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# Housing Infrastructure

Program Guide

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## Values Statement

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

We will:

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

# **Chapter 1 – Purpose and Background**

## **1.01 Program Purpose and Authorizing Statute**

The Housing Infrastructure Bond (HIB) Program was established in 2012 by Minnesota Statutes, Section 462A.37. HIBs are special, limited obligation, Tax-Exempt Bonds issued by Minnesota Housing, the principal and interest on which are paid solely from appropriations from the State of Minnesota.

In 2023, Minn. Stat. 462A.37 was amended to expand the eligible uses and to utilize Housing Infrastructure Appropriations (HIAs), which are direct state appropriations not associated with the issuance of Bonds and the state and federal requirements associated with Tax-Exempt Bonds.

Except where otherwise noted, HIBs and HIAs (collectively, Housing Infrastructure Funding) have the same requirements and procedures.

Section 462A.37 also authorizes single-family housing projects, the acquisition and improvement of manufactured home parks, the acquisition of certain real estate, and cooperatively owned housing projects. This Program Guide focuses only on the multifamily rental related uses of Housing Infrastructure Funding. For information on single family home ownership related uses, please contact [impact.fund.mhfa@state.mn.us](mailto:impact.fund.mhfa@state.mn.us). For information on manufactured housing related uses, please contact [mnhousing.manufacturedhomes@state.mn.us](mailto:mnhousing.manufacturedhomes@state.mn.us).

## **1.02 Definitions**

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

## **1.03 Legal Addendum**

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

## Chapter 2 – Eligible Uses and Eligibility Criteria

### 2.01 Eligible Applicants

Eligible applicants for Housing Infrastructure Funding are:

- A nonprofit, tax-exempt organization as defined under Section 501(c)(3) of the Internal Revenue Code (IRC)
- A governmental entity (excluding the federal government)
- A Federally recognized Indian Tribe in Minnesota or their associated Tribally Designated Housing Entity
- A for-profit entity

### 2.02 Eligible Uses, Requirements and Level of Funding

#### A. Permanent Supportive Housing – Homeless

Housing Infrastructure Funding may be used to finance the costs of acquisition, construction, adaptive reuse, and rehabilitation of permanent supportive housing where at least 50% of units are set aside for individuals and families who are without a permanent residence. To be eligible for consideration for funding, projects must meet the following criteria:

Units in a project must provide permanent supportive housing for individuals and families who are homeless. Eligible homeless populations include:

- HPH Households
- Other Homeless Households

If an applicant is intending to finance the project with Housing Tax Credits (HTCs), the market study submitted must incorporate additional requirements for projects involving special needs populations, housing for homeless households, and supportive housing as required in Minnesota Housing's [HTC Market Study Guidelines](#).

#### B. Senior Housing

Housing Infrastructure Funding may be used to finance the costs of the acquisition, rehabilitation, adaptive reuse, or new construction of Senior Housing. To be eligible for consideration for funding, projects must meet the following criteria:

- Senior is defined as a person 55 years of age or older.
- For income and/or rent requirements for Senior Housing projects including preferences, see [Section 2.03](#).

- 100% of the units must be intended for and initially occupied by Senior Households with at least 80% of those units occupied by Senior Households for the term of the specified loan.
- The project must have written policies and procedures that demonstrate an intent to provide Senior Housing.
- Senior housing may be developed in conjunction with and as a distinct portion of mixed-income senior housing developments that use a variety of public or private financing sources.
- The project must leverage other sources of funding to finance the project, including the use of low-income HTC.
- The project must provide access to services to residents and demonstrate the ability to increase physical supports and support services as residents age and experience increasing levels of disability.

### **C. Preservation**

Housing Infrastructure Funding may be used to finance the costs of the acquisition and rehabilitation or for the Replacement of federally assisted rental housing and to refinance costs of construction, acquisition, and rehabilitation thereof, including providing funds to refund, in whole or in part, outstanding Bonds previously issued by Minnesota Housing or another government unit to finance or refinance those costs.

To be eligible for consideration for funding, projects must be eligible for the preservation selection criteria by preserving existing federally assisted (Tier 1) or other existing federal assistance (Tier 2) of the Self-Scoring Worksheet. For more information, refer to the [Self-Scoring Worksheet](#).

To be eligible as a Replacement of federally assisted rental housing, the project must demonstrate, to Minnesota Housing's sole satisfaction, that the demolition is warranted, and that rehabilitation is not a viable option for serving the intended population. This includes sufficient documentation that the Replacement is more cost effective than preservation and/or the existing structure is functionally obsolete and would cost more to update than to replace. Any change to the number of units or unit sizes must be approved by Minnesota Housing, at its sole discretion.

#### **Effective for selected projects in 2025 and after:**

Projects with an existing project-based rental assistance payment contract must agree to extend the existing low-income, affordability restrictions and any contract or agreement for rental assistance payments for the maximum term permitted. For more information, refer to the [Self-Scoring Worksheet](#).

### **D. General Occupancy Properties**

Housing Infrastructure Funding may be used to finance the costs of construction, acquisition, adaptive reuse, and rehabilitation of permanent housing with rents affordable to households with incomes at or



below 50% of the area median income (AMI) for the applicable county or Metropolitan Area as published by the United States Department of Housing and Urban Development (HUD), as adjusted for household size. For projects selected for funding in 2024 and after, rents may be restricted to the applicable Multifamily Tax Subsidy Projects (MTSP) rent limit as found in Section 2.03 in Table 2. For more information on rent and income requirements, see Section 2.03.

## **E. Foreclosed Properties**

Housing Infrastructure Funding may be used to finance the costs of the acquisition and rehabilitation of a Foreclosed Property or an Abandoned Property to be used for affordable rental housing, or to finance the new construction of rental housing on Abandoned Property or Foreclosed Property where the existing structures will be demolished or removed.

To be eligible for consideration for funding, projects must meet at least one of the strategic priorities as defined in the [Self-Scoring Worksheet](#).

## **F. Housing-Related Space and Community Service Facilities**

### **Housing-related space**

Projects funded with Housing Infrastructure Funding may include housing-related space exclusively used by residents of the building such as community, administrative, or program space. Minnesota Housing will analyze the following factors when determining the amount of housing-related space in a housing project that is eligible to be funded:

- Whether the space will be used exclusively by tenants
- The extent to which the proposed use of the space fits with the service needs of the tenants and does not expose the tenants to security risks or the project to financial risk
- The ease with which the space is convertible to residential space
- The financial and operational capacity of the applicant or any partner organization to operate and manage the space
- Whether similar services or facilities that are appropriate for the tenants are located nearby
- The availability of other funding for the construction and/or rehabilitation of space, as well as the maintenance and operation of that space

### **Community service facilities**

Generally, community service facilities are not eligible for financing with Housing Infrastructure Funding. Per the [Multifamily Underwriting Standards](#), a community service facility is defined as a facility that is part of the qualified low-income housing development designed to serve primarily individuals, including tenants and non-tenants, whose income is 60% or less of AMI. For projects selected for funding in 2024 and after, the applicable MTSP income limits may be used.

Projects that will include a community service facility component are strongly encouraged to visit the [Multifamily Consolidated RFP/HTC Funding Rounds](#) webpage to request technical assistance from Minnesota Housing's Multifamily Division staff well in advance of application submission.

## **G. Ineligible Projects**

Temporary uses such as shelters, transitional housing, or residential hotels *are not* eligible for funding with Housing Infrastructure Funding.

For Senior Housing, housing must be of an independent living model. Assisted living facilities *are not* eligible for funding with Housing Infrastructure Funding.

## **H. Mixed Use Projects**

A project may qualify as a multifamily housing residence or a portion of a mixed-use multifamily residence that has a property legal description and ownership structure distinct from any other portion of the mixed-use facility. Specific review by Minnesota Housing is necessary to ensure that Housing Infrastructure Funding is allocated to eligible uses under Section 462A.37.

## **I. Combined Eligible Uses**

Projects are encouraged to select one Housing Infrastructure Funding eligible use. However, subject to approval by Minnesota Housing, a project may include units that meet more than one Housing Infrastructure Funding eligible use. For projects proposing to combine different eligible Housing Infrastructure Funding uses into a single project, Minnesota Housing will consider such factors as project feasibility and market demand.

Senior Housing projects cannot be combined with other eligible uses and all units must meet the Senior Housing eligible use.

## **J. Level of Funding**

The amount of Housing Infrastructure Funding will be based on the number of units that meet an eligible use. In determining the amount of Housing Infrastructure Funding, Minnesota Housing reviews cost reasonableness on a per-unit and total project cost basis. Minnesota Housing also analyzes the developmental and operational costs to determine that the amount of funds provided to the project is not more than is necessary to make it financially feasible.

## **2.03 Income Requirements, Rent Requirements and Preferences**

The following sections do not supersede or replace any rent or income requirements in a project's loan documents.

For income and rent requirements that are applicable to projects selected prior to 2024 and for projects selected in 2024 and after, see section 2.03.A and 2.03.B below.

**Income Limits**

All units in a project financed with Housing Infrastructure Funding must be occupied by households whose income at the time of initial occupancy does not exceed 80% of the greater of the [statewide median or area median income](#) (AMI) for projects selected for funding prior to 2024 (see Table 1), not adjusted for household size. For projects selected for funding in 2024 and after, see Table 2 for the MTSP income limits, not adjusted for household size. Lower income limits may be required for all or some of the units based on Minnesota Housing’s funding priorities, state law applicable to financing with the proceeds of Housing Infrastructure Funding, or federal tax law.

Additional income restrictions that are applicable to the eligible uses can be found in section 2.03.A and 2.03.B.

**Maximum Gross Rents**

Limitations on the amount of rent that may be charged for each unit will remain in place for the term specified in the property declaration. Rents for units assisted with Housing Infrastructure Funding may not exceed the rent limits found in Table 1 and Table 2. Lower rent limits may be required for all or some of the units based on Minnesota Housing’s funding priorities. If any of the assisted units are occupied by a household that is benefited by project-based or tenant-based rental assistance such as Section 8 or a similar state, or local government rental assistance program or a housing support agreement, such units are deemed to satisfy the rent restrictions. Rents are gross rents that include an allowance for tenant paid utilities. An acceptable utility allowance is determined by the Section 8 public housing authority utility allowance for vouchers and must be updated annually.

**Senior Rent limits:** For projects selected for funding in 2025 and after with units that qualify under the Senior Housing eligible use of Housing Infrastructure Funding, units that are restricted to 30% or 50% MTSP income limits and are occupied by households without rental assistance must also restrict rents to the 30% or 50% MTSP rent limit accordingly.

Additional rent restrictions that are applicable to the eligible uses can be found in section 2.03.A and 2.03.B.

**A. Projects Selected for Funding Prior to 2024**

**Table 1: Summary Rent and Income Requirements by Eligible Uses**

The table below provides a summary of the income and rent requirements. These requirements are effective for projects selected for funding prior to 2024.

Eligible uses	Income limits	Rent limits
<b>Permanent Supportive Housing – Homeless</b>	Does not exceed 80% of the greater of statewide median or area median income, not adjusted for household size.	Affordable to Local Workforce <b>Preference:</b> 30% AMI
<b>Senior Housing</b>	<b>Metro:</b> 50% metropolitan AMI, not adjusted for household size, for projects within the Metropolitan Area.  <b>Statewide:</b> 50% statewide median income, not adjusted for household size, for projects outside the Metropolitan Area.  <b>Preference:</b> 30% metropolitan AMI, not adjusted for household size	Affordable to Local Workforce <b>Preference:</b> 30% AMI
<b>Preservation</b>	Does not exceed 80% of the greater of statewide median or area median income, not adjusted for household size.	Affordable to Local Workforce <b>Preference:</b> 30% AMI
<b>General Occupancy Properties</b>	Does not exceed 80% of the greater of statewide median or area median income, not adjusted for household size.	Rents must be affordable to households with incomes at or below 50% AMI for the applicable county or metropolitan area as published by HUD, as adjusted for household size.  <b>Preference:</b> 30% AMI

**Preference:** Statute gives preference to projects that will provide housing with rents or income at or below certain rent and income levels. Minnesota Housing will prioritize proposals that achieve this preference and demonstrate financial feasibility.

If there are other funding sources for the project, there may be additional rent limitations.

## **B. Projects Selected for Funding in 2024 and After**

To promote efficiency in program administration, underwriting and compliance, the income and rent limits established in Minnesota Statute 462A.37 for the multifamily rental uses listed below are hereby modified to align with Section 42. The modification is authorized pursuant to Minnesota Statutes,

Section 462A.07, Subdivision 18. These modifications do not alter or supersede any income or rent restrictions established in existing loan documents.

**Table 2: Summary Rent and Income Requirements by Eligible Uses**

The table below provides a summary of the income and rent requirements. These income and rent requirements may be effective for projects selected for funding in 2024 and after.

Eligible uses	Income limits	Rent limits
<b>Permanent Supportive Housing – Homeless</b>	80% MTSP	80% MTSP <b>Preference:</b> 30% MTSP
<b>Senior Housing</b>	<b>Metro:</b> 50% MTSP (annual combined household income) <b>Greater Minnesota:</b> 80% MTSP (annual combined household income) <b>Preference:</b> 30% MTSP (annual combined household income)	Rent limits are applicable for projects selected for funding in 2025 and after. <b>Metro:</b> 50% MTSP <b>Greater Minnesota:</b> 80% MTSP <b>Preference:</b> 30% MTSP
<b>Preservation</b>	80% MTSP	80% MTSP <b>Preference:</b> 30% MTSP
<b>General Occupancy Properties</b>	80% MTSP	Rents must be affordable to households with incomes at or below 50% MTSP rents <b>Preference:</b> 30% MTSP

**Preference:** Statute gives preference to projects that will provide housing with rents affordable at or below the MTSP rent limits in Table 2. Minnesota Housing will prioritize proposals that achieve this preference and demonstrate financial feasibility.

If there are other funding sources for the project, there may be additional rent limitations.

### C. Acquisition and Rehabilitation Projects – Household Income

For acquisition and rehabilitation projects, the owner must contact each household prior to loan commitment and have them certify their gross annual household income on an [Initial Occupancy Statement by Tenant Form](#) (other, more detailed income certification forms may be acceptable as long as information on the more detailed form(s) matches the information requested on the Initial Occupancy Statement by Tenant Form). As assisted units become vacant, they must continue to be

leased to income-qualifying households. New households must similarly certify their gross annual household income prior to occupancy.

#### **D. Minimum Term**

The income and rent restrictions for the assisted units are in effect for the term of the property declaration.

### **2.04 Design and Construction Review**

Projects financed with Housing Infrastructure Funding must meet Minnesota Housing's [Rental Housing Design and Construction Standards](#) and are subject to plan reviews by staff architects per Minnesota Housing's [Architect's Guide](#).

Minnesota Housing's Rental Housing Design and Construction Standards include Senior design requirements and recommended (not required) best practice Senior design features.

In accordance with Minnesota Statutes, Section 462A.37, Subdivision 2(f), Housing Infrastructure projects that are new construction or adaptive reuse with four or more units per building must also meet each of the following requirements:

- At least 5% of the total units, with a minimum of one unit, must be accessible units, and each accessible unit includes at least one roll-in shower, water closet, and kitchen work surface meeting the requirements of section 1002 of the current State Building Code Accessibility Provisions for Dwelling Units in Minnesota; and
- At least 5% of the total units, with a minimum of one unit, must be sensory-accessible units that include:
  - Soundproofing between shared walls for first and second floor units;
  - No florescent lighting in units and common areas;
  - Low-fume paint;
  - Low-chemical carpet; and
  - Low-chemical carpet glue in units and common areas.

### **2.05 Tenant Selection Plan**

Minnesota Housing requires all properties financed with applicable Minnesota Housing program and funding sources to have a Tenant Selection Plan. A list of program and funding sources, as well as Tenant Selection Plan best practices and performance requirements, can be found on Minnesota Housing's [Tenant Selection Plan Guidelines](#) webpage.

## Chapter 3 – Loan Characteristics and Terms

Minnesota Housing primarily selects projects for a loan to be made with the proceeds of Housing Infrastructure Funding during Minnesota Housing’s annual Multifamily Consolidated RFP/HTC Funding Round process. Minnesota Housing’s underwriting parameters for all projects include an analysis of financial feasibility and development costs and a review of sponsor capacity (financial and organizational), management, marketability, and architectural requirements. Refer to Minnesota Housing’s [Multifamily Underwriting Standards](#) for more information.

### 3.01 Fees

Please review the [Multifamily Loan Programs and Housing Tax Credit Program Fee Schedule](#) for all applicable fees associated with Housing Infrastructure Funding.

### 3.02 Mortgage Interest Rate and Term

Loans are made as a 0% deferred payment loan unless a higher interest rate is necessary to allow Housing Infrastructure Funding to be used with other funding sources. Principal and interest, if any, may be due and payable at the end of the loan term, which is typically 30 years.

### 3.03 Cash Flow Note

Minnesota Housing may, at its sole discretion, require a cash flow note. More information regarding the cash flow note requirement can be found in the [Multifamily Underwriting Standards](#).

### 3.04 HIB Loan Types

This section only applies to HIB proceeds.

#### A. Tax-Exempt Volume Limited Bond Funded

These loans are structured as deferred payment loans, repayable at maturity. HIBs issued by Minnesota Housing to fund these loans require an allocation of a portion of the state’s volume cap on Tax-Exempt Volume Limited Bonds. Loans funded with the proceeds of HIBs may help to qualify a project for 4% HTCs if the proceeds of HIBs, together with the proceeds of any other Tax-Exempt Volume Limited Bonds issued to finance that project, will fund at least the Required Minimum Percentage of the aggregate basis of the project plus land. The project must meet the Bond Tests Analysis discussed in section 3.06 and the requirements of the applicable Qualified Allocation Plan (QAP). The borrower must be a for-profit entity.

Minnesota Housing, at its sole discretion, may make a short-term, Tax-Exempt Volume Limited Bonds-funded bridge loan in the event that the principal amount of the HIB loan, including any portion required to be repaid after construction, is not sufficient to meet the Required Bond Percentage test.

The bridge loan will have a term of approximately 18 months and will generally mature one month prior to maturity of the Tax-Exempt Volume Limited Bond. The loan may be prepaid at the option of the borrower, but not earlier than one month prior to the first date that the Bonds can be redeemed at the option of Minnesota Housing (not less than 12 months after issuance); prepayment should be discussed with Minnesota Housing if this option is desired. The loan term may be longer based on the project's construction schedule and schedule of equity installments.

## **B. Governmental Bond Funded**

These loans are structured as deferred payment loans, and will be either forgivable at maturity if the borrower is not a governmental entity, or forgivable or repayable at maturity if the borrower is a governmental entity, as determined by Minnesota Housing. HIBs issued by Minnesota Housing to fund these loans do not require an allocation of a portion of the state of Minnesota's volume cap on Tax-Exempt Volume Limited Bonds. These loans will not qualify a project for 4% HTC's. The borrower may be a governmental or 501(c)(3) entity.

## **C. 501(c)(3) Bond Funded**

These loans are structured as deferred payment loans and are repayable at maturity; these loans may also be classified as governmental bond funded. HIBs issued by Minnesota Housing to fund these loans do not require an allocation of a portion of the state of Minnesota's volume cap on Tax-Exempt Volume Limited Bonds. These loans do not qualify a project for 4% HTC's. The borrower must be a 501(c)(3) nonprofit organization.

### **3.05 HIA Loan Types**

This section only applies to HIA.

Loans are structured as deferred payment loans, either repayable or forgivable at maturity, as determined by Minnesota Housing. By themselves, these loans do not qualify a project for 4% HTC's but can be used for eligible projects to fill funding gaps.

### **3.06 Bond Tests Analysis for HIB Loans**

This section only applies to HIB proceeds.

Projects that receive an allocation of Tax-Exempt Volume Limited Bonds issued to finance that project may qualify for 4% HTC's if the amount is at least the Required Minimum Percentage of the aggregate



basis of the building and the land it is located on. The project must meet the Bond Tests Analysis and the requirements of the applicable QAP.

During Minnesota Housing's annual Multifamily Consolidated RFP/HTC Funding Round, applicants are required to submit a completed Bond Tests Analysis spreadsheet. This tool assists applicants in determining if the proposed project meets specific Bond tests.

### **A. Required Minimum Percentage Test**

One of the major requirements for a project to preliminarily qualify for 4% HTCs is the use of the proceeds of Tax-Exempt Volume Limited Bonds to finance at least the Required Minimum Percentage of the total aggregate basis of the building and land set forth in Section 42 through the placed-in-service date. To initially estimate the Bond amount required, use the following equation:

Tax-Exempt Volume Limited Bonds required for Required Minimum Percentage test = Required Minimum Percentage × (total aggregate basis + land acquisition cost)

This is a rough estimate that may be used during initial selection. The borrower should consult with their accountant to verify that the project will meet the Required Minimum Percentage test as set forth in Section 42.

### **B. Good Costs and Bad Costs**

Certain eligible development costs, also known as good costs, may be allocated to the proceeds of Tax-Exempt Volume Limited Bonds, while other ineligible (bad) costs may not. There must be sufficient good costs to support the final loan amount. Generally, good costs consist of capital expenditures of the project, such as land acquisition, construction, or rehabilitation. Good costs are usually financed from Tax-Exempt Bonds and are documented in the Bond issue's closing documents. Bad costs are typically related to the issuance of Tax-Exempt Bonds but are not capital expenditures. For example, consultant fees (e.g. financial advisor, bond trustee, legal), underwriter fees, printing costs, and overhead expenses are bad costs.

Good costs and bad costs are listed on the Bond Tests Analysis spreadsheet under the Bond Costs from Workbook tab. Some bad costs will not automatically categorize and will need to be adjusted manually. For example, developer fees, general contractor overhead and profits (such as amounts not payable by the general contractor to a third party), or architect's fees are considered bad costs when there is an identity of interest between the borrower and one of these parties since payments to related parties (as defined by federal tax law) are not eligible to be financed with the proceeds of Tax-Exempt Volume Limited Bonds.

For a project to qualify for an HIB loan, there must be sufficient other (non-Bond funded) sources to allocate to bad costs.

Special attention should be paid to the good cost/bad cost analysis for projects that are governmental Bonds or 501(c)(3) Bonds funded as described in section 3.04. Under these loan structures, the HIB loan may be a substantial portion of the total project sources. Thus, it is important to analyze if there are other (non-Bond funded) sources to allocate to bad costs. Further, these structures do not include participation of a tax credit investor as part of the ownership entity and increase the likelihood of an identity of interest between the borrower and the developer.

The Bond Tests Analysis, Bond Costs from Workbook tab of the Bond Tests Analysis spreadsheet calculates the anticipated amount of good costs. For Tax-Exempt Volume Limited Bond funded loans, the amount of Tax-Exempt Volume Limited Bonds needed to meet the Required Bond Percentage test (the total aggregate basis + land amount), plus a buffer determined by Minnesota Housing, which is generally 3% for projects with a Bond issuance effective in 2025 or prior, or 5% for projects with a Bond issuance after December 31, 2025. Minnesota Housing retains discretion to adjust the buffer percentage.

If a project contains commercial or non-residential space, costs related to those portions of the project are considered bad costs.

If at any time during post-selection there are updates to good/bad costs, the borrower shall submit that information to the Minnesota Housing underwriter assigned to the project. Minnesota Housing's finance counsel and external bond counsel will make the final determination of whether there are sufficient good costs to support the amount of Bonds; however, Minnesota Housing finance counsel and external bond counsel make no determination as to the satisfaction of the Required Bond Percentage test for purposes of HTC eligibility. The Required Bond Percentage test is determined by the borrower's accountant.

### **C. Ownership Assessment**

Organizational charts for the current and future ownership entities showing the ownership percentage, cash flow, and residuals must be sent to Minnesota Housing post-selection. Minnesota Housing will determine what, if any, additional costs are ineligible to be Bond financed (bad costs) because of the relationships between the parties and if there are sufficient eligible costs (good costs) to support the loan amount. Refer to Appendix C (Sample Organizational Charts) for sample organizational charts pre- and post-sale.

If the developer is a related party to the borrower, the developer fee may be ineligible to be financed with Bond proceeds. Special attention should be paid to the good cost/bad cost analysis due to the potential of developer fees, general contractor overhead and profits (such as amounts not payable by the general contractor to a third party), or architect's fees not being eligible to be reimbursed with Bond proceeds. Projects financed with governmental or 501(c)(3) Bonds should evaluate this carefully as these structures will not include a tax credit investor as a limited partner, thus increasing the likelihood of an identify of interest between the borrower and developer.

## D. Rehabilitation/Acquisition Ratio

Rehabilitation expenditures must equal or exceed 15% of the portion of the cost of acquiring the building financed by Bonds Use the following equation:

$$\text{rehabilitation costs} \div (\text{building acquisition} - \text{land cost}) \text{ financed by Bonds}$$

This calculation is included in the Bond Costs from Workbook tab of the Bond Tests Analysis.

## E. Bond Income Restrictions

If the project is funded with a 4% HTC financial structure, units must be income-restricted to meet the requirements of the elected minimum set-aside in accordance with Section 42 and Section 142(d). This restriction is in addition to income limits applicable to projects financed with the proceeds of HIBs and associated with any other funding sources or financing costs of the project. Refer to [Section 2.03](#) for income requirements.

## F. State Requirements Applicable to Tax-Exempt Volume Limited Bonds

State requirements applicable to Tax-Exempt Volume Limited Bonds include:

- Fair Market Rent (FMR): At least 20% of units in the proposed residential rental project do not exceed the area [FMR](#) or exception FMR for existing housing, if applicable, as established by HUD. Units that have project-based federal rental assistance (for example, Section 8) are deemed to meet this condition.
- Rental Assistance: The borrower is obligated to extend any existing rental assistance agreements for the maximum term permitted.
- Term of State requirements: The borrower must maintain the maximum rental rates and income levels for 15 years.
- Reserves for Preservation Projects: Projects with existing project-based rental assistance must have project reserves at the time of Bond issuance and maintained in future years at the lesser of (1) the greater of 40% of the outstanding first mortgage or \$5,000 per unit, or (2) the amount of reserves at the time of Bond issuance, provided sufficient funds are available at Bond issuance to complete immediate repairs.

## G. Scattered Site Projects

For a scattered site project, each separate site must meet the income set-aside, the Required Bond Percentage test, the rehabilitation cost test, the good cost/bad costs test, and Minnesota's FMR test.

## 3.07 Underwriting and Post-Selection HIB Process

This section only applies to HIB proceeds.

## **A. Reimbursement Declaration**

After selection, Minnesota Housing will execute a declaration of intent to reimburse costs of the project from the proceeds of HIBs and/or other Tax-Exempt Volume Limited Bonds. That declaration of intent allows eligible expenses incurred and paid up to 60 days prior to execution of the declaration to be reimbursed with the proceeds of HIBs. Some preliminary expenditures are reimbursable even if incurred and paid earlier than 60 days prior to execution of the declaration (for example, architect, engineering, surveying, soil testing expenses), but not land acquisition or site preparation. These preliminary expenditures may in aggregate not exceed 20 percent of the principal amount of the Bonds. The reimbursement declaration does not expire.

If land or existing structures are or have been acquired by the borrower or a related party to the borrower, more than 60 days prior to the execution of the reimbursement declaration, those costs are ineligible to be financed with Bond proceeds. Special attention should be paid to the good cost and bad cost analysis due to the potential of acquisition costs not being eligible to be reimbursed with Bond proceeds. Projects financed with governmental or 501(c)(3) Bonds should evaluate this carefully as there may not be sufficient other (non-Bond funded) sources to pay for acquisition costs if ineligible to be reimbursed with Bond proceeds.

## **B. Tax Equity and Fiscal Responsibility Hearing**

Minnesota Housing will give notice and hold a TEFRA public hearing for all multifamily housing projects to be financed with the proceeds of HIBs and/or other Tax-Exempt Volume Limited Bonds. The principal amount of Bonds stated in the notice of the TEFRA hearing may include a buffer over the anticipated amount of the Bonds needed to fund each loan. Following the TEFRA public hearing, Minnesota Housing will request the governor to approve the issuance of Tax-Exempt Volume Limited Bonds for each project. The Bonds must be issued within one year of the governor's approval or another approval must be requested and obtained.

## **C. Tax-Exempt Bond Issuance**

The proceeds of HIBs usually will finance loans for multiple projects. Neither the principal nor interest, if any, to be repaid with respect to the loans nor the property financed are security for repayment of the HIBs. For approval purposes, a loan made from the proceeds of HIBs is processed in the same manner as a deferred loan. Minnesota Housing's internal Mortgage Credit Committee approval is required for the loan and, after initial selection, additional Minnesota Housing board approval is not typically required.

The funding of the loans will be dependent on, and will not occur until, the issuance of HIBs. Minnesota Housing's ability to issue HIBs is dependent on Minnesota Management and Budget providing updated disclosure with respect to the state of Minnesota and its finances.

Minnesota Housing's board resolution approving the issuance of HIBs will identify each project that is authorized to be financed with the proceeds of those HIBs.

#### **D. Minnesota Statute 474A.047 Compliance**

Prior to loan closing, projects with an existing project-based federal rental assistance payment contract must enter into a binding agreement with Minnesota Housing to extend affordability restrictions and any contract or agreement for rental assistance for the maximum term permitted. Minnesota Housing must also certify, based on information certified to Minnesota Housing by the borrower, that project reserves will be maintained at the closing of the loan and budgeted in future years at the lesser of:

- The greater of 40% of the outstanding first mortgage or \$5,000 per unit; or
- The level of project reserves available prior to the closing of the loan, provided that additional money is available to accomplish repairs and replacements needed at the time of loan closing.

### **3.08 Post Closing HIB Process**

This section only applies to Housing Infrastructure Bond proceeds.

**Bond Compliance Agreement or Tax Exemption Agreement.** The provisions of the Bond Compliance Agreement relating to income and rent requirements begin on the date 10% of project units are first occupied and continue, regardless if the loan is prepaid or assumed, through the later of:

- The date the Bonds are paid in full, or
- 15 years from the date 50% of units are first occupied, or
- Termination of Section 8 contract, if any.

The Bond Compliance Agreement is required in connection with any loan made from the proceeds of Tax-Exempt Volume Limited Bonds. It is also required for deferred repayable loans made from the proceeds of HIBs to an entity that is a 501(c)(3) nonprofit corporation for acquisition and rehabilitation of a project. The Tax Exemption Agreement is required in connection with any other type of loan made with the proceeds of HIBs and terminates when the HIBs have been paid in full.

Minnesota Housing's asset manager monitors the property for compliance under the Bond Compliance Agreement. The Bond Compliance Agreement must be an attachment to the Management Agreement, and the Management Agreement must contain a provision requiring the manager of the project to comply with the provisions of the Bond Compliance Agreement.

Additional monitoring requirements include:

- Exhibit B of the Bond Compliance Agreement: The document is required to be completed when 50% of the units in the project are occupied. Exhibit B is used to document the Bond Compliance Agreement's:

- Commencement date
- End dates of occupancy restrictions and rental restrictions
- Annual certifications: During the compliance period, the following forms may need to be submitted annually to Minnesota Housing (refer to Bond Compliance Agreement):
  - IRS Form 8703
  - Certification of Compliance with Minn. Stat. 474A.047
- Financial reporting and annual inspections: In addition to the annual certifications, the following financial reporting and oversight may be required by Minnesota Housing:
  - Monthly operating reports
  - Annual budget approvals
  - Annual inspections by a Minnesota Housing asset manager

### **3.09 Transfers of Ownership and Prepayment**

#### **A. Transfers of Ownership**

The project may not be sold, and in connection with any sale the loan may not be assumed by the new owner, without the approval of Minnesota Housing. The borrower must request the approval through Minnesota Housing's [Request for Action \(RFA\) process](#). Minnesota Housing, at its sole discretion, will consider giving that approval only if each of the following minimum requirements are met:

- The borrower is not in default under any of its agreements with Minnesota Housing
- The new entity is eligible to receive a loan from the proceeds of HIBs of the type that financed the original loan as set forth in section 2.02
- The new entity is creditworthy, at Minnesota Housing's sole discretion
- The new entity assumes all contractual obligations with Minnesota Housing
- An assumption fee is paid equal to the approximate administrative costs incurred by Minnesota Housing in processing the sale and assumption

#### **B. Prepayment and Assumption**

The borrower may prepay the unpaid principal amount, in whole or in part, with the prior written approval of Minnesota Housing, by paying a sum equal to the unpaid principal amount and interest (if any) to the date of repayment, plus a processing fee in an amount to be determined by the Minnesota Housing in its sole discretion, but not exceeding the approximate administrative costs incurred by Minnesota Housing in processing the prepayment. The covenants and conditions in the property declarations run with the land and will remain in effect for the term of the declarations even if the loan is paid in full or an assumption of the loan is permitted.

### **3.10 Return on Equity**

Minnesota Statutes, Section 462A.03, Subdivision 13 allows a maximum return of 15% based on borrower equity, as determined by Minnesota Housing.

### **3.11 Management and Operation**

#### **A. Management and Operating Budget**

The budget submitted in the project application is reviewed and compared to budgets of comparable projects that have been financed by Minnesota Housing. These comparables are used in the underwriting of the loan, to project long-term operating costs, and are intended to ensure the long-term financial viability of the project. For more information, refer to the Minnesota Housing [Multifamily Underwriting Standards](#).

Minnesota Housing reserves the right to reject or adjust the management and operation figures based on the information provided, specific project type and circumstances, and significant changes to the economics of the project's current marketplace.

#### **B. Utilization of Units**

All units must be rented to family sizes appropriate to the unit size, with a ratio of at least one person per bedroom. If, during tenancy, a family size changes, a household may submit a written request to the management agent to transfer to another unit or be placed on a waiting list for that transfer. In the event of a decrease in family size, the household may be required to move into the next available suitably-sized smaller unit.

#### **C. Marketing**

Minnesota Housing requires that each housing provider carry out an affirmative marketing program to attract prospective buyers or tenants in the housing market area 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. The owner or management agent must submit a Tenant Selection Plan, Affirmative Fair Housing Marketing Plan, and an Affirmative Housing Marketing Plan Addendum.

#### **D. Permanent Supportive Housing Documentation**

At project application, the borrower must submit a Permanent Supportive Housing Narrative, a Letter of Confirmation from the local (county or tribal) human services department, and a Continuum of Care (CoC) Confirmation Form (if applicable). Prior to loan closing, the borrower must submit, among other items, a management plan, a supportive housing services budget, a supportive housing services plan, a

memorandum of understanding, and any other documentation deemed necessary for Minnesota Housing staff review and approval. For a complete list of requirements, please contact the Minnesota Housing Supportive Housing Team at [supportive.housing@state.mn.us](mailto:supportive.housing@state.mn.us).

### **3.12 Monitoring and Reporting Requirements**

For all loans funded with Housing Infrastructure Funding, monitoring activities are at Minnesota Housing's sole discretion and may include reviewing tenant incomes, rents, utility allowances, affirmative marketing, resident selection plans, financial reports, HMIS data, and financial summary, compilation, or audit information. In addition, projects financed by Minnesota Housing are subject to periodic management reviews and physical inspections.

An owner's certification of compliance and occupancy information on all units must be reported annually in the form and manner requested by Minnesota Housing.

The owner must lease assisted units to qualified households who certify their annual household income at initial occupancy on an [Initial Occupancy Statement by Tenant Form](#) (other, more detailed income certification forms may be acceptable). This form is used to help verify that households are qualified to occupy an assisted unit. Owners must also request (but cannot require) that qualified households complete a [Head of Household Demographic Information Form](#) which provides additional information for program evaluation.

Additionally, each adult member of a household occupying an assisted unit must sign and date a [Government Data Practices Act Disclosure Statement](#). This statement informs the tenant that their annual household income and other information will be reported to Minnesota Housing and may be reviewed by other governmental agencies. This is required for the administration and management of state or federal programs that provide housing for low- and moderate-income families.

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

#### **A. Permanent Supportive Housing**

Minnesota Housing requires owners and service providers of permanent supportive housing units to provide specific information beyond general funding reporting requirements. These include, but are not limited to, entering and reporting participant information in HMIS, reporting annually to Minnesota Housing on the operations of the property through an annual budget and financial review and a supportive housing annual online property survey, and periodic inspections by an asset manager or compliance officer that follows the schedule approved by the Minnesota Housing board for deferred loans or, if the loan is eligible for HTCs, the HTCs schedule. For a complete list of requirements, please contact the Minnesota Housing Supportive Housing Team at [supportive.housing@state.mn.us](mailto:supportive.housing@state.mn.us).



## Appendix A – Terms

Table 3: Terms and Definitions

Term	Definition
4% HTC	<p>4% Housing Tax Credits. These credits are not taken into account in the state’s annual credit ceiling, pursuant to Section 42(h)(4) of the IRC. Non-competitive HTCs that subsidize 30% of the low-income unit costs in a project. Multifamily housing projects qualify if Tax-Exempt Volume Limited Bonds finance at least the Required Bond Percentage of the aggregate basis of the building and land and are outstanding at least until the housing project’s placed-in-service date.</p> <p>Multifamily housing projects also must meet the requirements of the applicable year QAP.</p>
9% HTCs	<p>9% Housing Tax Credits. These credits are taken into account in the state’s annual credit ceiling, pursuant to Section 42(h)(1) of the IRC. Competitive HTCs that subsidize 70% of the low-income unit costs in a project. The total number allocated is limited by the state’s annual per capita volume limit.</p> <p>Multifamily housing projects also must meet the requirements of the applicable year QAP.</p>
Abandoned Property	<p>Property that: (1) has been substantially unoccupied or unused for any commercial or residential purpose for at least one year by a person with a legal or equitable right to occupy the property; (2) has not been maintained; and (3) for which taxes have not been paid for at least two previous years, as defined in <a href="#">section 117.025, subdivision 5</a>.</p>
Affordable to Local Workforce	<p>Statutory rent limit requiring that the rents to be affordable based on the wages of jobs being created or retained in the local area.</p>
Bond Tests Analysis	<p>The Microsoft Excel spreadsheet required for all applications eligible for HIBs that provides a preliminary analysis of several of the required tests that must be met for Tax-Exempt Volume Limited Bonds including the good cost/bad cost and 50% test for projects with a Bond issuance in 2025 or prior, or the required minimum percentage is 25%, if</p> <ol style="list-style-type: none"> <li>1. a project is placed in service after December 31, 2025, and</li> <li>2. at least 5% of the aggregate basis of the building and land is financed with bonds issued after December 31, 2025.</li> </ol>
CoC	<p>Continuum of Care. This is a local planning body that coordinates housing and services planning and funding for homeless families and individuals. The CoC tracks and manages the homeless needs and services in its area.</p>
Coordinated Entry System	<p>The system defined by the Statewide Coordinated Entry standards and protocol as adopted by the local CoC or such successor system as determined by Minnesota Housing.</p>

Term	Definition
FMR	Fair Market Rent. <a href="#">Fair Market Rent</a> are used to determine the amount of housing units (at least 20%) that have rents at or below FMR, to meet state law requirements for the issuance of Tax-Exempt Volume Limited Bonds.
Foreclosed Property	Residential property where foreclosure proceedings have been initiated or have been completed and title transferred or where title is transferred in lieu of foreclosure.
Greater Minnesota	The area which is not included in the Metropolitan Area.
HIAs	Housing Infrastructure Appropriations. Direct legislative appropriations (cash) that are made available to Minnesota Housing that may be used to fund loans and grants that conform to the provisions of Minnesota Statutes, Section 462A.37.
HIBs	Housing Infrastructure Bonds. These are special, limited obligation, Tax-Exempt Bonds issued by Minnesota Housing, the principal and interest on which are paid solely from appropriations to Minnesota Housing from the state general fund. Refer to the <a href="#">Housing Infrastructure Program</a> webpage for more information.
HMIS	Homeless Management Information System. This is a web-based information technology system used to collect client-level data on the provision of housing and services to individuals and families experiencing or at risk of homelessness.
Housing Infrastructure Funding	Collectively, HIAs and HIBs.
HPH Households	High Priority Homeless households prioritized for permanent supportive housing by the Coordinated Entry System.
HTCs	Housing Tax Credits. –The Housing Tax Credit Program offers investors a 10-year reduction in tax liability in exchange for capital to build eligible affordable rental housing units in new construction, rehabilitation, or acquisition with rehabilitation.
IRC	The Internal Revenue Code
Metropolitan Area	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.
Minnesota Housing	The Minnesota Housing Finance Agency.
Minnesota Management and Budget	The state of Minnesota department that administers the allocation of the Private Activity Bonds volume cap in accordance with the provisions of Minnesota Statutes, Chapter 474A.
Mortgage Credit Committee	A Minnesota Housing cross-divisional management group that approves credit analysis, ownership structures, and financing of projects for multifamily loans and related matters.

Term	Definition
MTSP	The HUD Multifamily Tax Subsidy Project limits for the county in which the property is located.
Multifamily Consolidated RFP/HTC Funding Round	The Multifamily Consolidated Request for Proposals/Housing Tax Credit Funding Round offered once a year which consolidates and coordinates multiple housing resources into one application process, including deferred loans and amortizing first mortgages.
Multifamily Underwriting Standards	The documents that The Underwriting Standards sets forth the standards and processes that Minnesota Housing will use to underwrite multifamily rental properties.
Municipal Bond/Bond/Bonds	A debt security issued by or on behalf of a state or its political subdivision, or an agency or instrumentality of a state, its political subdivision, or a municipal corporation. Municipal Bonds, for example, may be issued by states, cities, counties, special tax districts, or special agencies or authorities of state or local governments.
Other Homeless Households	Households, other than HPH Households, that include (i) individuals leaving institutions that do not have a permanent residence or (ii) other homeless populations not referred by the Coordinated Entry System.
Private Activity Bonds	A Municipal Bond issued to fund projects used by a non-governmental entity in its trade or business and secured by property used in a trade or business. Certain types of these obligations may qualify as Tax-Exempt Volume Limited Bonds and bear interest excludable from federal gross income.
Program Guide	This Housing Infrastructure Program Guide.
QAP	The Qualified Allocation Plan. Section 42 of the IRC requires that state allocating agencies develop a QAP for the distribution of HTCs within their jurisdiction. The current and proposed QAPs for each calendar year are available on Minnesota Housing's <a href="#">Qualified Allocation Plan (QAP)</a> webpage.
Replacement	New construction housing which replaces federally assisted units that will be demolished. Replacement housing units must be built on the same site or a contiguous site. For the purpose of this definition, sites across the street from one another will be considered contiguous. The contiguity requirement is not applicable for existing scattered site projects located on Tribal land.
Required Minimum Percentage	The percentage of aggregate basis of the building and land required by Section 42 to be financed by Tax-Exempt Volume Limited Bonds.
Section 142(d)	Section of the Internal Revenue Code that describes what constitutes a qualified residential rental project.
Section 42	Section of the Internal Revenue Code applicable to HTCs.

Term	Definition
Self-Scoring Worksheet	Sets the selection criteria and funding priorities that Minnesota Housing will use to prioritize applications requesting 4% HTCs, 9% HTCs, and/or deferred funds that are selected through the Multifamily Consolidated RFP/HTC Funding Round or on a pipeline basis for available financing that may be available throughout the year.
Senior	A person 55 years of age or older.
Senior Household	A household with one or more Senior members and with an annual combined income not greater than 50% of (1) the Metropolitan Area median income for persons in the Metropolitan Area; or (2) the statewide median income for persons outside the Metropolitan Area. For projects selected for funding in 2024 and after, the use of median income may be converted to MTSP income limits.
Senior Housing	Housing intended and operated for occupancy by Senior Households with at least 80% of the units occupied by Senior Households, and for which there is publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for Seniors. Senior Housing may be developed in conjunction with and as a distinct portion of mixed-income senior housing developments that use a variety of public or private financing sources.
Tax-Exempt Bonds	A Municipal Bond that bears interest excludible from federal gross income, and that may also not be subject to state or local income taxation.
Tax-Exempt Volume Limited Bonds	A Municipal Bond that must receive an allocation of a portion of the state's volume cap for the issuance of Private Activity Bonds under section 146 of the IRC in order to qualify as Tax-Exempt Bonds.
TEFRA	The Tax Equity and Fiscal Responsibility Act of 1982. Certain types of Private Activity Bonds, to qualify as Tax-Exempt Volume Limited Bonds, must be approved (TEFRA approval) either by an elected official or a body of elected officials of the applicable governmental entity after a public hearing (TEFRA hearing) following reasonable public notice (TEFRA notice) or by voter referendum of the governmental entity.
Tribally Designated Housing Entity	Entities that meet the requirements defined by United States Code, title 25, section 4103(22).
HUD	The United States Department of Housing and Urban Development.
Workbook	The Microsoft Excel spreadsheet used to apply for Minnesota Housing multifamily funding.

## **Appendix B – Legal Addendum**

### **1.01 Conflict and Control**

In the event of any conflict between the terms of this Addendum and the document to which it is attached, the terms of this Addendum will govern and control.

### **1.02 Fraud**

Fraud is any intentionally deceptive action, statement or omission made for personal gain or to damage another.

Any person or entity (including its employees and affiliates) that enters into a contract with Minnesota Housing and witnesses, discovers evidence of, receives a report from another source or has other reasonable basis to suspect that fraud or embezzlement has occurred must immediately make a report through one of the communication channels described in section 1.07.

### **1.03 Misuse of Funds**

A contracting party that receives funding from Minnesota Housing promises to use the funds to engage in certain activities or procure certain goods or services while Minnesota Housing agrees to provide funds to the recipient to pay for those activities, goods or services. Regardless of the Minnesota Housing program or funding source, the recipient must use Minnesota Housing funds as agreed, and the recipient must maintain appropriate documentation to prove that funds were used for the intended purpose(s).

A misuse of funds shall be deemed to have occurred when: (1) Minnesota Housing funds are not used as agreed by a recipient; or (2) a recipient cannot provide adequate documentation to establish that Minnesota Housing funds were used in accordance with the terms and conditions of the contract.

Any recipient (including its employees and affiliates) of Minnesota Housing funds that discovers evidence, receives a report from another source or has other reasonable basis to suspect that a misuse of funds has occurred must immediately make a report through one of the communication channels described in section 1.07.

### **1.04 Conflict of Interest**

A conflict of interest – Actual, Potential or Appearance of a Conflict of Interest – occurs when a person has an actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A Potential Conflict of Interest or Appearance of a Conflict of Interest exists even if no unethical, improper or illegal act results from it.

- **Actual Conflict of Interest:** An Actual Conflict of Interest occurs when a person's decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.
- **Potential Conflict of Interest:** A Potential Conflict of Interest may exist if a person has a relationship, affiliation or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations or interests.
- **Appearance of a Conflict of Interest:** The Appearance of a Conflict of Interest means any situation that would cause a reasonable person, with knowledge of the relevant facts, to question whether another person's personal interest, affiliation or relationship inappropriately influenced that person's action, even though there may be no Actual Conflict of Interest.

A conflict of interest includes any situation in which one's judgment, actions or non-action could be interpreted to be influenced by something that would benefit them directly or through indirect gain to a Partner, Family Member, Relative, Friend, Business or other Outside Interest with which they are involved. Such terms are defined below.

- **Business:** Any company, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages either in nonprofit or profit-making activities.
- **Family Member:** A person's current and former spouse; children, parents, and siblings; current and former children-in-law, parents-in-law, and siblings-in-law; current and former stepchildren and stepparents; grandchildren and grandparents; and members of the person's household.
- **Friend:** A person with whom the individual has an ongoing personal social relationship. "Friend" does not generally include a person with whom the relationship is primarily professional or primarily based on the person being a current or former colleague. "Friend" does not include mere acquaintances (that is, interactions are coincidental or relatively superficial). Social media friendships, connections, or links, by themselves, do not constitute friendship.
- **Outside Interest:** An Outside Interest may occur when an individual, their Family Member or their Partner has a connection to an organization via employment (current or prospective), has a financial interest or is an active participant.
- **Partner:** A person's romantic and domestic partners and outside Business partners.
- **Relative:** Uncle or aunt; first or second cousin; godparent; godchild; other person related by blood, marriage or legal action with whom the individual has a close personal relationship.

Once made aware of a conflict of interest, Minnesota Housing will make a determination before disbursing any further funds or processing an award Determinations could include

- Revising the contracting party's responsibilities to mitigate the conflict
- Allowing the contracting party to create firewalls that mitigate the conflict
- Asking the contracting party to submit an organizational conflict of interest mitigation plan

- Terminating the contracting party's participation

Any person or entity (including its employees and affiliates) that enters into a contract with Minnesota Housing must avoid and immediately disclose to Minnesota Housing any and all conflicts of interest through one of the communication channels described in section 1.07.

A contracting party should review its contract and request for proposals (RFP) material, if applicable, for further requirements.

## **1.05 Assistance to Employees and Affiliated Parties**

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

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

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

## **1.06 Suspension**

By entering into any contract with Minnesota Housing, a contracting party represents that the contracting party (including its employees or affiliates that will have direct control over the subject of the contract) has not been suspended from doing business with Minnesota Housing. Please refer to

Minnesota Housing’s website for a list of [suspended individuals and organizations](#) (Go to mnhousing.gov, scroll to the bottom of the screen and select Report Wrongdoing, then select Suspensions from the menu).

## 1.07 Disclosure and Reporting

Minnesota Housing promotes a “speak-up, see something, say something” culture whereby internal staff must immediately report instances of fraud, misuse of funds, conflicts of interest or other concerns without fear of retaliation through one of the communication channels listed below. External business partners (for example, administrators, grantees or borrowers) and the general public are strongly encouraged to report instances of fraud, misuse of funds, conflicts of interest or other concerns without fear of retaliation using these same communication channels.

- Minnesota Housing’s Chief Risk Officer at 651.296.7608 or 800.657.3769 or by email at [MHFA.ReportWrongdoing@state.mn.us](mailto:MHFA.ReportWrongdoing@state.mn.us);
- Any member Minnesota Housing’s [Servant Leadership Team](#), as denoted on Minnesota Housing’s current organizational chart (Go to mnhousing.gov, scroll to the bottom of the screen and select About Us, select Servant Leadership Team); or
- [Report Wrongdoing or Concerns \(mnhousing.gov\)](#) (Go to mnhousing.gov, scroll to the bottom of the screen and select Report Wrongdoing).

## 1.08 Electronic Signatures

Minnesota Housing will use and accept e-signatures on eligible program documents subject to all requirements set forth by state and federal law and consistent with Minnesota Housing policies and procedures. The use of e-signatures for eligible program documents is voluntary. Questions regarding which documents Minnesota Housing permits to be e-signed should be directed to Minnesota Housing staff.

## 1.09 Fair Housing Policy

It is the policy of Minnesota Housing to affirmatively further fair housing in all its programs so that individuals of similar income levels have equal access to Minnesota Housing programs, regardless of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, familial status, gender identity or sexual orientation.

Minnesota Housing’s fair housing policy incorporates the requirements of Title VI of the Civil Rights Act of 1968; the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendment Act of 1988; and the Minnesota Human Rights Act. Housing providers and other entities involved in real estate related transactions are expected to comply with the applicable statutes, regulations and related policy guidance. Housing providers should ensure that admissions, occupancy, marketing and operating procedures comply with non-discrimination requirements. Housing providers



and other entities involved in real-estate related transactions must comply with all non-discrimination requirements related to the provision of credit, as well as access to services.

In part, the Fair Housing Act and the Minnesota Human Rights Act make it unlawful, because of protected class status, to:

- Discriminate in the selection/acceptance of applicants in the rental of housing units;
- Discriminate in the making or purchasing of loans for purchasing, constructing or improving a dwelling, or in the terms and conditions of real-estate related transactions;
- Discriminate in the brokering or appraisal of residential property;
- Discriminate in terms, conditions or privileges of the rental of a dwelling unit or services or facilities;
- Discriminate in the extension of personal or commercial credit or in the requirements for obtaining credit;
- Engage in any conduct relating to the provision of housing that otherwise make unavailable or denies the rental of a dwelling unit;
- Make, print or publish (or cause to make, print or publish) notices, statements or advertisements that indicate preferences or limitations based on protected class status;
- Represent a dwelling is not available when it is in fact available;
- Refuse to grant a reasonable accommodation or a reasonable modification to a person with a disability;
- Deny access to, or membership or participation in, associations or other services organizations or facilities relating to the business of renting a dwelling or discriminate in the terms or conditions of membership or participation; or
- Engage in harassment or quid pro quo negotiations related to the rental of a dwelling unit.

Minnesota Housing has a commitment to affirmatively further fair housing for individuals with disabilities by promoting the accessibility requirements set out in the Fair Housing Act, which establish design and construction mandates for covered multifamily dwellings and requires those in the business of buying and selling dwellings to make reasonable accommodations and to allow persons with disabilities to make reasonable modifications.

Under certain circumstances, applicants will be required to submit an Affirmative Fair Housing Marketing Plan at the time of application, to update the plan regularly and to use affirmative fair housing marketing practices in soliciting renters, determining eligibility and concluding all transactions.

As a condition of funding through Minnesota Housing, housing providers are not permitted to refuse to lease a unit to, or discriminate against, a prospective resident solely because the prospective resident has a Housing Choice Voucher or other form of tenant-based rental assistance.

## 1.10 Minnesota Government Data Practices

Minnesota Housing, and any party entering into a contract with Minnesota Housing, must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by Minnesota Housing under the contract, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by the contracting party under the contract. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this section by either the contracting party or Minnesota Housing. If the contracting party receives a request to release the data referred to in this section, the contracting party must notify Minnesota Housing. Minnesota Housing will give the contracting party instructions concerning the release of the data to the requesting party before the data is released. The contracting party's response to the request shall comply with applicable law.

## 1.11 Prevailing Wage

Under certain circumstances, awards of Minnesota Housing funds may trigger state prevailing wage requirements under [Minnesota Statutes Chapter 177](#) or [Minnesota Statutes Section 116J.871](#). In broad terms, Minnesota Statutes Chapter 177 applies to an award of \$25,000 or greater for housing that is publicly owned. Minnesota Statutes Section 116J.871 applies to awards for non-publicly owned housing that meet the following conditions: (1) new housing construction (not rehabilitation of existing housing); (2) a single entity receives from Minnesota Housing \$200,000 or more of grant proceeds or \$500,000 of loan proceeds; or (3) allocations or awards of low-income housing tax credits, for which tax credits are used for multifamily housing projects consisting of more than ten units.

Minnesota Statutes Section 116J.871 sets out several exceptions to the applicability of prevailing wage including (1) rehabilitation of existing housing; (2) new housing construction in which total financial assistance at a single project site is less than \$100,000; and (3) financial assistance for the new construction of fully detached single-family affordable homeownership units for which the financial assistance covers no more than ten fully detached single-family affordable homeownership units.

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

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

All questions regarding state prevailing wages and compliance requirements should be directed to the Minnesota Department of Labor and Industry as follows:

Division of Labor Standards and Apprenticeship  
State Program Administrator

443 Lafayette Road N, St. Paul, MN 55155  
651.284.5091 or [dli.prevwage@state.mn.us](mailto:dli.prevwage@state.mn.us)

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

## Appendix C – Sample Organizational Charts

Figure 1: Original Structure of Seller (from Initial Closing-Date)

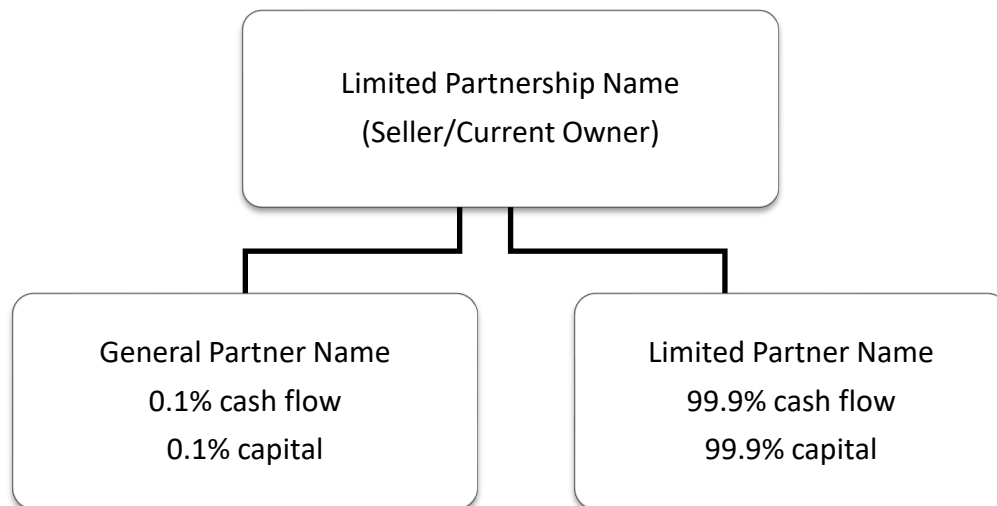


Figure 2: Structure of Seller Following Exit of Limited Partner (as of Date)

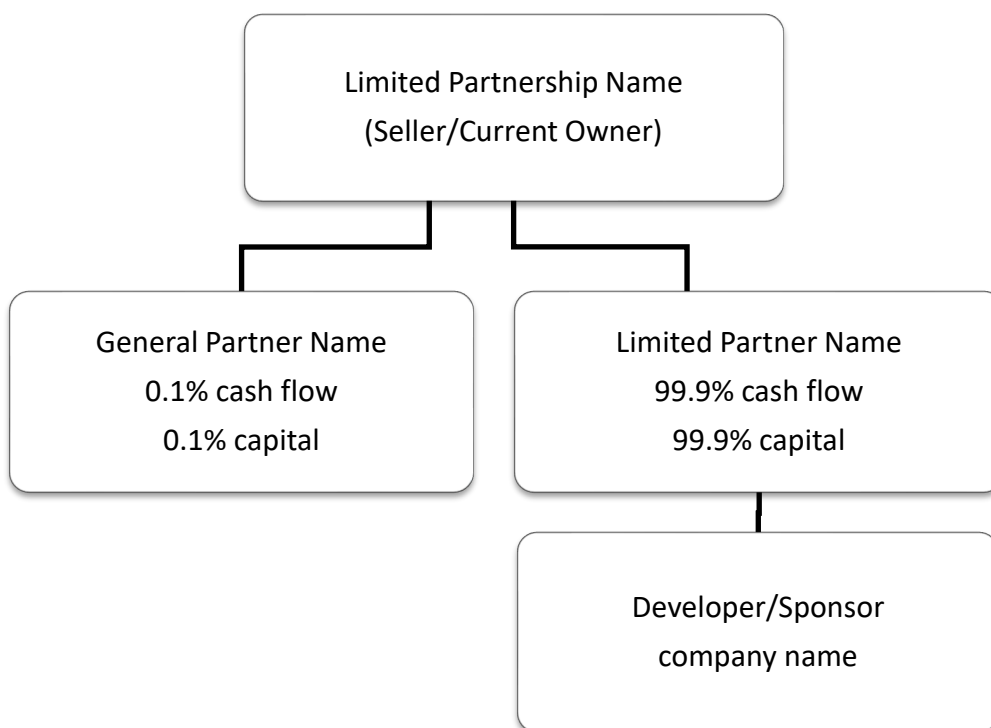


Figure 3: Structures as of Closing Date for Sale of Project

