

Multifamily HOME Investment Partnerships and National Housing Trust Fund Program

Compliance Guide

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This information will be made available in alternative format upon request.

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Contents

Values Statement 1

Introduction 2

Chapter 1 – Compliance Overview 4

1.01 Period of Affordability 4

1.02 Income and Rent Requirements 4

1.03 Student Eligibility Requirements – HOME Only 6

1.04 Updating Income and Rent Limits 6

1.05 Allowable Fees and Charges 6

1.06 Fixed or Floating Units 9

1.07 Rent Increases 9

1.08 Utility Allowances 10

1.09 Records Retention 14

1.10 Leases 14

1.11 Income Certification 14

1.12 Increases in Income 15

1.13 Property Standards 15

1.14 Fair Housing Policy and Affirmative Marketing 17

1.15 Community Housing Development Organizations – HOME Only 17

1.16 Community Housing Development Organization Fair Lease and Grievance Procedure – HOME Only 18

1.17 Violence Against Women Act 18

Chapter 2 – Maintaining the Unit Mix 20

2.01 Fixed Units 20

2.02 Floating Units 22

2.03 Rental Assistance 25
Chapter 3 – General Occupancy Guidelines 26
3.01 Tenant Selection Plan 26
3.02 Minimum Lease Requirements 27
3.03 Occupant Eligibility 27
3.04 Annual Recertification 29
3.05 Change in Household Composition 29
3.06 Tenant Income Certification Form 30
3.07 Government Data Practices Act Disclosure Statement Form 30
3.08 Annual Income 31
3.09 Exclusions from Annual Income 37
3.10 Annualized Income 42
3.11 Income from Assets 43
3.12 Household Asset Exclusions 46
3.13 Assets Owned Jointly 47
3.14 Instructions for Valuing Assets 48
3.15 General Income Verification Requirements 50
3.16 Determination of Income Using Other Means-Tested Public Assistance 53
3.17 Effective Term of Verification 55
3.18 Date Stamp 55
3.19 Electronic Signatures 55
3.20 Adjusted Gross Income for Over Income Households – HOME Only 55
3.21 Tenant Files 55
Chapter 4 – Owner Reporting Requirements 57
4.01 Annual Owner Certification 57

4.02 Compliance Report 57
Chapter 5 – Compliance Inspections 58
5.01 Physical Inspections 58
5.02 Review of Tenant Files and Property Records 59
5.03 Review of Ongoing Lead-Based Paint Maintenance (24 C.F.R. 35.1355) 59
Chapter 6 – Correction and Consequences of Noncompliance 60
6.01 Notice to Owner 60
6.02 Correction Period 60
6.03 Owner's Response 60
Chapter 7 – Loan Modification and Requests for Action 62
7.01 Sale or Transfer, Event of Default 62
7.02 Modifications and Other Servicing Requests 62
Chapter 8 – Financial Oversight 63
Appendix A – Legal Addendum 64
1.01 Conflict and Control 64
1.02 Fraud 64
1.03 Misuse of Funds 64
1.04 Conflict of Interest 64
1.05 Assistance to Employees and Affiliated Parties 67
1.06 Suspension 68
1.07 Disclosure and Reporting 68
1.08 Electronic Signatures 68
1.09 Fair Housing Policy 69
1.10 Minnesota Government Data Practices 70

Values Statement

Our vision is that all Minnesotans live and thrive in a stable, safe and accessible home they can afford in a community of their choice.

To achieve this vision, we will reorient how we work and expand who has a voice at the table and who participates in and benefits from our programs and the housing economy.

We acknowledge and understand the intentional harms of the past, how they came to be and persist today, and our responsibility to correct them and remove barriers.

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.

Introduction

Minnesota Housing has administered the HOME Investment Partnerships (HOME) Program, which includes HOME Targeted, HOME Rental Rehabilitation, and HOME Affordable Rental Preservation, since 1992 and the National Housing Trust Fund (NHTF) Program since 2016. Properties that have been developed using these funds are subject to specific rules designed to ensure that they remain affordable throughout the required period of affordability (also referred to herein as the effective period or compliance period). This guide is designed to assist owners and their agents to plan and maintain compliance with the regulatory requirements associated with the utilization of these funds in multifamily properties.

It is the responsibility of the Minnesota Housing Finance Agency (Minnesota Housing) to monitor the continuing compliance of units that have received HOME funds in accordance with the U.S. Department of Housing and Urban Development (HUD) regulations contained in Code of Federal Regulations, title 24, part 92, and for units that have received NHTF funds in accordance with NHTF regulations contained in 24 C.F.R. 93. It is also Minnesota Housing's responsibility to ensure that property owners retain the housing units as affordable throughout the period of affordability. The following procedures apply to all rental properties that have received funds under the HOME or NHTF program. Any violation of the requirements could result in acceleration of the repayment of funds.

Unless a provision is noted as "HOME Only" or "NHTF Only," all provisions of this guide apply to both programs. Noncompliance by the owner may result in serious financial consequences.

Successful operation of a HOME or NHTF funded property is management intensive; the owner is responsible for ensuring that the property is properly administered. Thorough understanding of program requirements and compliance monitoring procedures requires training of owners and managers. Owners should know and understand the requirements of the financing and the compliance requirements, as failure to comply may have very serious consequences. Minnesota Housing recommends owners, management agents and site managers receive compliance training before certifying or leasing any assisted units. At a minimum, training should cover key compliance terms, determination of rents, tenant eligibility, file documentation, procedures for maintaining the required unit mix, reporting and records retention requirements, property condition standards, ongoing lead-based paint maintenance, and site visits. Continuing education each year, or at a minimum every other year, is strongly recommended to keep up with regulatory and procedural changes. Minnesota Housing does not provide direct training; however, training resources from national or local trainers are posted on Minnesota Housing's website.

Minnesota Housing's obligation to monitor for compliance does not make Minnesota Housing liable for an owner's noncompliance.

This compliance guide has not been reviewed or approved by the HUD and should not be cited or relied upon for interpretation of federal regulations. This guide can be accessed on Minnesota Housing's Oversight and Support for Property Managers webpage.

For HOME, this guide should be used in conjunction with, and as a supplement to, 24 C.F.R. 92. If Minnesota Housing or HUD determines that any provision of this guide conflicts with 24 C.F.R. 92, 24 C.F.R. 92 will govern.

For NHTF, this guide should be used in conjunction with, and as a supplement to, 24 C.F.R. 93. If Minnesota Housing or HUD determines that any provision of this guide conflicts with 24 C.F.R. 93, 24 C.F.R. 93 will govern.

This guide may be superseded without notice by changes in income determinations under 24 C.F.R. 5 of the Section 8 Program and technical revisions in the HOME or NHTF Programs.

For more information, visit HUD's HOME Investment Partnerships Program webpage or HUD's Housing Trust Fund webpage.

This guide provides information related only to HOME and NHTF requirements. Properties may be subject to additional requirements due to other funding streams. Owners are responsible for complying with all applicable requirements.

Chapter 1 – Compliance Overview

The following is a summary of the requirements of the HOME and NHTF programs. It is not intended to be detailed or comprehensive.

1.01 Period of Affordability

HOME Only

HOME-assisted units are rent and income controlled for varying lengths of time depending upon the average amount of HOME funds invested per HOME-assisted unit. Rent limits and income targeting requirements must be maintained during the period of affordability, which begins at project completion (also sometimes referred to as the affordability period, effective period or compliance period). Owners will be required to keep the property in compliance with HOME restrictions for the number of years specified in the Affordability Period Certificate which is executed at the time of project completion.

Owners should also refer to the Declaration of Covenants, Conditions and Restrictions (Declaration) to determine the specific terms and conditions that govern their property.

NHTF Only

All NHTF-assisted units are subject to a 30-year affordability period, which begins at project completion. Rent and income requirements must be maintained during the entire period of affordability.

1.02 Income and Rent Requirements

HOME Only

Properties with five or more HOME-assisted units:

- Initial occupancy at project completion:
    - At least 90% of all HOME-assisted units must be initially occupied by families with annual gross incomes at or below 60% of the area median income with rents at or below the High HOME rent limits.
    - At least 20% of the HOME-assisted rental units must be initially occupied by families with annual gross incomes at or below 50% of the area median income with rents at or below the Low HOME rent limits unless a greater percentage is specified in the Declaration.

    - The remainder of the HOME-assisted rental units must be initially occupied by families with annual gross incomes at or below 80% of the area median income with rents at or below the High HOME rent limits.
- Subsequent to initial occupancy:
    - The minimum percent of the HOME-assisted units designated in the Declaration must continue to be occupied by families with annual gross incomes at or below 50% of area median income with rents at or below the Low HOME rent limit. The remaining HOME-assisted units must be occupied by families with annual gross incomes at or below 80% of the area median income with rents at or below the High HOME rent limit.

A project must have ten or more HOME-assisted units to qualify for any High Home units.

Properties with fewer than five HOME-assisted units:

- Initial occupancy at project completion:
    - All HOME-assisted units must be initially occupied by families with annual gross incomes at or below 60% of the area median income with rents at or below the High HOME rent limit.
- Subsequent to initial occupancy:
    - All HOME-assisted units must continue to be occupied by families with gross annual incomes at or below 80% of area median income, with rents at or below the High HOME rent limit.

On and after April 20, 2025, the rent limits do not apply to any rental assistance or subsidy payment provided under a Federal, State, or local rental assistance or subsidy program and Low HOME units paired with Housing Tax Credits (HTC) comply with Low HOME rent limits if rent does not exceed the applicable HTC rent limit.

NHTF Only

All NHTF-assisted units must be affordable to extremely low-income (ELI) renter households. ELI renter households mean low-income families whose annual incomes do not exceed 30% of the area median family income or the federal poverty line (whichever is greater), with adjustments for smaller and larger families, as determined by HUD.

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

1.03 Student Eligibility Requirements – HOME Only

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 C.F.R. 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.

In properties that are subject to the HOME student eligibility requirements, each applicant for or household member in a HOME-assisted unit who is age 18-23 (or under 18 and treated as Head, Co-head, or Spouse) must complete, sign and date an Annual Student Certification at move-in and then annually during the HOME Affordability period.

1.04 Updating Income and Rent Limits

Income and rent limits are updated and published by HUD on an annual basis. Minnesota Housing notifies owners and managers by email and posts the new limits on its website when they are released. In the event rent limits decrease for an area, or utility allowances increase, an owner may be required to reduce the rent charged but will not be required to lower rents below those in effect at the time of project commitment.

1.05 Allowable Fees and Charges

Owners may not charge fees that are not customarily charged in affordable rental housing (for example, laundry room, access fees); however, fees considered reasonable and customary may be charged, such as application fees and parking fees.

Permissible Fees

Owners may provide services other than housing. If the services are optional, the fee can be excluded from the gross rent computation. If the services are not optional, the fee must be included in the gross rent computation. A service is optional if payment for the service is not a required condition of occupancy. Note that owners may not require residents to participate in or receive supportive or other services as a condition of occupancy.

Reasonable and customary fees related to core functions of operating affordable housing properties, such as refundable damage/security and pet deposits are permissible. This includes refundable deposits for use of tenant facilities; for example, a refundable deposit for use of a community room is permissible and is not included in the gross rent computation.

Application fees may be charged to cover the actual out of pocket cost of checking a prospective tenant's income, credit history and landlord references. Out of pocket costs are amounts paid to a third party, not salaries of the owner or management company staff.

Permissible fees also include:

- Month-to-month lease
- Pet rent
- Renter's insurance
- Meal service
- Transaction fees or other charges associated with online rent payment systems

Any additional fee charged for a month-to-month lease must always be included in the gross rent calculation, even when a month-to-month lease is an option to a longer lease term. Pet rent, renter's insurance and meal services are considered rent when they are required as a condition of occupancy (actual amounts must be included). Transaction fees or charges associated with Walk-In Payment Systems (WIPS) or other online rent payment systems must be included in the gross rent calculation if the owner does not have another option for residents to pay rent that does not require a fee.

The following fees are also permissible (unless otherwise stated below, fees are limited to the average cost incurred by the owner or as limited by state or local law):

- Late rent fees
- Fees for repairs or extra cleaning costs for tenant-caused damage beyond normal wear and tear; limited to actual and reasonable cost
- Fees for maintenance completed by owners but normally required to be completed by households (for example, changing light bulbs, moving furniture); are permissible, but only if such rates are stated in the lease or a lease addendum
- Returned check/Insufficient funds (NSF) fees; permissible only on and after the second occurrence and only to the extent that the fee does not exceed the cost charged to the owner by the bank for processing the returned check
- Lockout fees
- Key replacement/extra key fees
- Fees for failure to return a key upon move-out
- Court filing, attorney, and sheriff fees; permissible only from tenants who wish to avoid or settle an eviction suit but only to the extent that such fees are permitted under state and local laws, appear reasonable, and do not exceed the actual costs incurred
- Extermination fees; permissible only if tenant is uncooperative
- Early lease termination fees; may not exceed two months' rent and release tenants from any further liability

    - Such fees are prohibited when a lease termination is due to a Violence Against Women Reauthorization Act of 2013 (VAWA) protection or reasonable accommodation request
- Payments for utilities under a Ratio Utility Billing System (also known as RUBS); permissible but are always considered rent (not a utility allowance)
    - RUBS is a formula that allocates a property's utility bill among its units based on the units' relative floor space, number of occupants, or some other quantitative measure, but not based on actual consumption; because monthly utility bills fluctuate, Minnesota Housing recommends owners establish a RUBS payment cap in the lease to avoid rent noncompliance
- Administrative fee; permissible only when owners provide certain utilities to tenants through actual consumption, submetering arrangements and must not exceed an aggregate amount per unit of the greater of (i) five dollars per month; (ii) an amount (if any) designated by publication in the Internal Revenue Bulletin (IRB); or (iii) the lesser of the amount (if any) specifically prescribed under state or local law or a maximum amount (if any) designated by publication in the IRB

It is permissible to charge first and last months' rent if the same is charged to all tenants.

Records demonstrating the costs associated with fees charged to tenants may be requested as part of a monitoring review.

Impermissible Fees

The following fees are not permissible and, if charged to a resident, will be treated as rent:

- Fees for the work involved in completing forms and documentation required to certify income
- A move-in fee that is not a refundable security deposit (this includes nonrefundable alternatives to security deposits such as security bonds or lease guarantees)
- An application fee that exceeds an owner's average expected out of pocket expense
- Decorating fees or fees for preparing a unit for occupancy; owners are responsible for physically maintaining units in a manner suitable for occupancy
- Mandatory professional carpet cleaning by departing residents
- Unit transfer fees unless the owner can clearly document that the fees cover owner's actual out of pocket costs and are not used for preparing a unit for occupancy
- Lease violation fines or other fees for unacceptable tenant or guest behavior
- Fees associated with utility submetering systems that are not part of the allowable administrative fee

Fees that exceed the limits described in the Permissible Fees section, above, are not permissible and will be treated as rent.

An owner may not charge a damage/security deposit, additional rent or fees associated with a service or therapy animal associated with a person with disabilities. If charged to a resident, such amounts must be immediately refunded or Minnesota Housing may report the owner/agent to HUD's Fair Housing and Equal Opportunity Enforcement division.

1.06 Fixed or Floating Units

Assisted units may be fixed or floating and are designated on a property-by-property basis. Fixed or floating units are designed at the time of project commitment in the written agreement, and the actual units must be identified no later than the time of project completion. The Declaration of Covenants, Conditions and Restrictions identifies fixed or floating unit designations.

- **Fixed Units:** Designated units are identified by unit number and never change. Units in properties where all units are assisted are automatically considered fixed. Fixed units remain the same throughout the period of affordability.
- **Floating Units:** Designated units may change over time as long as the total number of comparable units in the property remains constant. If a property's Declaration does not specify comparable floating units, then the units that were initially HOME or NHTF-qualified upon project completion will be used to determine comparable floating units.

Refer to Chapter 2 (Maintaining the Unit Mix) of this document for more information.

1.07 Rent Increases

The purpose of the HOME and NHTF programs is to keep units affordable. Minnesota Housing encourages owners to increase rents no more than what is needed to keep pace with rising costs and recognize that to promote housing stability, incremental increases are easier for residents to absorb than sudden significant increases.

As long as rents remain below the maximum allowed in each program, an owner may increase the lease rent no earlier than one year from the date the project was completed and no more frequently than annually thereafter, based on the date of the last rent increase. Projects with project-based rental assistance may increase rents in accordance with the rental assistance contract.

Beginning November 1, 2025, all rent increases require a minimum notice of 60-days. However, a rent increase greater than 5% is not effective unless and until owner provides 120-days' notice in writing to tenant. If owner fails to provide proper notice, owner must return or credit, at tenant's election, any amounts collected in connection with the ineffective rent increase. This requirement does not apply to residents benefitting from rental assistance or Housing Support unless such increase affects the tenant's portion of the rent.

Examples below assume current lease rent is $1000 with no rental assistance, that the increase complies with the once-annual requirement, that the increase is otherwise allowed under the terms of the lease, and that the increase does not cause the gross rent to exceed the applicable rent limit:

- In compliance: On July 1, 2025, owner provides notice of a rent increase to $1051, effective November 1, 2025. While the increase is more than 5%, owner has provided more than the minimum 120-day notice.
- In compliance: Owner provides a 60-day notice of a rent increase to $1030. Thirty dollars is 3% of $1000, so the 120-day notice is not required.
- In compliance: Owner provides a 60-day notice of a rent increase to $1050. Fifty dollars is 5% of $1000 so the 120-day notice is not required.
- Out of compliance: Owner provides a 60-day notice of a rent increase to $1051. The increase is more than 5%, but owner has not provided 120-day notice. To bring the unit into compliance, owner must decrease rent to $1050, provide the minimum 120-day notice to the resident, refund or credit the resident $1 for all months that were overcharged until the minimum 120-day notice period has been fulfilled. At that time, owner may begin charging the resident $1051 for rent.

1.08 Utility Allowances

HOME and NHTF statutes and regulations establish rent limits for assisted rental units. These are gross limits that include contract rent plus a utility allowance (UA) for tenant-paid utilities. Owners are required to establish maximum monthly allowances for utilities and services (excluding telephone and internet) and to update the UA annually. If all utilities are paid by the owner, the UA is zero.

- **NHTF Only:** For NHTF-assisted units, owners may use the UA for the Section 8 Housing Choice Voucher (HCV) program from the local housing and redevelopment authority or public housing agency (PHA) that administers HCVs in the area in which the property is located.
- **HOME Only:** Owners were NOT permitted to use the PHA's UA for HOME-assisted units if HOME funds were committed between August 23, 2013, and April 20, 2025. However, on or after April 20, 2025, owners may use the local PHA's UA.

The following methodologies may be used:

- The **UA for the Section 8 Housing Choice Voucher (HCV) Program** from the local housing and redevelopment authority or public housing agency (PHA) that administers HCVs in the area in which the property is located.
    - **HOME Only:** Owners were NOT permitted to use the PHA's UA for HOME-assisted units if HOME funds were committed between August 23, 2013, and April 19, 2025. However, on and after April 20, 2025, owners may use the local PHA's UA.

- **Average of Actual Consumption.** In 2015, HUD published Multifamily Notice H-2015-4 to provide instructions to owners of Section 8 and other HUD-assisted properties for completing the required utility analysis. This analysis is also used for the USDA Rural Housing Service Program and allowed for Low-income Housing Tax Credit (HTC) projects per IRS regulations at 26 C.F.R. 1.42-10(b)(3). Owners may use the methodology from the notice, including the required baseline utility analysis, the optional factor-based utility analysis, and the utility analysis sample size.
- **Utility Company Estimate** (26 C.F.R. 1.42-10(b)(4)(B)). Owners may establish a UA based on estimates obtained from a local utility company for each of the utilities used in the project. The estimate must be obtained in writing and must be based on the estimated cost of that utility for a unit of similar size and construction for the geographic area in which the building containing the unit is located.
- **Energy Consumption Model (ECM)** (26 C.F.R. 1.42-10(b)(4)(E)). Owners may establish a UA based on an energy and water and sewage consumption and analysis model. The model must at a minimum take into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, characteristics of the building location and available historical data. The utility consumption estimates must be calculated by a mechanical engineer properly licensed in the State of Minnesota or a Residential Energy Services Network (RESNET) certified Home Energy Rating System (HERS) rater. The engineer and building owner must not be related within the meaning of IRC section 267(b) or 707(b), to which the engineer and building owner must certify. The owner and engineer must also certify that the model complies with the minimum requirements described above. Use of the energy consumption model is limited to a building's consumption data and local rates for the 12-month period ending no earlier than 60 days prior to the effective date of the UA. In the case of new buildings with less than 12 months of consumption data, 12 months of data can be used for units of similar size and construction in the geographic area.
- **HUD Utility Schedule Model (HUSM).** This model can be found on HUD's Utility Allowances webpage. Utility rates using the HUD utility model must be no older than the rates in place 60 days prior to the beginning of the 90-day period before UAs can be used in determining the gross rent.

The initial UA approval will occur prior to loan closing. Once the method and allowances have been approved by Minnesota Housing, the owner must update the allowances annually using the approved method and current rate information.

It is the owner's responsibility to contact the appropriate organization to request current UA information. Minnesota Housing does not collect or maintain the various UAs. All costs incurred in obtaining a UA are the responsibility of the owner.

Failure to maintain or provide the UA and supporting documentation annually is considered noncompliance; without proof of the amount of the UA, there is no way to correctly compute the rent.

In addition, an incorrect UA calculation may result in noncompliance for rents that exceed the HOME or NHTF rent limits.

Depending on the unit types, an owner or manager could have buildings in the same development using different UAs (for example, townhouses and apartments may have different UA amounts).

Updated UAs must be used to compute rents that are due 90 days after the effective date of the new UAs. For new buildings, owners are not required to review or implement new UAs until a building has achieved 90% occupancy for a period of 90 consecutive days or the end of the first year of the period of affordability, whichever is earlier.

A completed Utility Allowance Information Form stating the proposed UA figures for each unit size must be completed for all UA types. Minnesota Housing will accept a copy of the UA as approved by the Section 8 Contract Administrator in lieu of completing the grid section of the UA Information Form.

If using the Average of Actual Consumption, source documentation must include a completed and signed Utility Allowance Certification Form and the required items as stated in Multifamily Notice H-2015-4.

If using ECM or HUSM, source documentation must include:

- Completed and signed Utility Allowance Certification Form
- Copy of owner's notice to residents and description of how residents were notified (for example, copy sent to each unit, posted in common areas and office); if the property is not yet occupied at the time the request is made, indicate when the property is expected to be occupied in the cover letter or email
- Rate information from applicable utility companies using currently published rates no older than 60 days from notice to residents and Minnesota Housing; highlight all applicable rates, riders, franchise fees, and other charges used to determine the UA
- One of the following:
    - Completed HUSM Excel file or report generated from HUD's online HUSM tool
    - ECM calculation methodology and workbook or report generated from the engineer's ECM system demonstrating that the applicable rates, tariffs, and taxes were applied within the modeling.
- Printout of applicable state and local tax rates from the Department of Revenue's Sales Tax Rate Calculator
- For individually metered utilities, a copy of a recent resident utility bill showing all rates and charges from each source; owners may need to require utility release authorization forms to obtain a copy of utility bills
- For individually metered utilities for new construction where there is no recent resident utility bill, evidence of who the utility supplier(s) will be and, if electric is part of the UA, evidence of whether electric lines are overhead or underground

For any submetered utilities either billed by the owner or the owner's third-party billing company, a signed Owner's Certification of Compliance with Utility Submetering Form, along with a copy of a recent utility bill from the utility supplier for each building's primary meter(s), a copy of a bill from the billing company to a resident for the same billing period, and a detailed description of how the charges on the resident's bill were calculated.

The utility rates charged to tenants in a sub-metered, rent-restricted unit must be limited to the utility company rates incurred by the building owners (or their agents). And, if building owners (or their agents) charge tenants a reasonable fee for the administrative costs of submetering, then the fee will not be considered gross rent. The fee must not exceed an aggregate amount per unit of the greater of (i) five dollars per month; (ii) an amount (if any) designated by publication in the Internal Revenue Bulletin (IRB); or (iii) the lesser of the amount (if any) specifically prescribed under state or local law or a maximum amount (if any) designated by publication in the IRB.

Any correction to the UA figures that results in a decrease to the UA after the resident notice is issued requires a new notice and will re-start the 90-day period. If utility rates have changed since the original notice was issued the new rates must be used.

Minnesota Housing will review and base its decision for approval or non-approval of the methodology and allowance figures on the completeness, quality and accuracy of information provided. Approval of the UA does not constitute a guarantee that the UA is correct. If at any time it is determined that a UA has been understated, and, therefore, some or all of the units are not rent restricted, owner will be required to make corrections.

The owner must also notify tenants of updated ECM, HUSM or Average of Actual Consumption UAs and make the data upon which the UA is calculated available for inspection by the tenants at the beginning of the 90-day period before the effective date. Records must be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling unit of the tenant, at the convenience of both the apartment owner and tenant. This is required for initial use of any of the three methods and for all annual updates. Any correction to the UA figures after the resident notice is issued requires a new notice and will re-start the 90-day period. Owners should check to see whether utility rates changed since the original notice was issued and incorporate new rates, if applicable.

Once the initial UA has been approved, the owner must update the allowance at least once during each calendar year, based on updated rate information, but submission to Minnesota Housing is not required. Utility allowance and source documentation will be reviewed as part of the inspection of administrative records.

1.09 Records Retention

Owners must retain project records for a minimum of five years beyond the property's required effective period. Tenant records, including income verifications, development rents, and unit inspections must be retained for the most recent five-year period, until five years after the effective period terminates.

Owners must maintain applicant and tenant information in a way to ensure confidentiality.

Owners must dispose of records in a manner that will prevent any unauthorized access to personal information (for example, shred).

1.10 Leases

Each lease must be in writing and include the legal name(s) of the parties to the agreement and all other occupants, a description of the unit to be rented, the term of the lease, the rental amount, the use of the premises, and the rights and obligations of the parties. The lease shall also inform the tenant that fraudulent statements are grounds for eviction and that the tenant could become subject to penalties available under federal law. The lease must be for a period of not less than one year, unless a shorter period is mutually agreed upon between owner and tenant. See section 3.02 (Minimum Lease Requirements) for additional details.

1.11 Income Certification

The owner must verify and certify tenant income eligibility at move-in and recertify at least annually thereafter. Every sixth year of the period of affordability, income and income from assets must be verified again. Tenants must certify to their anticipated income, family size and composition. Third party income verifications or other forms of supporting documentation must be obtained by the owner and kept on file. Tenant files will be reviewed as part of the inspection process.

For properties with existing tenants receiving funds for rehabilitation, owners may begin certifying tenant eligibility on or after the date of the written agreement. These initial certifications will precede the start of the period of affordability, but as long as the owner complies with requirements for annual recertification and applies the appropriate rules for increases in income at recertification to maintain the unit mix, the units will continue to be eligible at the start of the period of affordability.

Properties where HOME funds were committed on or after August 23, 2013, must also certify student eligibility at move-in and annually.

1.12 Increases in Income

HOME Only

The owner must ensure that any household whose recertified income increases above the HOME income eligibility guidelines pays not less than 30% of its *adjusted* monthly income for rent, or the owner may charge market rent. Refer to Chapter 2 (Maintaining the Unit Mix) of this document for more information on how to respond to increases in income for both fixed and floating units. The unit must be marketed to eligible tenants when vacated. Those properties with HTC need not adjust rent to 30% of the household's income if doing so would put the property out of compliance with the HTC program. Under this scenario, the household may only be charged rent equal to or less than the maximum allowable HTC rent.

NHTF Only

NHTF-assisted units continue to qualify as affordable housing despite temporary noncompliance caused by increases in the incomes of existing tenants if actions satisfactory to HUD are being taken. Refer to Chapter 2 (Maintaining the Unit Mix) of this document for more information on how to respond to increases in income for both fixed and floating units.

1.13 Property Standards

The owner must keep all units in compliance with pertinent state and local building codes to ensure the units are decent, safe, sanitary, and in good repair at all times. In addition, the standards used for HOME and NHTF physical inspections are the National Standards for the Physical Inspection of Real Estate (NSPIRE) which focuses on inside the building, outside the building and within the units to ensure that they are, "functionally adequate, operable, and free of health and safety hazards." Properties are not subject to NSPIRE's scoring protocol. However, noncompliance with any of the NSPIRE inspection standards is considered noncompliance for HOME and NHTF.

As described in NSPIRE standards, defect severity levels include the following characteristics:

- **Life-Threatening (LT):** The Life-Threatening category includes deficiencies that, if evident in the home or on the property, present a high risk of death to a resident. NSPIRE correction period is 24 hours.
- **Severe:** The Severe category includes deficiencies that, if evident in the home or on the property, present a high risk of permanent disability, or serious injury or illness, to a resident; or the physical security or safety of a resident or their property would be seriously compromised. NSPIRE correction period is 24 hours.
- **Moderate:** The Moderate health and safety category includes deficiencies that, if evident in the home or on the property, present a moderate risk of an adverse medical event requiring a healthcare visit; cause temporary harm; or if left untreated, cause or worsen a chronic

condition that may have long-lasting adverse health effects; or that the physical security or safety of a resident or their property could be compromised. NSPIRE correction period is 30 days.

- **Low:** Deficiencies critical to habitability but not presenting a substantive health or safety risk to resident. NSPIRE correction period is 60 days.

In addition, NSPIRE requires the following minimum Affirmative Habitability requirements (see exemptions for Single Room Occupancy in FR 07176):

- Hot and cold running water in both bathroom and kitchen, including adequate source of safe drinking water in the bathroom and kitchen
- Bathroom or sanitary facility that is in proper operating condition and usable in privacy that contains a sink, a bathtub or shower, and flushable toilet
- At least one battery-operated or hard-wired smoke detector
    - On each level of the unit
    - Inside each bedroom
    - Within 21’ of any door to a bedroom measured along a path of travel
    - Where a smoke detector installed outside a bedroom is separated from an adjacent area by a door, another smoke detector must also be installed on the living area side of the door
- Living room and kitchen area with a sink, cooking appliance, refrigerator, food preparation area, and food storage area
- For units with Housing Choice Vouchers or Project Based Vouchers, at least one bedroom or living/sleeping room for each two persons in the household
- State or local carbon monoxide detection standards are met
- Two working outlets or one working outlet and a permanent light within all habitable rooms
- Outlets within 6’ of a water source are GFCI protected
- A permanently installed heating source; units may not contain unvented space heaters that burn gas, oil, or kerosene
- A guardrail when there is an elevated walking surface drop off of 30” or more measured vertically
- Permanently mounted light fixture in the kitchen and each bath

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, owners must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Tenants must receive the federally approved Protect Your Family from Lead in Your Home pamphlet on lead poisoning prevention. This disclosure must be documented on HOME/NHTF Form 22 Lease Addendum. The HOME/NHTF Form 22 Lease Addendum is waived for units that receive project-based Section 8 assistance when the HUD Model Lease form is used.

1.14 Fair Housing Policy and Affirmative Marketing

Refer to section 1.09 of the Legal Addendum for Minnesota Housing's Fair Housing Policy and requirements of the Fair Housing Act and Minnesota Human Rights Act.

Owners of rental properties that contain five or more HOME- or NHTF-assisted units, regardless of the specific activity the HOME or NHTF funds financed (for example, acquisition, rehabilitation, and/or new construction) must develop and implement an Affirmative Fair Housing Marketing Plan in accordance with HUD and Minnesota Housing requirements. Owners must regularly review and update the plan and use affirmative fair housing marketing practices in soliciting renters, determining eligibility, and concluding all transactions. Affirmative marketing includes actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status (persons with children under 18 years of age, including pregnant women), or disability. A file must be maintained with all marketing efforts related to the property including newspaper ads, social service contacts, photos of signs posted, etc. Records will be reviewed for adequate documentation of compliance with federal requirements as part of the inspection.

Access Minnesota Housing's Fair Housing webpage for more information, including an online Affirmative Marketing Toolkit to assist in creating the AFHMP. Download the Equal Housing Opportunity logo.

1.15 Community Housing Development Organizations – HOME Only

All HOME program requirements are the same for Community Housing Development Organization (CHDO) projects as for other HOME programs. In addition, CHDOs must ensure that they continue to meet all pertinent guidelines specific to CHDOs, including the ownership requirements in 24 C.F.R. 92.300. Properties that are owned, developed or sponsored by CHDOs, must have a tenant participation plan to ensure that tenants are involved in the management and decision-making with respect to the property. CHDO properties must also have fair lease and grievance procedures.

Tenant participation in management decisions can be achieved in a number of ways. Two common options are:

- Involvement of a tenant association to act as a formal body to provide input for project management; or
- Tenant election of a representative to act as a liaison with management.

1.16 Community Housing Development Organization Fair Lease and Grievance Procedure – HOME Only

CHDOs must adhere to an approved fair lease and grievance procedure and provide a plan for, and follow a program of, tenant participation in management decisions. Fair lease and grievance procedures should be objective. They should clearly state each of the following items:

- To whom a tenant should direct a complaint
- Who will investigate and/or respond to the complaint
- By when the tenant should expect to receive a response

1.17 Violence Against Women Act

On November 16, 2016, HUD issued its final rule implementing housing protections authorized in the Violence Against Women Reauthorization Act of 2013 (VAWA). Unique monitoring and implementation dates apply to HOME and NHTF.

All HOME and NHTF projects must comply with the core statutory provisions of the law and must distribute each of the following forms to tenants:

- HUD Form 5380: Housing Rights for Victims (Notice of Occupancy Rights under the Violence Against Women Act)
- HUD Form 5382 (Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation)

These documents are to be provided:

- With the notice that an application has been denied;
- At the time the household is admitted;
- With any notice of eviction; and
- With any notice of termination of tenancy.

Existing residents were required to receive a copy of HUD form 5380 and form 5382 by December 15, 2017, during recertification, lease renewals or by other means.

Compliance with VAWA regulatory requirements under the final rule is required for HOME projects with funding commitments on or after December 16, 2016, and for all NHTF projects.

Minnesota Housing has created an external Emergency Transfer Plan, and owners must provide an internal Emergency Transfer Plan model (refer to HUD forms 5381 and 5383). The owner must follow Minnesota Housing's external Emergency Transfer Plan and adopt an internal Emergency Transfer Plan. The emergency transfer plan allows for survivors to move to another safe and available unit if they fear for their life and safety.

Owners must be familiar with the statutory and regulatory requirements that affect their developments and should consult with legal counsel as needed. Also refer to HUD Notice H 2017-05 (Violence Against Women Act (VAWA) Reauthorization Act of 2013 – Additional Guidance for Multifamily Owners and Management Agents) for valuable definitions and examples of how to fully implement VAWA protections.

Find VAWA forms 5380, 5381, 5382 and 5383 on HUDClips. Owner may customize the forms for use at their properties, but the modified forms must maintain the base information and language.

Chapter 2 – Maintaining the Unit Mix

Throughout this guide the terms High HOME Rent unit and High HOME unit; and Low HOME Rent unit and Low HOME unit are used interchangeably.

2.01 Fixed Units

HOME Only

Properties with **fixed HOME-assisted units** have specific units that are designated as HOME-assisted for the duration of the period of affordability. Owners must maintain these specific units as the HOME-assisted units. In a property with fixed HOME units, the designation of units as High HOME Rent units and Low HOME Rent units may need to change.

Maintaining the required number of HOME-assisted units, as well as High HOME Rent units and Low HOME Rent units, for properties with five or more HOME-assisted units is called complying with the **unit mix requirements.**

During the annual income recertification, owners may find that a household's income has increased. A household is considered **over-income** in the HOME Program when any of the following conditions are met:

- The household occupies a High or Low HOME Rent unit, and the household's income increases over the current HOME low-income limit (80% income limit) for that family size
- The household occupies a Low HOME Rent unit, and the household's income increases above the current very low-income limit but does not increase above the low-income limit; that is, the household income is above 50 and below 80% of area median income
- In HOME-assisted units that are also HTC units, the household's income increases to 140% or more of the qualifying tax credit income for that unit

When a household is over-income, the unit that the household occupies is considered **temporarily out of compliance** with HOME's occupancy and unit mix requirements. Temporary noncompliance due to an increase in an existing household's income is permissible as long as the owner takes specific steps to restore the correct occupancy and unit mix in the property as soon as possible. When the household's income exceeds the low-income limit, its rent must also be adjusted.

When an owner conducts the annual income recertification and finds that a household is over-income, the steps that it takes to restore compliance depend on whether the over-income household occupies a High HOME unit or a Low HOME unit. If the household occupies a Low HOME unit, the steps also depend on whether or not the tenant is low-income.

Over-Income Household Occupies a High HOME Rent Unit

If the over-income household occupies a High HOME Rent unit, the property is temporarily out of compliance until the unit is vacated and can be rented to another low-income household. The owner must raise the rent as soon as the lease permits, in accordance with the terms of the lease. The rent must be adjusted such that the household pays the lesser of:

- The rent amount payable under state or local law
- 30% of the tenant's monthly adjusted family income

If the unit is an HTC unit, the rent must be at or below the amount allowed by the tax credit program.

The owner cannot terminate the lease based on the household's increased income.

Over Very Low-Income Limit Household Occupies a Low HOME Rent Unit

If the household occupies a Low HOME Rent unit and its income increases over the very low-income limit, *but not over the low-income limit,* the property is temporarily out of compliance until either: (1) a High HOME unit can be re-designated as a Low HOME unit, or (2) the unit is vacated and can be rented to another very low-income tenant household.

The unit occupied by the over-income household retains its designation as Low HOME until another unit can be re-designated as Low HOME.

When a High HOME unit in the property vacates, regardless of bedroom size, the unit must be re-designated as a Low HOME unit and rented to a very low-income household, at no more than the Low HOME Rent. Once a new Low HOME unit has been designated, the Low HOME unit that is occupied by the over-income household must be re-designated as a High HOME unit. At this time, the owner can increase the tenant's rent up to the High HOME Rent limit, subject to terms of the lease.

Over Low-Income Limit Household Occupies a Low HOME Rent Unit

If the household occupies a Low HOME Rent unit and its income increases above the low-income limit, the property is temporarily out of compliance and will continue to be out of compliance until the over-income tenant moves out and another income-eligible tenant household moves in.

The owner must adjust the over-income household's rent as soon as the lease permits. The over-income tenant must pay the lesser of:

- The rent amount payable under state or local law
- 30% of the tenant's monthly adjusted family income

If the unit is an HTC unit, the rent must be at or below the amount allowed by the tax credit program.

The owner cannot terminate the lease based on the household's increased income.

When a High HOME unit becomes available, regardless of bedroom size, it must be re-designated as a Low HOME unit. This unit must be rented to a very low-income tenant, at no more than the Low HOME Rent limit. Then, the unit that is occupied by the over-income tenant must be re-designated as a High HOME unit. Even though the unit is re-designated a High HOME unit, the tenant is over the low-income limit, so the property continues to be temporarily out of compliance.

More than One Over-Income Household in the Property

If there is more than one over-income household in the property and both a Low HOME unit and High HOME unit are needed to restore unit mix compliance, the owner should restore compliance with the Low HOME unit first.

NHTF Only

Properties with **fixed NHTF-assisted units** have specific units that are designated as NHTF-assisted for the duration of the effective period. Owners must maintain these specific units as the NHTF-assisted units. When an owner conducts the annual income recertification and finds that a household is over-income, the unit will continue to qualify until the household vacates, at which time the unit must be rented to a NHTF-qualified household.

2.02 Floating Units

HOME Only

Properties with **floating HOME-assisted units** do not have specific units that are designated for the duration of the effective period. Instead, the total number of HOME-assisted and non-assisted units that are designated at the time of project commitment must stay the same throughout the effective period. The specific units that carry the HOME-assisted designations may change, or float, among comparable assisted and non-assisted units during this time. In a property with floating HOME units, unit mix is maintained by changing the unit designations when the next comparable unit becomes available. For example, if a property has an over-income tenant in a HOME-assisted unit, when the next non-assisted comparable unit becomes available, it is designated as HOME-assisted and rented to an income-eligible tenant. The unit occupied by the over-income tenant is re-designated as a non-assisted unit.

Maintaining the required number of comparable HOME-assisted units, as well as High HOME Rent units and Low HOME Rent units, for properties with five or more HOME-assisted units, is called complying with the **unit mix requirements.**

When recertifying a tenant's income, an owner may find that the tenant's income has increased. A tenant is considered **over-income** when any of the following conditions are met:

- The tenant occupies a HOME-assisted unit, and the household's income increases over the current HOME low-income limit for that family size
- The tenant occupies a Low HOME Rent unit, and the household's income increases above the current very low-income limit but is still below the low-income limit
- In HOME-assisted units that are also HTC units, the household's income increases to 140% or more of the qualifying tax credit income for that unit

When a tenant is over-income, the unit that the tenant occupies is considered **temporarily out of compliance** with HOME's occupancy and unit mix requirements. Temporary noncompliance due to an increase in an existing tenant's income is permissible as long as the owner takes specific steps to restore the required unit mix in the property. The rents of the over-income tenants can be adjusted.

When re-designating units in a property with floating HOME-assisted units, owners can choose to substitute a unit that is comparable to or larger than the original HOME-assisted unit, but generally cannot substitute one that is smaller. A smaller unit can be substituted only when doing so preserves the original unit mix. A larger unit is one that might be considered more preferable because of larger size, additional bedrooms or amenities. The goal is to maintain the same number and type of HOME-assisted units as were originally designated; therefore, if an owner substitutes a larger unit it can later substitute an available unit that is smaller, when applicable, in order to restore the original unit mix.

Over-Income Household Occupies a Floating High HOME Unit

If an over-income household occupies a floating High HOME unit, the owner must adjust the rent of the over-income household so that it pays 30% of its monthly adjusted income as rent. The rent adjustment must be made as soon as the lease permits and in accordance with the terms of the lease. Note that, unlike the rule for properties with fixed HOME-assisted units, in a property with floating HOME units, a household is not required to pay more than the market rent for a comparable, unassisted unit in the neighborhood.

The next vacant, comparable, non-assisted unit must be designated as a High HOME unit. A comparable unit is one that is equal or greater in terms of size, number of bedrooms, and amenities. The owner may not replace the unit with one that is smaller, unless doing so preserves the original unit mix. The newly designated High HOME unit must be rented to a household whose income does not exceed the low-income limit, at a rent that does not exceed the High HOME Rent limit.

Once a comparable non-assisted unit is designated the new High HOME Rent unit, the unit with the over-income household is re-designated as a non-assisted unit. At this point, the owner may adjust the household's rent without regard to the HOME rent requirements (although requirements from other funding sources may still apply). Rent increases are subject to the terms of the lease.

Over Very Low-Income Limit Household Occupies a Floating Low HOME Unit

If a household occupies a floating Low HOME unit and its income is above the very low-income limit, *but not over the is low-income limit,* the unit occupied by the over-income household keeps its designation as a Low HOME unit until a comparable unit can be substituted. The rent of the over-income household must not exceed the Low HOME rent limit while the unit is a Low HOME unit.

When the next High HOME unit in the property is vacated, it must be re-designated as a Low HOME unit and rented to a household whose income does not exceed the very low-income limit, at a rent that does not exceed the Low HOME Rent limit.

Once the new Low HOME unit is designated, the unit with the over-income household is re-designated as a High HOME unit. The household's rent may be adjusted to no more than the High HOME Rent limit, subject to the terms of the lease.

Over Low-Income Limit Household Occupies a Floating Low HOME Unit

If a household's income is above the low-income limit and it occupies a floating Low HOME unit, the next vacant, comparable, non-assisted unit must be designated as a Low HOME unit and rented to a household whose income does not exceed the very low-income limit, at a rent that does not exceed the Low HOME Rent limit.

Until a comparable Low HOME unit is designated, the unit that is occupied by the over-income household is considered a Low HOME unit that is temporarily out of compliance.

The rent of the over-income household in the original Low HOME unit must be adjusted as soon as the lease permits, and in accordance with the terms of the lease.

- Until a comparable Low HOME unit is substituted, the over-income tenant must pay 30% of the household's monthly adjusted income as rent.
- After a comparable Low HOME unit is substituted, the unit with the over-income household is re-designated as a non-assisted unit. The owner may adjust the household's rent without regard to the HOME restrictions. Rent increases are subject to the terms of the lease.

A household in a floating HOME unit whose income exceeds the low-income limit is not required to pay more than the market rent for a comparable, unassisted unit in the neighborhood.

More than One Over-Income Household in the Property

If there is more than one over-income tenant in the property and both a Low HOME unit and High HOME unit are needed to restore unit mix compliance, the owner should restore compliance with the Low HOME unit first.

NHTF Only

Properties with **floating NHTF-assisted units** do not have specific units that are designated for the duration of the effective period. Instead, the total number of NHTF-assisted and non-assisted units that are designated at the time of project commitment must stay the same throughout the effective period. The specific units that carry the NHTF-assisted designations may change, or float, among comparable assisted and non-assisted units during this time. In a property with floating units, unit mix is maintained by changing the unit designations when the next comparable unit becomes available. For example, if the recertified income of an NHTF-assisted household exceeds the allowable NHTF income limit, the unit will continue to qualify until a comparable vacant unit (comparable in size, features and number of bedrooms) is rented to an NHTF-qualified household. Once the unit is replaced, the over income unit is no longer treated as an NHTF unit.

When re-designating units in a property with floating NHTF-assisted units, owners can choose to substitute a unit that is equal to or greater than the original NHTF-assisted unit, but generally they cannot substitute one that is lesser. A lesser unit can be substituted only when doing so preserves the original unit mix. A greater unit is one that might be considered more preferable because of larger size, additional bedrooms, or amenities. The goal is to maintain the same number and type of assisted units as were originally designated; therefore, if an owner makes a substitution that is greater, it can later substitute an available unit that is lesser in order to restore the original unit mix.

2.03 Rental Assistance

Households receiving rental assistance, including a Section 8 subsidy, must not be refused tenancy in a HOME- or NHTF-assisted unit based solely on the fact that they receive rental assistance. Any rent charged must be comparable to units not receiving rental assistance (for example, if the owner charges less than the maximum HOME or NHTF rent for non-voucher holders, it cannot charge a higher rent to voucher holders).

Rents for NHTF-assisted units with tenants benefitting from project-based or tenant-based Section 8 rental assistance or similar state or federal rental assistance may exceed the applicable rent limit for the unit. Beginning April 20, 2025, the same is true for HOME-assisted units.

Chapter 3 – General Occupancy Guidelines

3.01 Tenant Selection Plan

Owners must develop a formal written policy that clearly states the procedures and criteria the owner will consistently apply in drawing applicants from the waiting list, screening for suitability for tenancy, and implementing income targeting requirements. The Tenant Selection Plan (TSP) must state whether there are any restrictions or preferences in the admission of tenants.

TSP's must provide for selection of qualified applicants from a written waiting list in the chronological order of their application, insofar as is practicable. If the TSP has preferences, the selection from the list of preferences must also be in chronological order of their application, insofar as is practicable.

There is no federal regulation governing the number of persons allowed to occupy a unit based on size; however, there may be local ordinances regarding unit occupancy. It is important, though, to be consistent when accepting or rejecting applications. It is recommended that the owner determine the minimum and maximum number of people that will be allowed to occupy each size unit and put that formula in writing as part of the TSP.

On April 4, 2016, HUD's Office of General Counsel issued guidance on criminal background screening, focusing attention on the ways in which even well-intentioned tenant selection policies can act as tools of exclusion. This guidance applied to all housing providers, including owners and managers of HOME and NHTF properties. In response, Minnesota Housing prepared Tenant Selection Plan (TSP) Guidelines that identify best practices for TSPs. The TSP guidance is recommended for all properties but is required for all projects selected for HOME or NHTF funding after March 31, 2021. The document reflects the agency's consideration of best practices, along with special factors affecting supportive housing programs. Note that various funding sources and jurisdictions may impose other TSP requirements. Owners and managers should consult with an attorney to ensure the TSP complies with program requirements, the Fair Housing Act, and the Minnesota Human Rights Act.

Owners may not inquire about the sexual orientation or gender identity of an applicant or occupant of HUD assisted housing for the purpose of determining eligibility or continued occupancy. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity. This prohibition on inquiries does not prohibit lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms.

In accordance with the Violence Against Women Reauthorization Act of 2013, the selection criteria cannot deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant or tenant otherwise qualifies for admission.

Owners may refer to the HUD Handbook 4350.3 REV 1, Change 4, Chapter 4, on developing a TSP. Minnesota Housing may review the TSP as part of its inspection procedure.

3.02 Minimum Lease Requirements

Tenant leases, including a signed and dated Minnesota Housing HOME/NHTF lease addendum (HOME/NHTF Form 22), must be on file (HOME/NHTF Form 22 is waived for units that receive project-based Section 8 assistance when the HUD Model Lease form is used), and must specify a term of at least one year, unless by mutual consent the owner and the tenant agree to a lesser term. Leases must not contain any of the prohibited lease terms as stated in section 92.253 of the Final HOME Rule or section 93.303 of the Interim NHTF Rule. Any non-renewal or termination of leases must be in accordance with the lease and/or lease addendum. For HOME projects with a commitment date of December 16, 2016 and later, and for all NHTF projects, the lease must also incorporate HUD form 91067, Violence Against Women Act (VAWA) lease addendum. In addition, beginning with new leases and lease renewals effective November 1, 2025, and later, owners must also include the Minnesota Housing Attachment to Lease Addendum (not required for units with project-based Section 8 using the HUD model lease).

The owner must comply with HOME requirements on evictions as well as state law regarding eviction procedures. There must be a written notice that gives a household 30 days to vacate its unit, regardless of whether the household has violated the law or lease terms, except in cases of a direct threat to the safety of tenants or employees or an imminent and serious threat to the property. NHTF rules state that owners must serve written notice upon the tenant specifying the grounds for the action and provide a specific period for vacating consistent with state or local law.

Under the HOME and NHTF Programs, tenancy may be terminated only for:

- Serious or repeated violation of the material terms and conditions of the lease
- Violation of applicable federal, state, or local law
- Completion of the tenancy period for transitional housing (HOME only)
- Other good cause (good cause does not include an increase in the tenant's income)

3.03 Occupant Eligibility

It is the owner's responsibility to select and rent to qualified households. Minnesota Housing will not qualify or approve applicants for eligibility.

Applicants for assisted units should be advised early in the application process of the maximum income limits that apply. Management should explain to all applicants that the anticipated income of all family members must be disclosed and verified. For properties where HOME funds were committed on or after August 23, 2013, the HOME Program has adopted the Section 8 Housing Choice Voucher Program restrictions on student participation found at 24 C.F.R. 5.612, which exclude any student that is

enrolled in a higher education institution, unless that student is an Independent Student as defined in the Higher Education Act or has parents who, individually or jointly, are eligible on the basis of income.

Initial Eligibility Determination

Before approving a household for occupancy, owners must determine that the household will cause the unit to be a qualifying unit. The qualification process has three phases:

1. **Application and disclosure of household composition, student status, income and assets:** A detailed application is critical to determining eligibility and is considered supporting documentation to the Tenant Income Certification (TIC). Minnesota Housing's Sworn Statement of Income and Assets form is designed to collect the necessary information. Owners may collect additional information for screening purposes according to their tenant selection plan. Where applicable, the HOME Annual Student Certification should be completed during the application process.
2. **Verification:** The owner must verify all sources of income and assets following HUD's order of acceptability. Owners may accept a Self-Certification of Assets in lieu of third-party verifications if combined net family assets do not exceed the applicable HUD-published amount of net assets for which the owner may accept self-certification. HUD adjusts this amount annually based on inflation; refer to HUD'S Annual Inflationary Adjustments and Passbook Rate webpage for the current figure.
3. **Certification:** After all verifications are received and any applicable follow-up conducted, the owner must calculate income and income from assets based on information provided on the verification forms and complete the TIC.

Noncompliance due to Late Certification

An initial TIC that is not fully completed on or before the date a household moves into a unit causes a fixed HOME or NHTF unit to be out of compliance and cannot be considered a HOME or NHTF unit in a property with floating units. This includes supporting documentation in the form of the household's income and asset disclosure, all required verifications, signed and dated TIC and Annual Student Certification. The unit is out of compliance for over income, from the move-in date to the last signature on the TIC and/or student certification. However, if an applicant is unable to timely sign the TIC due to extenuating circumstances beyond their control, the owner must document the attempts to obtain signature, the reason for the delay and the plan for how and when the proper signature will be provided in the tenant file. If the tenant file contains such documentation a "true and correct as of" statement is unnecessary when the tenant does sign. Failure to follow-up with the tenant to obtain the signature when indicated in the documentation may result in noncompliance.

3.04 Annual Recertification

All households occupying a HOME- or NHTF-assisted unit must be recertified at least annually. Annual income recertifications and annual student certifications must be effective on or before the anniversary date of the previous certification. Owners may align recertification dates with other program certifications or recertify all households at one time during the year. However, if a period of 12 months passes without a recertification being completed for any HOME- or NHTF-assisted unit, the unit is considered out of compliance.

Income and assets must be verified every sixth year of the period of affordability. A self-certification of income and income from assets is acceptable in intervening years. Self-certification includes the income and asset disclosure and a properly signed and dated Tenant Income Certification Form. Owners must carefully track the start date of years six, 12, 18, 24, and 30 (based on the anniversary of the start of the affordability period) so that third-party verification is conducted in these years.

3.05 Change in Household Composition

If a household in an assisted unit later wishes to have an additional person move into the unit, the following steps must be taken prior to occupancy:

1. The prospective tenant must complete a Sworn Statement of Income and Assets and allow for verification of income and assets as required of the initial tenant.
2. The prospective tenant's income must be added to the current tenant's most recent certification or recertification and a determination must be made as to whether the household is still within the HOME or NHTF income guidelines. This new certification is reported in PORT as an Other Cert. The effective date of the Other Cert is the date the new household member moves in.
3. In HOME-assisted only units, if the anticipated household income exceeds the guidelines, then once the current lease expires and proper notice is given, the household must pay the lesser of 30% of its *adjusted* income for rent up to the maximum HTC rent if the unit is also an HTC unit, or the rent amount payable under state or local law. If the unit is floating, the new rent cannot exceed market rent for a comparable unassisted unit.
4. For properties with HOME commitments on or after August 23, 2013, the prospective tenant cannot be an ineligible student as described in Chapter 1, section 1.03 (Student Eligibility Requirements – HOME Only) of this document. Prospective tenants age 18-23 must complete the HOME Program Annual Student Certification.

Minnesota Housing strongly recommends owners apply the same screening criteria as any new move-in (for example, credit check, landlord reference) prior to allowing a new member to occupy a unit and to add them to the lease at the time they move in.

It is not necessary to perform a certification when a household member vacates the unit, but owners should document the tenant file so it contains accurate occupancy information.

3.06 Tenant Income Certification Form

The TIC form is used to certify a project's eligible households. The TIC is a legal document that, when fully executed, certifies the tenant is qualified to live in a HOME or NHTF unit and that the information is complete, true, and correct and that no false or misleading information has been provided. The TIC must be signed and dated by all family members over age 18 (and by any members under age 18 who are treated as adults because they are the head of household, co-head or spouse). The owner representative must also sign and date the TIC to certify that the household is qualified for the low-income unit, and the rent complies with the rent limit. For these reasons the effective date cannot be earlier than the last signature date on the TIC form.

Supporting documentation (application/sworn income and asset statement, income verifications, asset verifications, student certification, clarification records, etc.) is considered part of the TIC and must be included in each tenant file. An Income and Asset Calculation Worksheet form can be used to assist in showing the individual calculations of income and asset income. This is highly recommended and will greatly assist an inspector during a file review.

3.07 Government Data Practices Act Disclosure Statement Form

Owners will create, collect, receive, store, use, maintain, and/or disseminate tenant data subject to applicable data privacy laws and regulations, including the Minnesota Government Data Practices Act (MGDPA). As the monitoring agency, Minnesota Housing must review such tenant data.

To comply with MGDPA and other applicable law, Minnesota Housing requires that owners collect a signed and dated Government Data Practices Act Disclosure Statement form for all assisted units. Note that the Government Data Practices Act Disclosure Statement form is *not* a release authorization for verification of income and assets and must not be used as such. The property name and each adult family member’s name must be printed clearly at the top in the boxes provided. An unsigned and/or undated form is not valid and will be noted at the time of file inspection.

- The form may be signed one time and is valid for as long as the family lives at the property. If a family moves from one unit to another, the original signed and dated form should be moved to the file for the new unit. A copy should be kept in the file for the old unit.
- A valid form *must* include all relevant attachments. Some properties or units within a property may require two or more attachments for multiple programs. Each attachment contains Part A, which is data that must be disclosed as a condition of occupancy for the program(s) listed on the attachment, and Part B, which is data that is requested but is not a condition of occupancy.
- The head of household, spouse, co-head, and all family members over the age of 18 must sign and date the form.

- If an adult is added later or a minor reaches age 18, they can add their name, signature and date to the existing form or complete a new form.
- A copy must be made available to the applicant/tenant. It is acceptable to provide an unsigned copy.
- For new applicants, provide the form with the initial application packet.

3.08 Annual Income

Minnesota Housing' HOME and NHTF Programs use HUD's definition of annual income as contained in the U.S. Housing Act of 1937 as amended.

Annual income corresponds to gross income, with no adjustments (deductions) for child-care, medical expenses, dependents, etc.

For certifications and recertifications effective before the date HUD requires full Housing Opportunities Through Modernization Act (HOTMA) implementation, refer to HUD Handbook 4350.3 for a complete listing and discussion of earned/unearned income and asset income.

For certifications and recertifications effective on or after the date HUD requires full HOTMA implementation, refer to HUD Notice 2023-10 and this guide. Attachment F to Notice 2023-10 defines annual income to include all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income does not include amounts specifically excluded in paragraph (b) of 24 C.F.R. 5.609.

Factors that Affect Household Size for Income Limits

When determining family size for establishing income eligibility, the owner must include all persons living in the unit except the following:

- **Foster adult:** defined as a member of the household who is 18 years or older and meets the definition of foster adult under state law.
- **Foster child:** defined as a member of the household who meets the definition of foster child under state law.
- **Live-in aide/attendant (live-in aide):** a live-in aide is a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who meets each of the following requirements:
    - Is determined to be essential to the care and well-being of the person(s)
    - Is not obligated for the support of the person(s)
    - Would not be living in the unit except to provide the necessary supportive services

Change 4 to HUD Handbook 4350.3, published in 2013, required that foster adults and foster children be counted as household members for both income and occupancy purposes. With the implementation of HOTMA, foster adults and foster children are no longer considered in family size for income purposes but must be considered for unit size purposes.

A live-in aide qualifies for occupancy as a non-family member only as long as the individual needing supportive services requires the live-in aide's services and remains a tenant. The live-in aide will not qualify for continued occupancy as a remaining family member. Owners must obtain verification from the person's physician, psychiatrist or other medical practitioner or health care provider that the live-in aide is needed to provide the necessary supportive services essential to the care and well-being of the person and should not add the attendant to the lease. The owner may not require applicants or tenants to provide access to confidential medical records or to submit to a physical examination. While a relative may be a live-in aide they must meet the above requirements or they must be treated as a family member and their income must be included.

When determining family size for income limits, the owner must include the following individuals who are not living in the unit:

- Children temporarily absent due to placement in a foster home
- Children in joint custody arrangements who are present in the household 50% or more of the time
    - If disputed, determine which parent claimed the children as dependents for purposes of filing a federal income tax return.
- Children who are away at school but who live with the family during school recesses
- Unborn children of pregnant women
    - When a pregnant woman is an applicant, the unborn child is included in the size of the household and may be included for purposes of determining the maximum allowable income. The rental application should ask the following question: "Will there be any changes in household composition within the next 12-month period?" If an applicant answers that a child is expected, the manager should explain to the tenant that to count the child as an additional household member and use the corresponding income limit, a self-certification of pregnancy must be provided.
- Children who are in the process of being adopted
- Temporarily absent family members who are still considered family members
    - For example, the owner may consider a family member who is working in another state on assignment to be temporarily absent. Persons on active military duty are considered temporarily absent (except if the person is not the head, co-head or spouse or has no dependents living in the unit). If the person on active military duty is the head, co-head, or spouse, or if the spouse or dependents of the person on active military duty resides in the unit, that person's income must be counted in full.

- Family members in the hospital or at a rehabilitation facility for periods of limited or fixed duration; these persons are temporarily absent as defined above
- Persons permanently confined to a hospital or nursing home
    - The family decides if such persons are included when determining family size for income limits. If such persons are included, they must be listed on the TIC as, "other adult family member." If the family chooses to include the permanently confined person as a member of the household, the owner must include income received by these persons in calculating family income.

Deployment of Military Personnel to Active Duty

Owners are encouraged to accommodate the unique circumstances of households where a member is called to active duty in the Armed Forces. Specific actions that an owner can take and remain in compliance include, but are not limited to:

- Allowing a guardian to move into the low-income unit on a temporary basis to provide care for any dependents the military person leaves in the unit. The guardian's income is not included in the household's income.
- Allowing a tenant living in a low-income unit to provide care for any dependents of persons called to active duty in the Armed Forces on a temporary basis as long as the head and/or co-head of the household continues to serve in active duty. Income of the dependent (for example, Supplemental Security Income [SSI] benefits, military benefits) is not included in the household's income.
- Allowing leases to remain in effect for a reasonable period without recertification (if required) depending on the length of deployment beyond that required by the Soldiers' and Sailors' Civil Relief Act of 1940, U.S. Code, title 50, section 501-591, even though the adult members of the military family are temporarily absent from the unit.

Annual Income

Annual income has two components: earned/unearned income and asset income.

Earned/Unearned Income + Income from Assets = Annual Income

If a particular type of income is not specifically mentioned as being excluded, then it is included in annual income. The following are examples of income that are included:

- The gross amount (before any payroll deductions) of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation for personal services of all adults in the household (including persons under the age of 18 who are the head, spouse or co-head)
- Net income, salaries, and other amounts distributed from a business; this includes salaries received from a family-owned business

- The gross amount (before any deductions for Medicare, etc.) of periodic Social Security payments; include payments received by adults on behalf of individuals under the age of 18, or by individuals under the age of 18 for their own support
- The full amount of periodic amounts received from annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts (for example, Black Lung Sick Benefits, Veterans Disability, Dependent Indemnity Compensation [widow of killed in action serviceman]); the withdrawal of cash or assets from an investment received as periodic payments is counted as income
- Delayed periodic payments received because of delays in processing unemployment, welfare, or other benefits
- Payments in lieu of earnings, such as unemployment and disability compensation, and severance pay
- Recurring Monetary or Non-monetary Contributions or Gifts Regularly Received from Persons not Living in the Unit; these sources may include rent, utility, and other payments paid on behalf of the household, and other cash or noncash contributions provided on a regular basis
- All regular pay, special pay, and allowances of a member of the Armed Forces
    - Note that until January 1, 2012, Basic Pay Allowance for housing is disregarded for properties located in a county that contains a qualified military installation to which the number of members assigned to units based out of the military installation as of June 1, 2008, has increased by 20% or more from December 31, 2005; this applies to the county that contains the military installation (a qualified military installation is a military installation or facility with 1,000 or more members as of June 1, 2008) and also to adjacent counties.
- Welfare Assistance
- Alimony and Child Support; alimony or child support paid by a member of the household is not deducted from income, even if it is garnished from wages

Student Financial Assistance

Prior to HOTMA, all forms of student financial assistance (grants, scholarships, educational entitlements, work study programs, Bureau of Indian Affairs student assistance programs, and financial aid packages) were excluded from annual income except for students receiving Section 8 assistance. For students receiving Section 8 assistance, all financial assistance a student received, 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 and any other required fees and charges (refer to HUD Notice H2015-12) was included in annual income except if the student was over the age of 23 with dependent children or living with parents receiving Section 8 assistance.

The primary difference between the Section 8 and HOTMA student assistance approaches are how the Higher Education Act of 1965 (HEA) assistance and money from private sources (such as parents and

grandparents) are counted. Under HOTMA, HEA assistance is not counted as income, and money from private sources is gift income, not student financial assistance.

Income from Student Financial Assistance

The treatment of student financial assistance depends on the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

The two types of student financial assistance applicable to HUD programs are described below:

1. **Amounts received under section 479B of the Higher Education Act (HEA) of 1965, as amended.** Section 479B of the HEA provides that certain types of student financial assistance are to be excluded in determining eligibility for benefits made available through federal, state, or local programs financed with federal funds. The list below of 479B programs was last updated as of July 1, 2024, and may not be exhaustive:
    - Federal Pell Grants
    - Federal TRIO and early outreach/student services programs
    - Gaining Early Awareness and Readiness for Undergraduate (GEAR UP) programs
    - Model Program grants (Community Partnership and Counseling Grants)
    - National Student Savings Demonstration grants
    - Federal Supplemental Educational Opportunity Grants (FSEOG)
    - Leveraging Educational Assistance Partnership grants
    - Special programs for migrant/seasonal farmworker families
    - Robert C. Byrd Honors Scholarships
    - Childcare Access Means Parents in School (CAPS) grants
    - TEACH Grants
    - Scholarships for veteran's dependents
    - Federal Family Education Loan (FFEL) programs
    - Federal Work-Study
    - William D. Ford Federal Direct Loans
    - Federal Perkins Loans
    - HEA Relief Opportunities for Students (HEROES Act adjustments)
    - Higher Education Tribal Grant (formerly under the Bureau of Indian Affairs)
    - Tribally Controlled Colleges or Universities Grant Program
    - Workforce Innovation and Opportunity Act (WIOA) section 134 employment/training program (adult/dislocated worker workforce training)
2. **Other Student Financial Assistance** includes grants or scholarships received from the following sources:
    - The Federal government
    - A state (including U.S. territories), Tribe, or local government

- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3)
- A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity)
- An institution of higher education

Other student financial assistance does not include:

- Financial support provided to the student in the form of a fee for services performed (for example, a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA)
- Gifts, including gifts from family or friends

Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. The owner must verify that other student financial assistance is for the student's actual covered costs.

The treatment of the two above-described types of student financial assistance is described below.

All assistance received under 479B of the HEA by students is excluded from income. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is not excluded from income.

Actual covered costs include tuition, books, supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and fees required and charged to a student by an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1087uu)). For a student who is not the head of household, co-head, or spouse, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. This formula is illustrated below (this and other examples are in HUD Notice 2023-10, Attachment G).

Example 1: Calculating Student Financial Assistance

Juan is a full-time student, and he received the following grants and scholarships to cover his first year of college: Federal Pell Grant: $25,000; University Scholarship: $15,000; Rotary Club Scholarship: $3,000.

- Total assistance received under 479B of HEA: $25,000 (Federal Pell Grant)
- Total other student financial assistance received: $18,000
- Juan's actual covered costs: $28,000

Step 1: Determine amount of actual covered costs exceeding section 479B assistance.

$28,000 (actual covered costs)
- $25,000 (total assistance received under 479B of HEA)
= $ 3,000

Step 2: Determine amount of student financial assistance to include in income.

$18,000 (other student financial assistance received)
- $ 3,000 (actual covered costs exceeding section 479B assistance)
= $15,000 (if negative, then use $0)

Amount of student financial assistance included in Juan's income: $15,000

Student loans are not considered student assistance and are never counted as income.

Use the Affidavit of Student Financial Assistance to obtain information from the applicant or resident as to their source(s) of financial assistance.

3.09 Exclusions from Annual Income

For certifications and recertifications effective before implementing HOTMA, refer to HUD Handbook 4350.3 for a complete listing and discussion of income exclusions.

Refer to HUD Notice 2023-10 Attachment G for changes in exclusions resulting from HOTMA or when HUD requires full HOTMA implementation.

Nonrecurring Income

Income that will not be repeated beyond the coming year (that is, the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is *not* excluded from income under 24 C.F.R. 5.609(b)(24), even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, an increasing number of cities and states are

piloting guaranteed income programs that have discrete beginning and end dates. This income can be excluded as nonrecurring in the final year of the pilot program. For example, for an annual recertification effective July 1, 2025, guaranteed income that will be repeated in the coming year but will end before the next reexamination on July 1, 2026 will be fully excluded from annual income. Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments received by or on behalf of the family.

The following list of exclusions is codified at 24 C.F.R. 5.609(b)(24) as nonrecurring income. Note that the list is not exhaustive:

- Payments from the U.S. Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment;
- Direct federal or state economic stimulus payments;
- Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received;
- Amounts directly received by the family as a result of federal refundable tax credits or federal tax refunds at the time they are received;
- Gifts for holidays, birthdays, or other significant life events or milestones (for example, wedding, baby shower, or anniversary gifts);
- In-kind donations (for example, food, clothing, or toiletries received from a food bank or similar organization); and
- Lump-sum additions to net family assets (for example, lottery winnings, contest winnings, etc.).

Excluded Recurring Income

Below is a list of income that is not counted as part of household income (refer to 24 C.F.R. 5.609(b) for the full list and to Attachment G in HUD Notice 2023-10 for additional detail):

- Earned income of children under age 18.
- Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation. Any workers’ compensation is always excluded from annual income, regardless of the frequency or length of the payments.
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.
- Income of a live-in aide, foster child, or foster adult.
- Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, baby bond accounts created, authorized, or funded by Federal, State, or local government.
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).
- Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (such as special equipment, clothing, transportation, child-care, etc.) and which are made solely to allow participation in a specific program.
- Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.
- Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
- Earned income of dependent full-time students in excess of the annually adjusted amount of the deduction for a dependent.
- Adoption assistance payments for a child in excess of the annually adjusted amount of the deduction for a dependent.
- Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse.

- Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.
- Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit. Both the person providing the care and the person who has the disability must be family members (not foster adult, foster child or live-in aides) and must live in the same household. The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household.
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (such as proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).
- Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law. Generally, payments received by tribal members in excess of the first $2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, payments made under the Cobell Settlement, and certain per-capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in programs that adopt the definitions of annual income in 24 C.F.R. 5.609. Note that payment received by a tribal member from the tribe for distribution of Indian gaming profits is not a per-capita payment within the meaning of the Per Capita Distribution Act and does not qualify for income exclusion. If a family member who is a tribal member receives the IRS Form 1099–MISC, Miscellaneous Income, from the tribe for reporting Indian gaming profits, then this payment must be counted toward the family's annual income.
- Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary. Examples include:
    - The value of the allotment provided to an eligible household under the Food Stamp Act of 1977.
    - Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (including employment through AmeriCorps, Volunteers in Service to America [VISTA], Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, and senior companions).

    - Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program.
    - The first $2,000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands. This exclusion does not include proceeds of gaming operations regulated by the Commission.
    - Payments received from programs funded under Title V of the Older Americans Act of 1985 (such as Green Thumb, Senior Aides, and Older American Community Service Employment Program).
    - Any amount received under the Richard B. Russell School Lunch Act and the Child Nutrition Act of 1966, including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC).
- Replacement housing gap payments made in accordance with 49 C.F.R. 24 that offset increased out-of-pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing gap payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing gap payments.
- Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. See the Nonrecurring Income section above for more information.
- Civil rights settlements or judgments, including settlements or judgments for back pay.
- Income earned on amounts placed in a family's Family Self Sufficiency Account.

The amount of rental subsidy paid to the owner on behalf of a household by a Public Housing Authority or other government administrator is also not included in income. Private or philanthropic rental assistance is considered regular contributions by persons not living in the unit and must be included in income.

Earned Income Disregard

The Earned Income Disregard (EID) will not apply to any family who is not eligible for *and already participating in* the disallowance as of December 31, 2023.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months. Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue

to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

3.10 Annualized Income

Income determination is based on the annual gross income a household anticipates it will receive for the 12-month certification period. Disclosure and verification of all sources of current and anticipated income for all household members age 18 and older, persons under the age of 18 who are treated as adults because they are the head of household, co-head or spouse, and unearned income of minor children must be obtained in order to establish that the income limits are not exceeded.

Convert all verified incomes to annual amounts.

To annualize full-time employment, multiply:

- Hourly wages by 2,080 hours
- Weekly wages by 52
- Bi-weekly wages by 26
- Semi-monthly wages by 24
- Monthly wages by 12

To annualize income from other than full-time employment, multiply:

- Hourly wages by the number of hours the individual is expected to work per week by 52; if verification shows a range of hours, use the average number of hours (for example, verification shows 30-35 hours per week, use 32.5 hours).
- Average weekly amounts by the number of weeks the individual is expected to work
- Other periodic amounts (for example, monthly, bi-weekly) by the number of periods the individual expects to work

Some affordable housing professionals use non-conforming methodologies for calculating wages including using the highest of a range of hours provided by the employer or basing income determinations on the higher calculation of income provided by the employer and a calculation of annual income based on year-to-date information. As noted above, Minnesota Housing uses the average of a range of hours given and anticipated wage information supplied by the employer, consistent with Section 8. More conservative methodologies are not prohibited; however, using more conservative methodologies may exclude households that qualify based on Section 8 methodologies. In any event, any approach developed by an owner/agent must be consistently applied to all applicants and tenants to avoid the risk of a fair housing violation.

Seasonal Income

If an applicant is in a seasonal line of work, for example a job dependent on weather conditions such as roofing, and normally collects unemployment during the off months, both incomes are used for the appropriate number of months. For example, if an individual makes $1,800 a month during a nine-month roofing season and collects unemployment in the amount of $800 a month for the remaining three months, income is calculated as follows:

$1,800 x 9 = $16,200

$800 x 3 = $2,400

$16,200 + $2,400 = $18,600 = Total Annualized Income

Zero Income Members

If an adult member of an applicant family has no regular verifiable income or income from assets from any source and claims zero income, a Certification of Zero Income must be completed. Note that the current HUD Handbook requires non-monetary contributions (excluding groceries) to be counted as income. Under HOTMA, non-monetary in-kind donations from a food bank or similar organization cannot be assigned a monetary value (including food, clothing or toiletries).

3.11 Income from Assets

Assets are items of value, other than necessary personal items, and are considered along with verified income to determine eligibility.

For certifications and recertifications effective before July 1, 2025 (or such later date as HUD may require full HOTMA implementation), refer to HUD Handbook 4350.3 for a complete listing and discussion of income from assets.

For certifications effective on or after July 1, 2025 (or such later date as HUD may require full HOTMA implementation), refer to HUD Notice 2023-10 Attachment F for changes resulting from HOTMA and this guide.

Under HOTMA, assets have three categories:

- Necessary Personal Property
- Non-Necessary Personal Property
- Real Property

Assets include the net cash value of all real property and the net cash value of all non-necessary items of personal property.

Necessary Personal Property

Necessary Personal Property (NPP) are items that are essential to the family for maintenance, use, and occupancy of the residence, or necessary for employment, education, or health and wellness. NPP also includes items that assist persons with disabilities, including items for disability-related needs and items required for reasonable accommodation. NPP does not include luxury items.

Owners must determine whether an item is considered necessary or non-necessary to determine whether it should be included as an asset.

This is a highly fact-specific determination. Therefore, owners must collect enough facts to make this determination. If an item is considered necessary personal property, it is not included as an asset.

Examples of NPP (list is not exhaustive):

- Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (for example, bike, motorcycle, skateboard, scooter)
- Furniture, carpets, linens, kitchenware
- Common appliances
- Common electronics (for example, radio, television, DVD player, gaming system)
- Clothing
- Personal effects that are not luxury items (for example, toys, books)
- Wedding and engagement rings
- Jewelry used in religious/cultural celebrations and ceremonies
- Religious and cultural items
- Medical equipment and supplies
- Healthcare-related supplies
- Musical instruments used by the family
- Personal computers, phones, tablets, and related equipment
- Professional tools of trade (for example, professional books)
- Educational materials and equipment, including equipment to accommodate persons with disabilities
- Equipment used for exercising (for example, treadmill, stationary bike, kayak, paddleboard, ski equipment

Non-Necessary Personal Property

If personal property is not deemed necessary, as HUD guidance provides, then it is considered Non-Necessary Personal Property (NNPP) and may need to be included as an asset.

Under HOTMA, the combined value of NNPP up to the amount that HUD allows to be self-certified is excluded from net family assets, but any income earned by these assets is included in gross annual

household income. Refer to HUD's Annual Inflationary Adjustments and Passbook Rate webpage for the current amount of assets HUD allows to be self-certified (updated annually, adjusted for inflation).

If the total value of NNPP exceeds the amount HUD allows to be self-certified, owners must verify all asset amounts and any income earned. If an asset does not earn income, owners must use HUD's passbook savings rate to calculate an imputed income. Refer to HUD's Annual Inflationary Adjustments and Passbook Rate webpage for the current passbook savings rate (updated annually, adjusted for inflation).

Examples of NNPP (list is not exhaustive):

- Bank accounts or other financial investments (for example, checking account, savings account, stocks/bonds, money market or mutual funds, certificates of deposit)
- A mortgage or deed of trust held by an applicant or resident (for example, contract for deed or deed of trust); payments on this type of asset are often received as one combined payment of principal and interest with the interest portion counted as income from the asset
- Cash value of life insurance policies available to the individual before death (for example, the surrender value of a whole life policy or a universal life policy)
- Recreational car/vehicle not needed for day-to-day transportation (for example, campers, motorhomes, travel trailers, all-terrain vehicles [ATVs])
- Recreational boat/watercraft
- Expensive jewelry without religious or cultural value, or which does not hold family significance
- Collectibles (for example, coins/stamps)
- Equipment/machinery that is not used to generate income for a business
- Items such as gems/precious metals, antique cars, artwork, etc.
- Assets disposed of for less than fair market value within 2 years of the effective date of the certification
    - Assets lost to foreclosure, bankruptcy, divorce or separation settlements are not counted as disposed of assets, and assets put into an irrevocable trust for another member of the same household are not counted as disposed; neither are assets that are simply used to buy goods or services that are not counted as assets

Bank accounts include amounts in cash apps and digital wallets that hold balances. Examples include Venmo, PayPal, GoFundMe, Cash App, Google Pay, Google Wallet, etc., and cards used to receive government and other cash benefits. Retailers such as Wal-Mart, Target and Starbucks may also have cash-holding apps.

Apps that merely facilitate transferring funds from one account to another and do not actually hold any money, are not assets (for example, Zelle).

Stocks, bonds, treasury bills, certificates of deposit, money market accounts, mutual funds. Interest or dividends earned are counted as income from assets even when the earnings are reinvested. The value

of stocks and other assets vary from one day to another. The value of the asset may go up or down the day before or after income is calculated and multiple times during the year thereafter. The owner may assess the value of these assets at any time after the authorization for the release of information has been received.

Real Property

The value of real property is always counted as an asset.

Equity in rental property or other capital investment. Include the current fair market value less (a) any unpaid balance on any loans secured by the property; and (b) reasonable costs that would be incurred in selling the asset (that is, penalties, broker fees, etc.). If the person's main business is real estate, then count any income as business income. Do not count it as an asset and as business income.

Only the interest portion of the monthly payment received by the tenant is included as income. For interest income from the sale of real property, if said property was sold on an installment sales contract, request one of the following:

- A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for the next 12 months; a copy of the check(s) paid by the buyer to the tenant is *not* sufficient since appropriate breakdowns of interest and principal are not included
- Amortization schedule showing interest for the 12 months following the date the purchaser intends taking occupancy

For rental income from property owned by the tenant, request each of the following:

- IRS Form 1040 with Schedule E (Rental Income)
- Lease between the tenant and the tenant’s renter
- Lessee's written statement identifying monthly payments due the tenant and tenant's affidavit as to net income realized

3.12 Household Asset Exclusions

Household assets do not include:

- NPP including clothing, furniture, cars, etc.
- Retirement accounts under IRS-recognized retirement plans (for example, IRA, employer retirement plans, and retirement plans for self-employed individuals)
    - Note that regular distributions or withdrawals from such accounts are treated as income.
- Real property without legal authority to sell
- Legal settlements from civil actions or settlement based on a claim of malpractice, negligence or other breach of duty owed to a family member, for an incident resulting in a disability

- Interests in Indian land trusts
- Coverdell or 529 education savings accounts, ABLE accounts, baby bond accounts
- Term life insurance policies
- Equity in a manufactured home where the family receives assistance under 24 C.F.R. 982 (Housing Choice Voucher)
- Equity in property under the Homeownership Option for which a family receives assistance under 24 C.F.R. 982
- Family Self-Sufficiency Accounts
- Federal tax refunds or refundable tax credits from the 12 months prior to the certification effective date (for example, Earned Income Tax Credits)
    - Note that HUD instructs owners to subtract the value of any tax return that a household has received in the last 12 months from total net assets. This may mean self-certification of assets is allowed if subtracting the refunds or refundable credits puts the total value of net assets below the amount HUD allows to be self-certified.
- Trust funds that are not revocable by, or under the control of, any family member as long as they continue to be held as such.
    - When a trust is in the control of a household it is an asset to the household, and income is counted as the trust generates it.
    - Distributions/withdrawals from the trust in the household's control are not counted as income. When a trust is NOT in the control of a household it is NOT an asset to the household.
    - Distributions received from the trust are income except for the following two exclusions: 1. Distributions from the principle or corpus of the trust; 2. Distributions that are made to pay for the health and medical expenses of a minor child.
- Assets that are part of an active business (not including rental of properties that are held as investment and not a main occupation)
- Assets that are not effectively owned by the applicant; that is, when assets are held in an individual's name, but the assets and any income they earn accrue to the benefit of someone else who is not a member of the household, and that other person is responsible for income taxes incurred on income generated by the assets
- Assets not accessible to the applicant and provide no income to the applicant (for example, a battered spouse owns a house with her husband. Because of the domestic situation, she receives no income from the asset and cannot convert the asset to cash)

3.13 Assets Owned Jointly

For assets jointly owned by one or more individuals outside of the family, owners must include the total value of the asset in the calculation of net assets, unless the asset is otherwise excluded, or unless the applicant can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply. If the applicant

demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net assets. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded, or unless the applicant demonstrates that they do not have access to the income from that asset.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset, and the individual should provide proper documentation demonstrating that they are only a beneficiary on the account.

3.14 Instructions for Valuing Assets

In computing assets, owners must use the cash value of the asset; that is, the amount the family or household would receive if the asset were converted to cash. Cash value is the market value of the asset minus reasonable costs that were or would be incurred in selling or converting the asset to cash. Expenses which may be deducted include:

- Penalties for withdrawing funds before maturity
- Broker/legal fees assessed to sell or convert the asset to cash
- Settlement costs for real estate transactions

For non-liquid assets, enough information should be collected to determine the current cash value: the net amount the family would receive if the asset were converted to cash.

Owners must count assets disposed of for less than fair market value during the two years preceding certification or recertification. The amount counted as an asset is the difference between the cash value and the amount received, if the difference is more than $1,000. If a tenant has sold their home (either a private residence or rental) or disposed of other assets within the past two years for less than fair market value, request:

- Copies of closing documents (HUD-1, settlement statement) showing the selling price, the distribution of the sales proceeds and the net amount to the tenant
- Divestiture of Assets Verification identifying the disposed-of asset, the cash value and amount actually received

Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets, unless that income is specifically excluded by 24 C.F.R. 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

When total net assets exceed the amount HUD allows to be self-certified (when HOTMA implementation guidance was released, this amount was $50,000), income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:

1. The value of net family assets exceeds the amount HUD allows to be self-certified
2. The specific asset is included in net family assets
3. Actual asset income cannot be calculated for the specific asset

Imputed asset income is calculated by multiplying the net cash value of the asset, after deducting reasonable costs that would be incurred in disposing of the asset, by the current HUD-published passbook rate.

To properly calculate income from assets:

1. Review the list of assets provided by the applicant or resident.
2. Categorize assets as NPP, NNPP, and real property.
3. Exclude any NPP.
4. Determine the total value of NNPP.
    a. If the total value of all NNPP is less than the amount HUD allows to be self-certified, assign a $0 value to each asset, but calculate income, if any.
    b. If the total value of all NNPP exceeds the amount HUD allows to be self-certified, fully verify the assets, assign the net value of the asset and calculate actual or imputed income to each asset.
5. Add NNPP to any real property. If the total value exceeds the amount HUD allows to be self-certified, impute income for any assets that cannot otherwise have income determined.
6. Subtract any federal tax return or refundable tax credit the household received in the past 12 months (if an applicant anticipates a $500 federal tax refund but only receives $250, then only $250 will be excluded from net assets because that is the amount actually received. If the subtraction results in a negative number, then net family assets are considered $0.

Refer to the examples in Attachment F to HUD Notice 2023-10.

Owners should not conflate an asset with an actual return of $0, with an asset for which an actual return cannot be computed, such as could be the case for some non-financial assets. If the asset is a financial asset and there is no income generated (for example, a bank account with a 0% interest rate or a stock that does not issue dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (for example, due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is $0. When the stock never issues dividends, the actual return is consistently $0.

3.15 General Income Verification Requirements

The Sworn Statement of Income and Asset (or owner's application containing, at a minimum, the information on the Sworn Statement of Income and Asset) must be used as the basis for determining the necessary verifications.

Refer to Table J2 in HUD Notice 2023-10 for Verification Hierarchy and order of acceptability. Note that HUD's EIV system *cannot* be used for the HOME or NHTF programs.

Owners must follow up on any incomplete, inconsistent, or missing information with the verification source and document such follow-up in the resident file. A Phone Verification/Clarification Record form is recommended for this purpose. Verifications and follow-up records are considered supporting documentation to the TIC.

Reminder: Owners are not allowed to use information obtained through Enterprise Income Verification (EIV) for the HOME and NHTF Programs. EIV cannot be used to verify income, nor can it be in the HOME or NHTF portion of a tenant's file.

Acceptable Verification Descriptions and Guidance

Upfront Income Verification (UIV) (Level 6/5)

The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. HUD encourages owners to use tools such as The Work Number (an automated verification system) and state government databases to verify tenant-reported income.

Written, Third-Party Verification (Level 4)

An original or authentic document generated by a third-party source dated within six months of the date received by the owner. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. Owners may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include but are not limited to the following: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

Owners are required to obtain a minimum of two months' worth of current and consecutive pay stubs for determining annual income from wages. If a family disagrees with the income calculation, owners

may request additional paystubs for a more accurate calculation. For new income sources or when a sufficient number of pay stubs are not available, use the verification hierarchy level 3, then level 2 if necessary, then level 1 if attempts to obtain level 3 and level 2 verifications are not successful (see definitions and documentation requirements, below).

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (that is, tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

When verification of assets is required, owners are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

Written, Third-Party Verification Form (Level 3)

This type of verification uses forms specifically developed to collect information from a third-party source. Owners send the form directly to the third-party source by mail, fax, or email. The form is completed by the third party by hand (in writing or typeset) and returned to the owner.

Minnesota Housing provides sample verifications and other forms to assist owners with this method. The release of information (at the top of the form) must be completed and signed by the person who is the subject of the verification prior to sending the form to an employer or other source.

Oral Third-Party Verification (Level 2)

Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique, or identified by the family, via telephone or in-person visit. Owner must document in the tenant file the date and time of the telephone call (or visit to the third party) and the name of the person contacted and their telephone number, along with the confirmed information.

This verification method is commonly used when the independent source does not respond to the owner's faxed, mailed, or e-mailed request for information in a reasonable time frame (for example, 10 business days).

Non-Third-Party Verification: Self-Certification (Level 1)

The tenant submits a signed statement of reported income and/or expenses to the owner. This verification method should be used as a last resort when obtaining information via all other required verification techniques is not successful and the tenant file must contain documentation of why third-party verification was not available.

The self-certification is not required to be notarized; however, the following language should be included on any self-certification to ensure the certifier understands the consequences of knowingly providing false information:

> *"I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)"*

Self-Certification of Assets

Minnesota Housing allows self-certification of assets when the net value does not exceed the amount HUD allows to be self-certified (when HOTMA implementation guidance was released, this amount was $50,000).

Minnesota Housing's monitoring procedure do not permit an owner to rely on a low-income tenant's signed, sworn statement of annual income from assets if a reasonable person in the owner's position would conclude that the tenant's income is higher than the tenant's represented annual income. In this case, the owner must obtain other documentation of the low-income tenant's annual income from assets to satisfy the documentation requirement of third-party asset verification.

Optional Streamlined Income Determination for Fixed-Income Source

During the annual income recertification, owners may use a streamlined income determination to adjust a family's income according to the percentage of a family's unadjusted income that is from fixed income (refer to list of fixed income sources below) as follows:

- When 90% or more of a family's unadjusted income consists of fixed income, owners must apply a cost-of-living adjustment (COLA) to the family's fixed income sources, provided that the family certifies both that 90 % or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year. Owners may accept a self-certification by the tenant to adjust income for non-fixed sources.
- When less than 90% of a family's unadjusted income consists of fixed income, owners must apply a COLA to each of the family's sources of fixed income. Owners must verify all non-fixed income sources using regular verification methods.

The following are fixed income sources eligible for the streamlined approach:

- Social Security, Supplemental Security Income, Supplemental Disability Insurance
- Federal, state, local or private pension plans

- Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts
- Any other source of income subject to adjustment by a verifiable COLA or current rate of interest (for example, Veteran's Administration (VA) Disability, TANF, federal pensions)

The current COLA or rate of interest specific to the fixed source of income must be used to adjust the income amount. Verification of the COLA or rate of interest must be obtained from a public source or through tenant-provided, third-party generated documentation and a copy must be placed in the tenant file. If no such verification is available, this streamlined process cannot be used and regular, third-party verification will be required.

This streamlined process can only be used for two years following regularly verified income and only for the sources described above. Every third year, third party verification must be obtained. Assets are not subject to streamlining and must be verified each year.

3.16 Determination of Income Using Other Means-Tested Public Assistance

Owners may determine a family's annual income, including income from assets, using income determinations from other means-tested public assistance (Safe Harbor). The following types of means-tested federal public assistance programs may be used:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.)
- Medicaid (42 U.S.C. 1396 et seq.)
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.)
- The Earned Income Tax Credit (26 U.S.C. 32)
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786)
- Supplemental Security Income (42 U.S.C. 1381 et seq.)
- Other programs administered by the Secretary
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding
- Other federal benefit determinations made by other means-tested federal programs that the Secretary determines to have comparable reliability and announces through a Federal Register notice

If owner elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family (that is, the family members listed in the documentation must match the family's composition in the assisted unit, except for household members), and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's

income, owners will neither further inquire about a family's net family assets, nor about the income earned from those assets. The Safe Harbor verification may be in the form of an award letter from the relevant federal program and must show that the family's income determination was made in the previous 12 months. HUD clarifies that the verification will be considered acceptable if the documentation meets the criteria that the income determination was made within the 12 months prior to the receipt of the verification by the owner.

The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the owner:

- Income determination effective date
- Program administrator's signature date
- Family's signature date
- Report effective date
- Other report-specific dates that verify the income determination date

The only information owners are permitted to use to determine income under this Safe Harbor is the total income determination made by the federal means-test program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered for purposes of the HOTMA Safe Harbor provision. Owners are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If an owner does not accept Safe Harbor documentation, is unable to obtain Safe Harbor documentation, or if the family disputes the other program's income determination, the owner must calculate the family's annual income using regular verification methods.

If the owner uses a Safe Harbor to determine the family's income, this might mean that a certain source of income was not considered in the family's income, because the other program did not consider the source to be income. For example, if a family begins receiving a new source of income on February 1, 2026, and the owner completed a TIC effective March 1, 2026, using a Safe Harbor income determination, the new source of income would not be included. This aligns with the Section 8 program's Safe Harbor determination which would require the new source of income to be reported and included at the next income reexamination.

Minnesota Housing will also consider the gross income determination for project-based and tenant-based Section 8 and USDA Rural Development to be Safe Harbor income determinations for HOME and NHTF. A fully completed, signed and dated tenant income certification for those programs will satisfy all third-party verification requirements.

3.17 Effective Term of Verification

Verifications are valid for six months from the date of receipt by the owner. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

3.18 Date Stamp

All income, asset and eligibility verifications should be date-stamped as they are received. If verifications are not date stamped, Minnesota Housing may use the date the document was signed by the verification source or generated from the web to determine its age.

3.19 Electronic Signatures

Minnesota Housing will not fail a tenant file solely because it contains documents signed by electronic means as long as the owner has followed the guidance in HUD Notice 2020-10 . Applicants and tenants must still be given the option to use wet signatures on paper, if requested.

As part of the inspection of administrative records, compliance staff may review the owner's e-signature policy and procedures, if applicable, to determine whether the requirements of HUD Notice H 20-10 are being satisfied for the use of electronic signatures.

3.20 Adjusted Gross Income for Over Income Households – HOME Only

When determining eligibility to occupy a HOME unit, the household's gross income must always be considered. However, if a tenant goes over the income guidelines after move-in, the owner must raise the over-income household's rent as soon as the lease permits in accordance with the terms of the lease; refer to Chapter 2 (Maintaining the Unit Mix) of this document. In certain circumstances, the rent for an over-income household may need to be adjusted such that the tenant pays 30% of the tenant's monthly adjusted family income.

To determine adjusted income, refer to the deductions and allowances in Attachment C in HUD notice 2023-10. Note that these deductions and allowances are subject to annual inflationary adjustments. Visit HUD's Annual Inflationary Adjustments and Passbook Rate webpage for current rates.

3.21 Tenant Files

Owners must maintain a tenant file for each assisted unit. All permanent documents must be kept together so they are accessible at each compliance review (income certification and supporting documentation, lease/addendum, etc.). Annual recertification information (see list below) must be grouped together by year, with the most recent year placed on top of the documents for review.

The tenant files must contain the following:

- Minnesota Government Data Practices Act Statement (note that a data practices form for a housing tax credit suballocator or other funder will not be accepted)
- Sworn Statement of Income and Assets or equivalent form
- Tenant Income Certification (initial certification and annual recertifications) with acceptable verifications of income and assets for initial occupancy and every sixth year of the affordability period
- Certification of annual student eligibility for properties with HOME commitments on or after August 23, 2013
- Signed lease agreement, HOME/NHTF Form #22, Lease Addendum, HUD VAWA Lease Addendum, and Minnesota Housing's VAWA Attachment
- Lead-based paint acknowledgements (properties built pre-1978)

All move-out files must also contain the following:

- Written 30-day (or greater) notice to vacate (if not available – document in file)
- Move-out inspection report (both parties signed and dated)
- Security deposit refund (check number and date) or letter of intent to withhold security deposit within 14 days of move-out
- Itemized list of costs charged to tenant within 45 days

Tenant records, including income verifications, development rents, and unit inspections must be retained for the most recent five-year period, until five years after the period of affordability terminates.

Chapter 4 – Owner Reporting Requirements

The owner must maintain a report of all tenants residing in each unit at the time of written agreement through the end of the period of affordability and submit annual reports to Minnesota Housing in a form and manner requested by Minnesota Housing.

The items noted in section 4.01 (Annual Owner Certification) and 4.02 (Compliance Report) below are due to Minnesota Housing by February 15, or if this day falls on a holiday or weekend the next business day, of each year during the period of affordability. The owner certification and compliance report for the final year of the period of affordability will be due upon request by the assigned compliance officer.

4.01 Annual Owner Certification

Complete the Annual Owner Certification online in Minnesota Housing's Property Online Reporting Tool Annual Owner Certification Submission Site to certify compliance for the preceding calendar year. Follow data entry instructions in Chapter 4 of the PORT User Guide. It is not necessary to submit a hard copy certification form; however, owners must submit any required documentation (for example, copies of inspection reports and evidence of correction). If this information contains private information on tenants, submit via Minnesota Housing's Secure Upload Tool. If the information does not contain private information, it can be emailed directly to the assigned compliance officer. In either case, be sure to include the D number and property name with your submission.

4.02 Compliance Report

The Annual Owner Certification is supported by a report of unit events for all units in the property. Follow instructions in Chapter 3 of the PORT User Guide. All unit events must be reported annually for the full term of the effective period.

Minnesota Housing will annually monitor program compliance by reviewing annual owner certifications and analyzing compliance information submitted by the owner. Failure to submit the owner certification and/or update the Property Online Reporting Tool (PORT) on all units and their related activity by the due date will constitute noncompliance with the HOME or NHTF Programs and the related loan documents.

Chapter 5 – Compliance Inspections

The compliance inspection includes, but is not limited to, an inspection of at least 20% of the assisted units and tenant files (with a minimum of four units), a review of administrative records, and inspection of the physical condition of the property, including all common areas and mechanicals.

Minnesota Housing will notify the owner and manager by email when a compliance inspection is due. The owner or manager will be required to complete and submit a Pre-Inspection Form as part of the inspection. This form is used to answer questions regarding property characteristics and to identify the applicable administrative records such as UA source documentation, tenant selection plans, Affirmative Fair Housing Marketing Plans (AFHMP), fire, boiler and elevator certificates, etc. to be submitted or reviewed on-site. It is also used to identify other inspections that are due in the same year so that inspections can be coordinated, if possible.

Once the date and time of inspection has been agreed to, Minnesota Housing will send a confirmation email along with a list of units selected for review. If the file review and physical inspection are conducted separately, separate confirmation emails may be sent and separate unit lists may be used. At least 24 hours prior to the inspection date, the owner must notify all occupants of restricted units that their unit may be inspected, not just those identified on the unit list. A site representative must accompany the compliance officer during the inspection.

The property inspection and tenant file review may be conducted at the same time or may be conducted separately by different staff.

A compliance inspection will be conducted at least once every three years. Inspections may be conducted more frequently if Minnesota Housing determines it to be necessary based on concerns raised during a previous review or other information. The first compliance inspection will be conducted in conjunction with project completion.

5.01 Physical Inspections

The goal of the physical inspection is to ensure that the property and units are well maintained and in compliance with HUD's inspection standards.

Inspections will be conducted using HUD's NSPIRE, which focuses on inside the building, outside the building, and within the units to ensure that they are, "functionally adequate, operable, and free of health and safety hazards." HOME and NHTF properties are not subject to NSPIRE's scoring protocol. However, noncompliance with any of the NSPIRE inspection standards is considered noncompliance for HOME and NHTF.

Refer to section 1.13 (Property Standards) of this document and HUD's National Standards for the Physical Inspection of Real Estate webpage for details regarding NSPIRE.

Owners should conduct routine property inspections and perform any needed maintenance to ensure that the property continually complies with all applicable codes and NSPIRE standards.

5.02 Review of Tenant Files and Property Records

As part of the inspection, Minnesota Housing staff will review tenant income certifications and all supporting documentation, leases, tenant ledgers and other information for selected units.

Minnesota Housing staff will also review the following property information:

- Utility allowances and supporting documentation
- Current written tenant selection plan, occupancy policy and/or house rules
- Current lease and lease addenda
- Affirmative Fair Housing Marketing Plan, unless otherwise reviewed by HUD or other Minnesota Housing staff
- Marketing and advertising
- Fire alarm, boiler, elevator, call-for-aid, and fire extinguisher certificates
- Where applicable, ongoing lead-based paint maintenance records

5.03 Review of Ongoing Lead-Based Paint Maintenance (24 C.F.R. 35.1355)

All borrowers with properties built before 1978 that have not been verified as lead free by a lead inspection must institute ongoing maintenance of painted surfaces and safe work practices as part of regular building operations. This includes a visual inspection of lead-based paint annually and at unit turnover, repair of all unstable paint, and repair of encapsulated or enclosed areas that are damaged.

Ongoing Maintenance Records

Borrowers must keep ongoing maintenance records and records of relevant building operations for use during reevaluations.

Borrowers and their maintenance personnel must be trained in ongoing lead-based paint maintenance or must contract with a qualified individual or company to perform ongoing maintenance. Ongoing maintenance of lead-based paint must be conducted only by individuals who have completed a HUD-approved course on lead safe work practices, are licensed lead workers or lead supervisors, or are working under the direction of a licensed lead supervisor.

Chapter 6 – Correction and Consequences of Noncompliance

6.01 Notice to Owner

Minnesota Housing will provide prompt notice via email to the owner if Minnesota Housing does not receive the annual owner certification and income and occupancy report by the required due date; or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records; or discovers by inspection, review, or in some other manner, that the property is not in compliance with the requirements of the respective program, or with the property's loan documents, including the Declaration.

6.02 Correction Period

The owner will be given a correction period to be established by Minnesota Housing and set forth in a Notice of Noncompliance sent via email to the owner with instructions on how to respond to the notice. Minnesota Housing may extend the correction period, but only if Minnesota Housing determines there is good cause for granting the extension. Requests for an extension must be in writing from the owner (email is acceptable), must be received by Minnesota Housing no later than the last day of the correction period identified on the Notice of Noncompliance, and must include each of the following:

- A description of efforts to make corrections within the correction period
- A plan to correct all remaining violations
- A timeline for when corrections are expected to be made

If the owner fails to respond or fails to supply evidence that all violations have been corrected within the correction period, Minnesota Housing will issue a second notice with a 10-day correction period. If the owner fails to respond or fails to supply evidence that any remaining violations have been corrected within this 10-day period, the owner will be given a notice of failure to comply with a final 10-day correction period. If the owner still fails to respond or fails to supply evidence that all remaining violations have been corrected, Minnesota Housing may consider the loan in default and consult with the Minnesota Attorney General's Office for legal action. Minnesota Housing reserves the right to modify this process, at its sole discretion.

6.03 Owner's Response

Minnesota Housing will review the owner's response and evidence of correction to determine whether the noncompliance has been clarified, corrected or whether the owner remains out of compliance and will update the status of the violation in PORT accordingly.

Clarified noncompliance is, for example, where income eligibility was not properly documented and the inspector initially could not make a reasonable determination that the unit is in compliance but the

owner conducts a retroactive (re)certification that completely and clearly documents the sources of income and assets that were in place at the time the certification should have been effective, and applies income and rent limits that were in effect on that date. If documentation is complete and it supports that the household was eligible as of the effective date, the file is considered clarified.

Corrected noncompliance is when a violation is observed, there is a period of time during which the unit is out of compliance, but the unit is brought back into compliance. For example, a late certification or recertification is out of compliance on the certification due date, and back in compliance as of the date the last tenant signs the Tenant Income Certification.

Uncorrected noncompliance is a violation that is not corrected or clarified by the end of the correction period.

Failure to correct all noncompliance issues could result in extension of the end of the effective period, acceleration of the loan, or other legal remedies, and failure to correct all noncompliance issues may also affect the owner's eligibility for future financing from Minnesota Housing under any or all of its programs.

Minnesota Housing reserves the right to conduct a follow-up inspection if documentation is not sufficient to confirm that all life-threatening violations and any other hazardous deficiencies have been corrected.

Chapter 7 – Loan Modification and Requests for Action

7.01 Sale or Transfer, Event of Default

Repayment of the loan may be required upon sale or transfer of the property without the prior consent of Minnesota Housing or in the event of default. Requests for refinance of the existing debt or partial release of mortgage will be considered and are subject to the terms and conditions of the program as set forth in the loan documents.

The affordability requirements apply for the full period of affordability without regard to the term of any loan or mortgage, repayment of the loan, or the transfer of ownership.

7.02 Modifications and Other Servicing Requests

The Request for Action process is used for all servicing requests, including ownership/management company changes, subordinations, payoffs, and other requests.

1. An RFA Form must be completed for all requests.
2. Upon receipt of your complete RFA form, Minnesota Housing will send you:
    a. A letter acknowledging your request, to be signed by the owner
    b. A list of required due diligence items
3. Minnesota Housing's loan processor and underwriting staff will review submitted materials and present them to the appropriate committees for approval. The average timeline for a decision is *30-90 business days* from Minnesota Housing's receipt of all required documentation. This timeline may be extended depending on the nature of the request or the completeness of the documentation.
4. We will notify you in writing of the final decision and provide you with next steps. Your file is then transferred to our legal team, where a timeline for closing will be determined and additional documentation is often required.

The decision of whether to partially release or to subordinate a mortgage is at the sole discretion of Minnesota Housing. If Minnesota Housing allows the subordination of its mortgage, the Declaration shall remain in a priority position.

Minnesota Housing will not consider a request for action within the first year after development completion. Exceptions to this may be the death of the owner or an incorrect legal description encumbering unimproved property.

Chapter 8 – Financial Oversight

Properties with HOME funds committed on or after July 2014 and all NHTF properties are required to have financial oversight by Minnesota Housing. Owners must submit annual budgets, operating data, audited financial statements, and annual updated Physical Needs Assessment (PNA) data for review by the assigned asset manager.

Questions regarding financial oversight should be directed to Minnesota Housing's Asset Management team at mhfa.am@state.mn.us.

Appendix A – 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 of this Addendum.

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 of this Addendum.

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:** An 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 of this Addendum.

1.04.1 Federal Conflict of Interest Requirements

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

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

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

stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person."[1] Violation of federal conflict of interest requirements by business partners, agents or consultants will result in appropriate actions by Minnesota Housing, including the potential termination of the relationship and additional contractual or other remedies. Violation of federal conflict of interest requirements may need to be reported to the federal government in appropriate circumstances.

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

A contracting party should review its contract and request for proposals (RFP) materials, 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 of this Addendum;
- 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 of this Addendum.

[1] See generally, HOME: 24 C.F.R. 92.356; including any revisions by the Appendix to the HOME-ARP Notice as amended; HOPWA: 24 C.F.R. 574.625; NHTF: 24 C.F.R. 93.353. In limited circumstances, a conflict of interest could be waived via an exception request, in writing. For further information, see federal regulations at: HOME: 24 C.F.R. 92.356; HOPWA: 24 C.F.R. 574.625; NHTF: 24 C.F.R. 93.353.

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 of this Addendum.

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 Risk and Internal Controls Director at 651.296.7608 or 800.657.3769 or by email at MHFA.ReportWrongdoing@state.mn.us;
- Any member Minnesota Housing's Servant Leadership Team, as denoted on Minnesota Housing's current organizational chart (go to mnhousing.gov, scroll to the bottom of the screen and select About Us, select Servant Leadership Team); or
- Report Wrongdoing or Concerns (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.