- A unit transfer based on the need for an accessible unit

## **Chapter 12 – Records Retention Policy**

If any funding sources have requirements stating what applicant, occupancy, tenant, or denial records need to be retained, include them in the TSP.

### **Agency Guidelines**

Minnesota Housing encourages records retention as a best practice. To help ensure that tenancy determinations and appeals processes are being conducted in a non-discriminatory manner, owners/agents should retain records regarding applicant denials and appeals in addition to tenant records. Owners/agents are encouraged to periodically review applicant records for consistency and to identify areas where the records retention process could be improved. Minnesota Housing, as an agency, does not have specific expectations around retention of applicant records, but projects should defer to other funding sources and specific program criteria that may outline requirements.

## Chapter 13 – Tenant Screening Criteria: All Units

Listed below are requirements that apply to projects selected for financing as the result of a funding application submitted to Minnesota Housing after March 31, 2021. Projects that were funded prior to this date are not mandated to implement the tenant screening criteria but are encouraged to do so as best practice.

### 13.01 Supplemental Evidence

#### Agency Guidelines

For all housing units, the tenant selection plan must state that an applicant can provide additional information with a completed application to explain, justify, or negate the relevance of potentially negative information that may be revealed by screening and that the applicant believes to be relevant to the applicant’s predicted performance as a tenant.

The review of this information may occur after reviewing the screening report to assist the owner/agent in considering ALL circumstances related to applicant’s history. Owners/agents should consider any reasonable accommodations at this time as well. This information must be evaluated **before a final determination of acceptance or denial** of applicant and must also consider:

- The nature and severity of the incidents that would lead to denial (what were the circumstances surrounding the incident(s); how serious were they; in what way are these incident(s) relevant to the applicant’s future tenancy)
- The number and type of incidents (what kind of incidents are most relevant to tenancy, and how many are too many)
- The time that has elapsed since the date the incidents occurred (has a significant amount of time passed since the incident(s) in question)
- The age of the individual at the time the incidents occurred (consider youth learning how to be a good tenant through time and experience)
- The extent to which the applicant has taken all reasonable steps to prevent or mitigate any negative history (what has changed for the applicant in the interim; are they able to offer any supplemental evidence to this effect)

Review of supplemental evidence should be structured around the application consideration in question. For instance, if the owner/agent needs proof the applicant will pay rent, is the applicant able to provide receipts or evidence of previous rent payments? For negative rental history, the owner/agent may consider proof of an unplanned life event or circumstances that led to missed rental payments or eviction. If the criminal history screening elicits incidents of concern, the applicant might submit personal or professional references that speak to their ability to safely abide by the lease terms, or evidence of completed programming and/or current supports that may mitigate real or perceived risk based on their history.

### **13.02 Credit History**

#### **Agency Guidelines**

For all housing units that are not supportive housing, an owner/agent must apply screening criteria that do not reject an applicant for:

- Credit score by itself, though information within a credit report directly relevant to fitness as a tenant can be relied upon by a landlord; and/or
- Insufficient credit history, unless the applicant in bad faith withholds credit history information that might otherwise form a basis for denial

### **13.03 Housing History**

#### **Agency Guidelines**

For all housing units that are not supportive housing, an owner/agent must apply screening criteria that do not reject an applicant for any of the following:

- An eviction action if the action was dismissed or resulted in judgment for the applicant before the applicant submits the application
- An eviction action that resulted in a judgement against the applicant that was entered three (3) or more years before the applicant submits the application
- Insufficient rental history, unless the applicant in bad faith withholds rental history information that might otherwise form a basis for denial.

### **13.04 Income to Rent Ratio**

#### **Agency Guidelines**

If a minimum income test is used, the income to rent ratio cannot exceed two and a half (2½) times the portion of rent paid by the tenant. Minnesota Housing does not have a minimum income requirement.

## **Chapter 14 – Tenant Screening Criteria: Supportive Housing Units**

Listed below are requirements that apply to projects with supportive housing units selected for financing as the result of a funding application submitted to Minnesota Housing after March 31, 2021. Projects that were funded prior to this date are not mandated to implement these tenant screening criteria but are encouraged to do so as best practice. The tenant screening criteria for supportive housing units applies to any units with supportive services that are restricted to or set aside to serve households or persons experiencing homelessness or with a disability, including high priority homeless (HPH) and people with disabilities (PWD) units.

### **14.01 Housing First**

#### **Agency Guidelines**

For all supportive housing units, TSPs must demonstrate adherence to [Housing First](#) principles. These principles center around stable housing as the foundation for pursuing other goals and thus emphasize removing barriers to accessing housing, including adopting lenient screening criteria for admission. This framework and these principles should also be reflected in the memorandum of understanding (MOU) between the owner, management agent, and service provider, as well as the service plan and budget.

### **14.02 Housing History**

#### **Agency Guidelines**

TSPs should demonstrate that applicants for the supportive housing units shall not be screened out based on housing history. Owners/agents are able to review rental history in the course of tenant screening, but applicants for supportive housing units cannot be denied admittance on the basis of eviction history, references from previous landlords and others, money owed to previous landlords or money owed for utilities unless the tenant will be responsible for utilities for the unit and is not able to resolve the issue to set up an account. A recent egregious activity in housing *may* be considered as a reason for rejection. This includes extremely disruptive behavior to peaceable enjoyment or abusive treatment of other tenants and/or staff.

### **14.03 Credit History**

#### **Agency Guidelines**

TSPs should demonstrate that applicants for the supportive housing units will not be screened out based on credit history or credit score.

### **14.04 Income to Rent Ratio**

#### **Agency Guidelines**

For supportive housing applicants, an income to rent ratio cannot be required (e.g., “income must be two or three times the rent amount”), but an owner/agent may review the applicant’s

income to determine whether they have adequate income to pay their portion of the rent if they do not have rental assistance.

## **14.05 Criminal History**

### **Agency Guidelines**

An owner/agent’s screening criteria shall not reject an applicant for supportive housing units for any of the following reasons:

- Any arrest in an inactive case(s) that did not result in conviction
- Participation in or completion of a diversion or a deferral of judgment program, including stays of adjudication and continuances for dismissal or without prosecution
- Any conviction that has been vacated or expunged, or for which the applicant received a stay of imposition of sentencing and complied with the terms of the stay
- Any conviction for a crime that is no longer illegal in the state of Minnesota
- Any conviction or any other determination or adjudication in the juvenile justice system
- Any convictions for petty misdemeanors, prostitution, alcohol related crimes, or low-level property crimes (theft)
- Any conviction for misdemeanor offenses for which the dates of sentencing are older than two (2) years
- Any criminal conviction for felony offenses for which the dates of sentencing are older than seven (7) years; however, a landlord may deny an applicant who has been convicted of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the Controlled Substances Act ([21 U.S.C. 802\(6\)](#)) or for those same offenses that mandate denial of tenancy in federally assisted housing subject to federal regulations, including but not limited to, when any member of the household is subject to a lifetime sex offender registration requirement under a state sex offender registration program.

## Appendix A – Terms

Term	Definition
<b>HUD Definitions of Elderly/ Disabled</b>	
Elderly Family (Definition A)	A family whose head or spouse or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.
Disabled Family (Definition D)	A family whose head, spouse, or sole member is a person with disabilities. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.
Person with Disabilities (Definition E)	<p>(1) A person who:</p> <p>(i) Has a disability, as defined in 42 U.S.C. 423;(A) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or (B) In the case of an individual who has attained the age of 55 and is blind, inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he/she has previously engaged with some regularity and over a substantial period of time. For the purposes of this definition, the term blindness, as defined in section 416(i)(1) of this title, means central vision acuity of 20/200 or less in the better eye with use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purposes of this paragraph as having a central visual acuity of 20/200 or less.</p> <p>(ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that: (A) Is expected to be of long-continued and indefinite duration, (B) Substantially impedes his or her ability to live independently, and (C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or</p> <p>(iii) Has a developmental disability, as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)), i.e., a person with a severe chronic disability that (A) Is attributable to a mental or physical impairment or</p>

Term	Definition
	<p>combination of mental and physical impairments;(B) Is manifested before the person attains age 22; (C) Is likely to continue indefinitely; (D) Results in substantial functional limitation in three or more of the following areas of major life activity: a. Self-care, b. Receptive and expressive language, c. Learning, d. Mobility, e. Self-direction, f. Capacity for independent living, and g. Economic self-sufficiency; and (E) Reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.</p> <p>(2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;</p> <p>(3) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and</p> <p>(4) Means person with disabilities (individual with handicaps), as defined in 24 CFR 8.3, for purposes of reasonable accommodation and program accessibility for persons with disabilities.</p>
<p>Elderly Family (Definition B)</p>	<p>(1) Families of two or more persons, the head of which (or his or her spouse) is 62 years of age or older;</p> <p>(2) The surviving member or members of a family described in paragraph (1) living in a unit assisted under subpart E of this part (Section 202 loans) with the now deceased member of the family at the time of his or her death;</p> <p>(3) A single person who is 62 years of age or older; or</p> <p>(4) Two or more elderly persons living together or one or more such persons living with another person who is determined by HUD, based upon a licensed physician's certificate provided by the family, to be essential to their care or well-being.</p>
<p>Disabled (Handicapped) Family (Definition G)</p>	<p>(1) Families of two or more persons the head of which (or his or her spouse) is a person with disabilities (handicapped);</p> <p>(2) The surviving member or members of any family described in paragraph (1) of this definition living in a unit assisted under subpart E of this part (Section 202 loans) with the deceased member of the family at the time of his or her death;</p> <p>(3) A single person with disabilities (handicapped person) over the age of 18; or</p> <p>(4) Two or more persons with disabilities (handicapped persons) living together, or one or more such persons living with another person who is determined by HUD, based upon a licensed</p>

Term	Definition
	<p>physician's certificate provided by the family, to be essential to their care or well-being.</p>
<p>Person with a Disability (Handicapped Person) (Definition H)</p>	<p>(1) Any adult having a physical, mental, or emotional impairment that is expected to be of long continued and indefinite duration, substantially impedes his or her ability to live independently, and is of a nature that such ability could be improved by more suitable housing conditions.</p> <p>(2) A person with a developmental disability, as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)), i.e., a person with a severe chronic disability that:</p> <ul style="list-style-type: none"> <li>(i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;</li> <li>(ii) Is manifested before the person attains age 22;</li> <li>(iii) Is likely to continue indefinitely;</li> <li>(iv) Results in substantial functional limitation in three or more of the following areas of major life activity: (A) Self-care, (B) Receptive and expressive language, (C) Learning, (D) Mobility, (E) Self-direction, (F) Capacity for independent living, and (G) Economic self-sufficiency; and</li> <li>(v) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.</li> </ul> <p>(3) A person with a chronic mental illness, i.e., a person who has a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently, and whose impairment could be improved by more suitable housing conditions.</p> <p>(4) Persons infected with the human acquired immunodeficiency virus (HIV) who are disabled as a result of infection with the HIV are eligible for occupancy in the Section 202 projects designed for the physically disabled, developmentally disabled, or chronically mentally ill depending upon the nature of the person’s disability. (24 CFR 891.505) <b>Note:</b> A person whose sole impairment is alcoholism or drug addiction (i.e., who does not have a developmental disability, chronic mental illness, or physical disability that is the disabling condition required for eligibility in a particular project) will not be considered to be disabled for the purposes of the Section 202 program.</p> <p>(5) A person infected with the human acquired immunodeficiency virus (HIV) and a person who suffers with alcoholism or drug</p>

MINNESOTA HOUSING – HELP TEXT FOR MINNESOTA HOUSING’S TSP REVIEW CHECKLIST

Term	Definition
	<p>addition, provided they meet the definition of “person with disabilities” in Section 811 (42 U.S.C) 8013(k)(2). A person whose sole impairment is a diagnosis of HIV positive or alcoholism or drug addiction (i.e., does not meet the qualifying criteria in Section 811) will not be eligible for occupancy in a Section 811 project.</p>
<p>Nonelderly Disabled (Handicapped) Family (Definition I)</p>	<p>A nonelderly disabled (handicapped) family means a disabled family in which the head of the family (and spouse, if any) is less than 62 years of age at the time of the family’s initial occupancy of a project.</p>
<p><b>Student Definitions</b></p>	
<p>Section 8/Section 811 PRA/ HOME</p>	<p>Section 8 assistance shall not be provided to any individual who:</p> <ul style="list-style-type: none"> <li>a. Is enrolled as either a part-time or full-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential; and</li> <li>b. Is under the age of 24; and</li> <li>c. Is not married; and</li> <li>d. Is not a veteran of the United States Military; and</li> <li>e. Does not have a dependent child; and</li> <li>f. Is not a person with disabilities, as such term is defined in 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C.1437a(b)(3)(E)) and was not receiving section 8 assistance as of November 30, 2005; and</li> <li>g. Is not living with his or her parents who are receiving Section 8 assistance; and</li> <li>h. Is not individually eligible to receive Section 8 assistance or has parents (the parents individually or jointly) who are not income eligible to receive Section 8 assistance.</li> </ul> <p><b>NOTE:</b> Unless the student can demonstrate his or her independence from parents, the student must be eligible to receive Section 8 assistance <b>and</b> the parents (individually or jointly) must be eligible to receive Section 8 assistance in order for the tenant to receive Section 8 assistance.</p> <ul style="list-style-type: none"> <li>○ For a student to be eligible independent of his or her parents (where the income of the parents is not relevant), the student must demonstrate the absence of, or his or her independence from, parents. While owners may use additional criteria for determining the student’s independence from parents, owners must use, and the</li> </ul>

Term	Definition
	<p>student must meet, at a minimum <b>all</b> of the following criteria to be eligible for Section 8 assistance. The student;</p> <ul style="list-style-type: none"> <li>a. Be of legal contract age under state law;</li> <li>b. Have established a household separate from parents or legal guardians for at least one year prior to application for occupancy, <b>or</b>, meet the U.S. Department of Education’s definition of an independent student. (See the Glossary for definition of Independent Student);</li> <li>c. Not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations; and</li> <li>d. Obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided.</li> </ul> <ul style="list-style-type: none"> <li>○ Any financial assistance a student receives (1) under the Higher Education Act of 1965, (2) from private sources, or (3) from an institution of higher education that is in excess of amounts received for tuition is included in annual income, except if the student is over the age of 23 with dependent children or if the student is living with his or her parents who are receiving Section 8 assistance.</li> </ul> <p>Vulnerable Youth classification: A student meets HUD’s definition of a vulnerable youth and is eligible to receive assistance when:</p> <ul style="list-style-type: none"> <li>a. The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;</li> <li>b. The individual is, or was immediately prior to attaining he age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual’s State of legal residence;</li> <li>c. The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 et seq.), or as unaccompanied, at risk of homelessness, and self-supporting, by             <ul style="list-style-type: none"> <li>i. A local educational agency homeless liaison, designated pursuant to the McKinney-Vento Homeless Assistance Act;</li> </ul> </li> </ul>

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Term	Definition
	<ul style="list-style-type: none"> <li>ii. The director of a program fund relating to emergency shelter grants) or a designee of the director; or</li> <li>iii. The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or</li> <li>iv. A financial aid administrator; or</li> </ul> <p>The individual is a student for who a financial aid administrator makes a documented determination of independence by reason of other unusual circumstance.</p>
HOME (Additional)	<p>Properties where HOME funds were committed on or after August 23, 2013 have additional eligibility requirements for students. The HOME program has adopted the Section 8 Housing Choice Voucher Program restrictions on student participation found at 24 CFR 5.612, which exclude any individual that is enrolled in a higher education institution and is not an “Independent Student” as defined in the Higher Education Act or has parents who, individually or jointly, are not eligible on the basis of income.</p>
<p>Housing Tax Credits (HTC)</p> <p>(Minnesota Housing [Agency] guidelines for student eligibility; refer to Chapter 2.08)</p>	<p>Under Section 42, most households where all of the members are full-time students are not eligible, and units occupied by these households may not be counted as HTC units. IRS Code Section 151(c)(4) defines a “student” as an individual, who during each of five calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student at an educational organization described in IRC Sec 170(b)(1)(A)(ii). Treasury Regulation Sec. 1.51-3(b) further provides that the five calendar months need not be consecutive.</p> <p>The determination of student status as full or part-time should be based on the criteria used by the educational institution the student is or was attending.</p> <p>An educational organization, as defined by IRC Sec. 170(b)(1)(A)(ii) is one that normally maintains a regular faculty and curriculum, and normally has an enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term “educational organization” includes elementary schools, junior and senior high schools, colleges, universities, and technical, trade and mechanical schools. It does not include on-the-job-training courses.</p> <p>There are five exceptions to the limitation on households where all members are full-time students. Full-time student households</p>

Term	Definition
	<p>that are income eligible and satisfy one or more of the following conditions are considered eligible:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• The household consists of a single parent with child(ren) and the parent is not a dependent of someone else, and the child(ren) is/are not dependent(s) of someone other than a parent;</li> <li>• 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)); or</li> <li>• 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.**</li> <li>• At least one member of the household was previously in foster care.***</li> </ul> <p>**The JTPA program was repealed in 1998 and replaced with the Workforce Investment Act (WIA). WIA (and JTPA when it existed) funds programs such as adult literacy, English as a second language, General Education Diploma (GED) courses, vocational services for the blind, employment and training programs for Native Americans and migrant and seasonal farmworkers, job corps, veterans employment programs, summer youth employment and training, employment and training for dislocated workers and displaced homemakers, etc. Students in those programs are eligible for the JTPA exemption provided the school or community education department verifies that the applicant/tenant is a participant in a program similar to those funded under JTPA or WIA. Click here for a description of JTPA, WIA laws and regulations, and training programs under the Minnesota Department of Employment and Economic Development (DEED).</p> <p>*** “Foster care” means substitute care for children placed away from parents or guardians and for whom the state agency has placement and care responsibility. This includes, but is not limited to, placement in foster family homes, foster homes of relatives,</p>

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Term	Definition																									
	<p>group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the state or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is a federal matching of any payments that are made.</p>																									
<b>Income Limits</b>																										
Section 8 Programs	<ul style="list-style-type: none"> <li>• Section 8 (pre-1981)                      Low, very low, and extremely low</li> <li>• Section 8 (post 1981)                    Very low and extremely low</li> <li>• Section 236                                    Low income</li> <li>• Rent Supplement                            Low income</li> <li>• RAP    Low income</li> <li>• Section 202 w/o assistance              Low income (see P3-6D3 for exceptions)</li> <li>• Section 202 w/assistance                Pre 1981: low, very low, and extremely low Post 1981: very low and extremely low</li> <li>• Section 202 w/ Rent Supplement        Low income</li> <li>• Section 202 PACS                            Low income</li> <li>• Section 202/811 PRACS                  Very low income</li> <li>• Section 202/811 PRACS                  Funded in 1995: low income</li> <li>• Section 221(d)(3) BMIR                  BMIR income limit</li> </ul>																									
HOME	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">No. of HOME Units</th> <th style="width: 15%;"></th> <th style="width: 20%;">Income Requirements at Initial Certification</th> <th style="width: 20%;">Income Requirements After Initial Certification</th> <th style="width: 25%;">Rent Requirements</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1 – 4</td> <td></td> <td>60% area median income (AMI)</td> <td>80% AMI</td> <td>Lower of Fair Market Rent (FMR) or 65%* rent limit (High HOME Rent)</td> </tr> <tr> <td colspan="5">100% of HOME-assisted units are occupied by households with incomes at or below 80% AMI, with these additional requirements:</td> </tr> <tr> <td style="text-align: center;">5 +</td> <td style="text-align: center;">Very low income/Low HOME Rent</td> <td>At least 20% of the units must be occupied by very low income households, at 50% AMI or lower</td> <td>At least 20% of the units must be occupied by very low income households, at 50% AMI or lower</td> <td>At least 20% of the units must pay the lower of FMR, 50% rent limit (Low HOME Rent), or 30% of the family's adjusted income</td> </tr> <tr> <td></td> <td style="text-align: center;">Low income/High HOME Rent</td> <td>*Up to 10% of the units may be occupied by households above 60% AMI (up to 80% AMI)</td> <td>*The remaining 80% of the units may be occupied by households above 60% AMI (up to 80% AMI)</td> <td>The remainder of the units may pay the lower of FMR or 65% rent limit (High HOME Rent)</td> </tr> </tbody> </table> <p><small>*Note: You must have at least ten HOME-assisted units to qualify for one unit with a household at 80% AMI.</small></p>	No. of HOME Units		Income Requirements at Initial Certification	Income Requirements After Initial Certification	Rent Requirements	1 – 4		60% area median income (AMI)	80% AMI	Lower of Fair Market Rent (FMR) or 65%* rent limit (High HOME Rent)	100% of HOME-assisted units are occupied by households with incomes at or below 80% AMI, with these additional requirements:					5 +	Very low income/Low HOME Rent	At least 20% of the units must be occupied by very low income households, at 50% AMI or lower	At least 20% of the units must be occupied by very low income households, at 50% AMI or lower	At least 20% of the units must pay the lower of FMR, 50% rent limit (Low HOME Rent), or 30% of the family's adjusted income		Low income/High HOME Rent	*Up to 10% of the units may be occupied by households above 60% AMI (up to 80% AMI)	*The remaining 80% of the units may be occupied by households above 60% AMI (up to 80% AMI)	The remainder of the units may pay the lower of FMR or 65% rent limit (High HOME Rent)
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