



Rental Rehabilitation Deferred Loan Pilot Program Interim Guide

August 2019

MINNESOTA HOUSING – RRDL PILOT PROGRAM INTERIM GUIDE



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Chapter 1 – Program Purpose and Background

On September 22, 2011, the Minnesota Housing board authorized staff to implement the Rental Rehabilitation Deferred Loan (RRDL) Pilot Program. The RRDL Program is funded by state appropriations, and the authority to develop and operate the RRDL Program is found in [Minn. Stat. § 462A.05, subdivision 14](#) and [Minn. Stat. § 462A.33](#).

The RRDL Program provides financing options for moderate rehabilitation to owners of existing smaller scale, permanent rental housing in Minnesota. The overarching RRDL Program goal is to repair and preserve rental housing stock with Federal Project-Based rent assistance (e.g. Section 8, Rural Development rental assistance, etc.) or permanent rental housing that is naturally Affordable to the Local Workforce and convenient to jobs, transportation and essential services.

Therefore, the RRDL Program assists the agency in meeting two of its strategic priorities:

- **Preserve Housing with Federal Project-Based Rent Assistance**
- **Address Specific and Critical Local Housing Needs**

Chapter 2 – Allocation of Funds

2.01 Access to Funds

RRDL Funds are available to owners of rental properties. RRDL Funds are made available on a year-round basis and through targeted RRDL Program Request for Proposals (RFP). See Chapter 3 for Eligibility Criteria.

NOTE: Applicants may not apply for funding through Minnesota Housing’s annual Multifamily Consolidated RFP while simultaneously applying for RRDL Funds. In addition, any development that has previously been awarded RRDL Funds or funding via the Multifamily Consolidated RFP may not pursue additional RRDL Funds or Multifamily Consolidated RFP funds for five years from the date of its previous loan closing.

2.02 Application for Funds

Applicants interested in applying for RRDL Funds should consult the RRDL webpage for the latest information and instructions. Applicants can apply for RRDL Funds in two ways: 1) through an RRDL Program RFP (when one is offered), and 2) on a first-come, first-served pipeline basis, subject to the availability of RRDL Funds at the time of application.

Application materials, documents and forms are located on Minnesota Housing’s [RRDL Program webpage](#).

Chapter 3 – Eligibility Criteria

3.01 Eligible Applicants

Eligible Applicants include:

- Nonprofit organization
- A City
- Joint powers board established by two or more cities that owns or will own the housing
- A public housing agency that owns or will own the housing
- An Indian tribe or tribal housing corporation that owns or will own the housing
- A Natural Person who owns or will own the housing
- A Private Developer

Borrowers who previously received Minnesota Housing funding and did not successfully meet compliance requirements may not be eligible for RRDL Funds. Minnesota Housing will verify past program performance by consulting with its compliance department.

Any employee, agent, consultant, officer, or elected or appointed official of Minnesota Housing, who has responsibilities with respect to the RRDL Program, and their families, may not receive RRDL Funds during their tenure, or for one year after termination of their relationship with Minnesota Housing.

3.02 Eligible Properties

RRDL Funds must be used for the rehabilitation of existing rental housing which:

- Consist of eight units or more
- Conform to all applicable zoning ordinances and possess all appropriate use permits
- Is primarily residential in nature (51 percent or more of the gross floor area of each structure must be residential rental space), and each rental housing unit must contain a kitchen and a bathroom
- Is permanent, general occupancy housing for which the term of tenancy may be extended indefinitely beyond the initial lease term

Properties that are under common ownership, management and financing, and that contain one or more buildings on a site are considered one project.

Scattered properties that are located in the same City or county may be combined into one loan when there are at least eight units having common ownership, management and financing, and all housing units are being rehabilitated as part of a single undertaking.

In a mixed income project, only the units that meet the income and affordability requirements of the RRDL Program will be funded. The Borrower is responsible for funding the non-eligible units and a prorated portion of the common areas. The level of funding will be prorated based on the number of RRDL Program eligible units divided by the total number of units, as long as the RRDL unit types (number of bedrooms) are comparable when compared to the total number of units and number of bedrooms in the Project.

3.03 Ineligible Properties

The following properties are ineligible:

- Developments that have received RRDL Funds within the past five years
- Developments that have been awarded funding via the Multifamily Consolidated RFP during the past five years
- Developments that have capital reserves in an amount that is sufficient to cover the cost of the intended rehabilitation, plus an amount sufficient to cover annual routine maintenance and repairs
- Owner-occupied housing (where 51 percent or more of the space is owner-occupied)
- Public Housing Developments
- Developments requiring licensing by the state (e.g., nursing homes, assisted living facilities)
- Developments that will potentially not be financially feasible, structurally sound and/or suitable for intended occupants post-rehabilitation and throughout their intended compliance period as described in the RRDL Program Loan documents and at the discretion of Minnesota Housing
- Temporary housing properties such as shelters, transitional housing or residential hotels
- Single room occupancy housing where bathrooms and kitchens are shared by more than one unit

Chapter 4 –Project Feasibility/Program Selection Criteria

Developments seeking RRDL Funds will be evaluated for overall Project feasibility, Applicant capacity, and the extent to which they conform to Minnesota Housing’s threshold requirements, strategic priorities and funding priorities.

Minnesota Housing will review all proposals submitted and will make funding recommendations for each proposal selected. Funding requests may be adjusted based upon the number of applications received, the amount of RRDL Funds available and the distribution of RRDL Funds throughout Minnesota.

4.01 Program Selection Criteria

The following factors will be considered when determining the overall feasibility of a proposal:

- The nature of the proposed site
- Whether the existing housing is needed in the market based upon population trends, job growth and low rental housing vacancy rates
- Whether the Project is economically viable and sustainable
- Whether the rehabilitation costs are reasonable and whether the Applicant demonstrates cost containment efforts for all stages and aspects of the entire Project without compromising overall quality
- Scope of work and consequences for not completing the work
- Scope of work, in comparison to the development’s overall long-term capital needs for all building systems
- Anticipated operational or utility cost savings
- Geographic distribution of Applicants
- First time or repeat applications

4.02 Organizational Capacity

The following factors will be considered when determining the Applicant’s organizational capacity:

- Overall completeness of application(s)
- The Applicant’s related housing experience, purpose and mission
- Whether the Applicant has successfully completed similar Projects, including managing renovations and the associated coordination of individual sub-contractors
- Whether the Applicant has strong current and expected ongoing capacity to complete the proposed Project
- Whether the Applicant has the capacity to maintain and operate the rental housing on a long-term, sustainable basis

Chapter 5 Eligible and Ineligible Project Improvements and Expenses

5.01 Eligible Improvements

RRDL Funds must be utilized for the rehabilitation of permanent rental housing, and eligible improvements must be permanent, general improvements that have not been started prior to the RRDL Program Loan closing.

Permanent general improvements include renovations or repairs to an existing structure that materially preserve or improve the basic livability, safety, conservation or utility of the property. Replacement of appliances for safety reasons or to improve energy efficiency is also an eligible improvement.

Improvements must be made in compliance with all applicable health, fire prevention, building, housing codes and standards, and Minnesota Housing's Limited Scope Projects Abbreviated Design Standards and Limited Scope Projects Sustainability Requirements.

5.02 Ineligible Improvements and Expenses

The following improvements and expenses are not eligible for RRDL Funds:

- New construction, conversion or adaptive reuse
- Installation of window air conditioners, unless previously provided and owned by the Development
- Installation of fireplaces or wood burning stoves
- Sweat equity for the property owner's labor
- Improvements begun prior to RRDL Program Loan closing or materials purchased prior to RRDL Program Loan closing
- Any improvement that is not a permanent fixture to the property (furniture or other personal items are not fixtures under Minnesota law), with the exception of appliances
- Materials, fixtures or landscaping of a type or quality exceeding what is customarily used in the locality for decent, safe and sanitary properties of the same general type as the property being improved
- Change orders not approved by Minnesota Housing prior to commencement of work
- Construction of or aesthetic improvements to recreational facilities including, but not limited to, patios, gazebos, tennis courts, hot tubs, swimming pools, playground equipment and saunas
- Costs associated with a Development that will be incomplete (e.g., framing a room addition)
- Repairs to or construction of outbuildings including, but not limited to, sheds, utility buildings, shops, barns, silos and underground sprinkler systems
- The construction of public development infrastructure including, but not limited to, City water, sewer, curbs and gutters that are not directly related to the rehabilitation of the Project
- Community development Projects including, but not limited to, parks or community centers
- Improvements for commercial use
- Operating and/or replacement reserves

- Owner equity takeout
- Acquisition
- Administration costs not connected to the rehabilitation of the Project
- Refinancing of an existing loan
- Developer Fees

NOTE: Ineligible improvements and expenses may be completed at the expense of the Borrower.

5.03 Eligible Soft Costs

Eligible soft costs include costs to process and settle the financing for a Project such as:

- Fees associated with Title commitment and insurance policy
- Legal document recording fees
- Building permits
- Attorney fees
- Market study, if required by Minnesota Housing
- Appraisal and independent cost estimate fees, if required by Minnesota Housing
- Temporary relocation costs associated with the RRDL project
- Lead-based paint risk assessment and lead clearance fees
- Asbestos survey
- Radon testing
- Energy audits
- Application assembly costs: A RRDL Applicant may be reimbursed for up to \$750 in costs associated with preparing and submitting an application to Minnesota Housing. This will be considered an eligible soft cost if the Project is selected for further processing. This cost will not be reimbursed if the Project is not selected for further processing.
- Project Management Fee: Up to 3 percent of the total RRDL Program Loan amount may be utilized to assist in the scope of work development, loan processing and construction oversight phases of the Project.

Chapter 6 – Rehabilitation Standards

At initial application, developments seeking RRDL Funds are not required to obtain a third party, 10 year or 20 year capital needs assessment, but if an Applicant has either of these two documents readily available at the time of application, they should submit the document with their application.

In lieu of a capital needs assessment, applicants should complete the Life Expectancy – Major Element/Assemblies Summary table found in the Narratives and Certifications form to the best of their ability. The property building maintenance staff person will be helpful in completing this form. Additionally, applicants are required to complete the [Applicant Certification of Known Environmental Conditions](#) and submit photographs of the overall property, existing conditions and all proposed improvement areas. See the Application Checklist on the [RRDL webpage](#) for the full list of required submittals.

Reference materials and guides related to both architecture and contractors may be found on Minnesota Housing’s website under [Building Standards](#).

For selected RRDL Applicants, the following two forms will be required as part of their due diligence:

- [Limited Scope Project Sustainability Requirements](#)
- [Limited Scope Project Abbreviated Design Standards](#)

Additionally, a Minnesota Housing staff architect may require the following template to be completed prior to a final funding recommendation:

- [Multifamily Physical Needs Assessment Template](#)

Chapter 7 – Underwriting Standards

All RRDL Program Loans will be evaluated and underwritten in concurrence with the [RRDL Underwriting Standards](#).

Chapter 8 – Loan Limits and Terms

8.01 Loan Minimums and Maximums

- The minimum total loan amount is \$100,000
- The maximum amount per unit is \$35,000
- The maximum loan is \$500,000 per Project

8.02 Loan Terms

- The loan will typically be structured as a Deferred Loan with a 20-year term at 0 percent interest, and payment of principal will be due on the date of loan maturity.
- The loan may be structured as a cash flow note or other payment structure based on the development's ability to support additional debt service, or at the discretion of Minnesota Housing.
- The owner must agree to maintain the rent and income restrictions and report annually for the later of the duration of the loan term, or the minimum affordability period as defined below.
- The loan may be structured as a construction loan or an end loan.
- Upon the successful completion of the original loan term, and maintaining the RRDL rent and income requirements throughout the term of the loan, 10 percent of the original principal loan amount will be forgiven.
- The loan will be non-recourse.
- The loan will be secured by a pledge of collateral through the recording of a mortgage on the Project.
- Minnesota Housing may, at its sole discretion, require 20 percent of cash flow in excess of \$50,000 to be repaid annually, and/or other payments toward the loan amount.
- The loan term may be adjusted based on requirements and conditions of the federal assistance or other funding sources.
- Minnesota Housing reserves the authority to adjust the loan terms, at its sole discretion.

8.03 Monitoring and Reporting Requirements

Minnesota Housing actively monitors each development it finances. This includes tenant incomes, rents, affirmative action and equal opportunity requirements, and year-end operating reports.

Assisted units must be leased to qualified households who must disclose their annual household income at initial occupancy on an Initial Occupancy Statement by Tenant form (other, more detailed income certification forms may be acceptable). This form is used to ensure households are qualified to occupy an assisted unit.

Owners must also request (but cannot require) that qualified households complete a Head of Household Demographic Information form, which will provide additional information for program evaluation.

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

Occupancy information on all units must be reported annually in a form and manner requested by Minnesota Housing. For additional guidance on compliance requirements, links to forms, and reporting information see [RRDL Program Compliance Reporting and Monitoring](#).

8.04 Transfer of Ownership

Sale of the property to another eligible Borrower and assumption of the loan must be pre-approved in writing by Minnesota Housing. Approval must be requested through Minnesota Housing's [request for action](#) (RFA) process.

Approval of the transfer request is at Minnesota Housing's sole discretion and will only be considered (but not guaranteed to be approved) based on:

- Whether the mortgagor is or has been in default of any of its agreements with Minnesota Housing
- Whether or not such agreements involve the RRDL Program Loan
- Minnesota Housing's review and approval of the proposed ownership entity, including creditworthiness
- Assumption of all contractual obligations with Minnesota Housing
- Payment of a fee equal to the greater of 1/2 of 1 percent of the outstanding RRDL Program Loan amount or \$1,500

8.05 Minimum Affordability Period and Prepayment

The Minimum Affordability Period begins on the date that the RRDL Program Loan closes.

The income and rent restrictions for the assisted units are in effect for the RRDL Program Loan term.

The mortgage may be prepaid in full at any time; however, income and rent restrictions will remain in place for a minimum of 15 years, to meet the RRDL Program Minimum Affordability Period. Minnesota Housing will charge a prepayment fee equal to the greater of 1/2 of 1 percent of the outstanding RRDL Program Loan amount or \$1,500.

Chapter 9 – Program Contacts

If you have questions, contact David Schluchter at 651.296.8161 or david.schluchter@state.mn.us or Irene Ruiz-Briseno at 651.296.3837 or irene.ruiz-briseno@state.mn.us. Applicants are required to schedule a technical assistance meeting either in person or via conference call with RRDL Program staff prior to submitting an application. To schedule a technical assistance meeting, contact Cheryl Rivinius at 651.296.3705 or cheryl.rivinius@state.mn.us.

Chapter 10 – 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 the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendment Act of 1988, as well as the Minnesota Human Rights Act. Housing providers 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.

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 terms, conditions or privileges of the rental of a dwelling unit or services or facilities;
- 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;
- 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 housing providers to make reasonable accommodations and to allow persons with disabilities to make reasonable modifications.

Applicants will be required to submit an Affirmative Fair Housing Marketing Plan 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.

Chapter 11 – Fraud, Misuse of Funds, Conflict of Interest, Suspension, and Disclosure and Reporting

11.01 Fraud

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

Any person or entity (including its employees and affiliates) that enters into an agreement 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 ways described in section 11.05.

11.02 Misuse of Funds

A loan or grant agreement is a legal contract between Minnesota Housing and the borrower or grantee. The borrower or grantee 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 borrower or grantee to pay for those activities, goods or services. Regardless of the Minnesota Housing program or funding source, the borrower or grantee must use Minnesota Housing funds as agreed, and the borrower or grantee 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 borrower or grantee; or (2) A borrower or grantee cannot provide adequate documentation to establish that Minnesota Housing funds were used in accordance with the terms and conditions of the loan or grant agreement.

Any borrower or grantee (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 ways described in section 11.05.

11.03 Conflict of Interest

A conflict of interest, actual, potential, or perceived, 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 or perceived conflict of interest exists even if no unethical, improper or illegal act results from it.

An individual conflict of interest is 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 friend, relative, acquaintance or business or organization with which they are involved.

Organizational conflicts of interest occur when:

- A contracting party is unable or potentially unable to render impartial assistance or advice to Minnesota Housing due to competing duties or loyalties
- A contracting party's objectivity in carrying out the award is or might be otherwise impaired due to competing duties or loyalties

- A contracting party has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors

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 an agreement with Minnesota Housing must avoid and immediately disclose to Minnesota Housing any and all actual, perceived or potential conflicts of interest through one of the ways described in section 11.05.

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

11.04 Suspension

By entering into any agreement 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 agreement) has not been suspended from doing business with Minnesota Housing. Refer to Minnesota Housing’s website for a list of [suspended individuals and organizations](#).

11.05 Disclosure and Reporting

Activities required to be reported under this chapter may be made in any of the following ways:

- Minnesota Housing’s Chief Risk Officer
- Any member of Minnesota Housing’s [Senior Leadership Team](#)
- The Minnesota Housing hotline reporting service vendor, EthicsPoint, by calling toll-free 866.886.1274 to speak with a live operator or by visiting the EthicsPoint reporting [webpage](#)

Appendix A – Terms

The following definitions apply unless an exception is clearly made in another section of this Program Guide.

Term	Definition
Affordable to Local Workforce	Rents are considered Affordable to the Local Workforce when they do not exceed the lesser of 30 percent of average monthly wages paid in the local area or are affordable at 80 percent of the United States Housing and Urban Development (HUD) area median income (AMI). Minnesota Housing calculates Affordable to Local Workforce rents for each county based on data from the Minnesota Department of Employment and Economic Development (DEED) and data from HUD.
Applicant	An eligible entity as specified in Minn. Stat. § 4900.3640 that is submitting an application for RRDL Funds.
Borrower	An applicant who has applied for and received RRDL Funds in conformance with the requirements of the RRDL Program Guide and all applicable regulations, statutes and rules.
Cash Flow Note	Some Borrowers may be required to make annual payments on a Minnesota Housing Deferred Loan. A Cash Flow Note explains how the payments are calculated.
City	Defined in Minn. Stat. § 462C.02, subdivision 6
Multifamily Consolidated RFP	Minnesota Housing’s annual, Multifamily Consolidated Request for Proposals
Deferred Loan	A non-amortizing loan, typically with a term of 20-30 years or coterminous with the first mortgage (if applicable). Minnesota Housing Deferred Loans typically bear interest of 0-1 percent and are repayable upon loan maturity. Some developments may be required to make annual payments pursuant to a Cash Flow Note.
Developer Fee	A fee paid to the Developer as part of the project soft costs to cover overhead, labor and other project related operational expenses born by the Developer during the project.
Rental Assistance	A revenue source used to pay a portion of the tenant’s monthly rent. Rental Assistance may be either project-based or tenant-based.
U.S. Housing and Urban Development (HUD)	Housing and Urban Development. A cabinet department that administers programs that provide housing and community development assistance.
Joint Powers Board	Two or more cities that owns or will own the housing
Minnesota Housing	Minnesota Housing Finance Agency
Minimum Affordability Period	The minimum period of time, established by Minnesota Housing, that the Borrower agrees to comply with rent, income and compliance reporting and monitoring requirements for the Project as outlined in Chapter 8.05 of this Program Guide. For the RRDL Program the Minimum Affordability Period is 15 years.
Natural Person	A real human being, as opposed to a legal entity, such as a corporation or limited partnership.

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Nonprofit Organization	Defined in Minn. Stat. § 462A.03, subdivision 22.
Developer	Typically a separate legal entity from the Owner, Borrower or Guarantor(s) who may complete the financing and development of a project for a fee.
Program Guide	This Rental Rehabilitation Deferred Loan Program Interim Guide, version August 2019.
Project	The real estate and improvements thereon for which the owner has applied for RRDL Funds.
Project Management Fee	An eligible soft cost that can be used to assist with the scope of work development, loan processing and/or the construction oversight phases of a Project.
Public Housing Agency	A local political subdivision created by a city or county that is authorized to engage or assist in the development or operation of low-income housing.
Public Housing Development	A development owned by a local political subdivision that is federally-subsidized via an annual contributions contract and is restricted by a HUD declaration of trust.
Rural Development (RD)	The housing division of the United States Department of Agriculture.
Request for Proposals (RFP)	The process by which Minnesota Housing solicits an Applicant to apply for RRDL Funds under the RRDL Program.
RRDL Funds	The cumulative funds made available through the RRDL Program.
RRDL Program Loan	RRDL Funds received by the Borrower.
RRDL Program	Rental Rehabilitation Deferred Loan Pilot Program
Single Asset Entity	Usually a limited liability company (LLC) that owns only one commercial or multi-family property.
Tribal Government	Pursuant to 25 USC § 3902 (5) : “the governing body of any Indian tribe, band, nation, pueblo, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians”