



**2017**  
**Housing Tax Credit Program**  
**Procedural Manual**

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## Introduction

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

The Minnesota Housing Finance Agency (Minnesota Housing) has been designated by the Minnesota Legislature as the primary allocating agency of HTC in Minnesota. Qualified local cities and counties have also been designated by the Legislature as suballocators of the HTC.

Section 42 of the Internal Revenue Code (Section 42) requires that housing credit allocating agencies develop an allocation plan for the distribution of the tax credits within the jurisdiction of the allocating agency (IRS Regulations 1.42-17 Qualified Allocation Plan). This document – the Minnesota Housing Tax Credit Program Procedural Manual – and all forms and attachments, along with the “Self-Scoring Worksheet,” are a part of Minnesota Housing’s **Qualified Allocation Plan (QAP)**. The QAP is subject to modification or amendment to ensure the provisions conform to the changing requirements of Section 42 and applicable state statutes.

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

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

This manual is provided solely for use in applying for tax credits from Minnesota Housing and may not be relied upon in structuring or investing in specific transactions, compliance with the Internal Revenue Code, Treasury Regulations or any other laws or regulations governing tax credits. Interested parties should consult with a knowledgeable tax professional prior to entering into any commitment concerning the use and claim of tax credits.

## **Chapter 1 – The Minnesota Housing Mission Statement**

### **Vision**

All Minnesotans live in a safe, stable home they can afford in a community of their choice.

### **Mission**

Housing is the foundation for success, so we collaborate with individuals, communities and partners to create, preserve and finance affordable housing.



## **Chapter 2 – Policies and Procedures**

### **A. Application Cycle**

Minnesota Housing has two annual HTC funding cycles, Round 1 and Round 2.

Round 1 uses a forward selection process, with selections taking place in the fall of the year proceeding the allocation year of the credits. During Round 1, for-profit applicants must apply directly to the suballocator for a credit allocation if the project falls within a suballocator's jurisdiction. Nonprofit applicants may apply to the Minnesota Housing nonprofit set-aside or the suballocator individually or concurrently. Any unused tax credits are returned to Minnesota Housing prior to Round 2.

Round 2 makes available for allocation any tax credits remaining or returned since Round 1. Additionally, Round 2 establishes a waiting list for credits that may be returned. In Round 2, projects located in suballocator jurisdictions may apply directly to Minnesota Housing.

Minnesota Housing will accept applications in accordance with the QAP. The closing date for receipt of applications for each competition can be found in "Chapter 9 – Allocation Schedule of Critical Dates."

### **B. Multiple Buildings**

Projects may include "multiple buildings" having similarly constructed housing units, provided the buildings are located on the same tract of land, have the same owner for federal income tax purposes and are financed pursuant to a common plan of financing. Scattered site buildings on different tracts of land will also qualify if the project meets all of the other requirements described above and the project is 100 percent rent restricted.

### **C. Nonprofit Set-aside**

Federal law requires that 10 percent of the total annual credit available be reserved each year exclusively for projects involving ownership by nonprofit organizations which have a 501(c)(3) or (c)(4) status or appropriate equivalent designation approval from the IRS. On an annual basis, Minnesota Housing and suballocators may reserve an additional 5 percent for a total annual nonprofit set-aside of 15 percent.

The nonprofit must be local, organized and incorporated in the state of Minnesota and have significant experience in Minnesota as a sponsor, owner, or manager of low-income housing. The nonprofit must have the fostering of low-income housing as one of its exempt purposes and must "materially participate" in the ownership, development and operation of the low-income project through the term of the Declaration.

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

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

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

If there is an identity of interest, affiliation or conflict, as determined by Minnesota Housing, Minnesota Housing may disqualify the nonprofit from receiving credits from the nonprofit set-aside. In making this determination, Minnesota Housing will consider the following:

1. The nonprofit's history, funding sources and composition of its board.
2. Past experience and anticipated future activities of the nonprofit, including involvement in the local community.
3. Sources and manner of funding of the nonprofit.
4. The nonprofit's degree of financial strength for completion and operation of the project during the term of the Declaration.
5. The relationship of the principals involved in the formation of the nonprofit organization with for-profit individuals concerning the tax credit application. A nonprofit cannot be affiliated with or controlled by a for-profit entity by:
  - a. Having more than a 25 percent share of common board members; or
  - b. Having more than 25 percent of its funding, directly or indirectly, from the parent entity; or
  - c. Having any other type of association that is not considered an arms-length affiliation.
6. The extent to which the nonprofit materially participates within the meaning of Section 469(h) of the Internal Revenue Code in the development and operation of the project throughout the term of the Declaration. Minnesota Housing will also look at the nonprofit's involvement in the project-related construction, management, ownership interest, sharing of fees and funding provisions.
7. If the nonprofit set-aside is exhausted during a round, the nonprofit applicant with proposed projects in Minnesota Housing's jurisdiction may be eligible for tax credits from the appropriate for-profit set-aside and selected based upon its point ranking. (See also Article 3 and 4 of the QAP.) However, any proposal with a qualified nonprofit applicant must comply with the nonprofit requirements of IRC Section 42(h)(5)(C) and

(D) including material participation for the term of the declaration. This requirement will be recorded as a covenant on the land that shall apply to all subsequent owners.

#### **D. Rural Development/Small Project Set-Aside**

Eligible projects must have either:

- A Rural Development (RD) financing commitment or,
- A site located in an *RD service area* and consisting of 12 or fewer units.

First priority will go to projects with applications for financing or a commitment from RD. A developer may have a maximum award of two projects within this set-aside each allocation year. Once a project has elected to participate in this set-aside, the project may not be transferred to an alternative set-aside in the existing round. The tax credits will not be allocated to an RD project until a financing commitment has been executed.

#### **E. Developer and Development Limits**

During the allocation year, no more than 10 percent of the State's per capita volume limit in tax credits may be awarded to any one developer or general partner. No more than \$1,000,000 in cumulative tax credits may be awarded to any one development.

At the sole discretion of Minnesota Housing, these limits may be waived for projects that involve Planned Community Development, historic preservation, preservation of existing federally assisted buildings, and housing with rents affordable to households at or below 30 percent of median income or in response to significant proposed expansions in area employment or natural disaster recovery efforts. Minnesota Housing may also waive these limits during Round 2 if there are excess tax credits at year-end.

Applicants should not assume that this waiver will be automatically provided or rely on this statement when determining the scope of the proposed project.

#### **F. Transfer of Ownership**

Minnesota Housing strongly discourages the transfer of ownership in projects that have been awarded tax credits. For the long term viability of quality housing, Minnesota Housing's position is that the development and management teams making the decisions in developing the tax credit housing need to also own and operate the project for the long term. Any transfer of title of a selected project or transfer of more than a 50 percent interest in a general partner or change in a nonprofit partner, prior to a date five years after the project's new construction/rehabilitation placed in service date, will be considered a material change in the project and **will be subject to the approval of Minnesota Housing**.

Owners wishing to change or transfer ownership must submit a completed Request for Action Form, Transfer Agreement if prior to issuance of 8609 (HTC 20), a transfer of ownership fee, (see Chapter 8) and any other documentation that Minnesota Housing deems necessary.

## **G. Unacceptable Practices**

### **1. Unapproved Transfer of Ownership**

Any unapproved change or transfer of ownership from selection through five years after the project's new construction/rehabilitation placed in service date will have an effect on all individuals/entities from the development and management team on each side of the transfer that submit applications in future HTC rounds. These entities may be penalized as follows:

For four funding rounds from the date Minnesota Housing discovers an unapproved change or transfer of ownership:

- a. First transfer (-10 points on each application submittal)
- b. Two or more transfers (-25 points on each application submittal)

In addition, if Minnesota Housing becomes aware of a transfer of ownership by an individual or entity without proper notification and approval by Minnesota Housing, Minnesota Housing reserves the right to determine that all parties involved in the transfer will not be eligible for participation in Minnesota's HTC program for a period of 10 years.

### **2. Failure to Meet Requirements of Points Awarded under Cost Containment Preference Priority**

If a project receives points under this preference priority, failure to keep project costs under the applicable cost threshold through 8609 final cost certification will be considered an unacceptable practice and result in negative four points being awarded in all of the applicant's tax credit submissions in the next funding round in which submissions are made. The "applicable cost threshold" will be determined by the Revised Cost Containment Methodology located under the [Application Reference Materials](#).

### **3. Displacement of Section 8 Tenants**

Minnesota Housing will not accept applications that have displaced (or will displace) Section 8 tenants in a housing project because rents will be increased above the Section 8 Payment Standard Rent limit. Rehabilitation projects that have existing Section 8 tenants may not increase those rents (in Section 8 units only) above HUD's Payment Standard Rents after completion of rehabilitation.

- a. Minnesota Housing has agreed to partner with the local HUD area office to determine if tenants of rehabilitation projects:
  - i. Were displaced prior to application.
  - ii. Are displaced after rehabilitation has been completed.
- b. If Minnesota Housing and the local HUD area office agree that intentional displacement of Section 8 tenants has occurred, with exception given to lease violations by the tenant, Minnesota Housing will:
  - i. Reduce or rescind the reservation/allocation of the tax credits to the project prior to issuance of 8609.

- ii. Assess a -25 point penalty to all parties involved in ownership/management of the project for four funding rounds following notification of the assessment of the negative points by Minnesota Housing. This also applies to tax-exempt tax credit projects, owners, and managers.

#### **4. Changes to Project**

The award of tax credits is based upon information provided in the application and the preliminary plans submitted with the application. Until the property is placed in service, any material changes to the project or building design (i.e., changes in unit mix or unit size that affect applicable Design Standards, or design features required for preference points) as submitted in the application require written notification to and approval from Minnesota Housing. Any changes that have not been previously approved by Minnesota Housing could result in a proportional loss of tax credits up to the full amount of the allocation as well as the assessment of penalty points to the owner/developer of up to -25 points.

#### **5. Late 8609 Application Submissions Resulting in the Loss of Tax Credit Authority to the State**

When Minnesota Housing becomes aware that a late submission of a complete and acceptable 8609 application package by a development's owner/agent results in the loss of any volume of housing tax credit authority to the state of Minnesota, Minnesota Housing reserves the right to determine that all parties involved will not be eligible for future participation in Minnesota's HTC Program for a period of up to 10 years.

#### **6. Filing of Non-Agency Approved 8609 with the IRS**

When Minnesota Housing becomes aware that a development's owner/agent has filed an 8609 with the IRS in advance of the owner/agent's receipt of the Minnesota Housing signed version of the approved 8609, or if the owner/agent electronically files an 8609 with the IRS which does not accurately reflect the information contained on the Minnesota Housing signed version of the approved 8609, Minnesota Housing will file an 8823 Notice of Non-Compliance with the IRS and reserves the right to determine that all parties involved will not be eligible for future participation in Minnesota's HTC Program for up to a period of 10 years. This applies to credits issued by Minnesota Housing, suballocators and in conjunction with tax-exempt bonds.

#### **7. Repeated non-compliance with Minnesota Housing's Fair Housing Policies, Procedures, and/or Requirements**

Repeated failure to comply with Minnesota Housing's Fair Housing Policies, Procedures, or Requirements will be penalized. Minnesota Housing will impose up to a -25 point penalty on future housing credit developments to all parties involved in ownership and/or management on the development(s) that repeatedly are found in non-compliance. The penalty points will be in effect for four funding rounds following notification of the assessment of the negative points by Minnesota Housing. This also applies to tax-exempt tax credit projects, owners, and managers.

## **H. Minimum Underwriting Standards**

A development selected for a reservation of tax credits is selected based upon underwriting standards including but not limited to acquisition costs, maintenance and operating expenses and permanent financing as approved by Minnesota Housing (see Chapter 5), the Minnesota Housing [Multifamily Underwriting Standards](#) and the [Multifamily Request for Proposal Guide](#)). These factors will be monitored throughout the tax credit process until Minnesota Housing's issuance of the approved IRS Form 8609. **Minnesota Housing will not allow any significant adjustments to these standards.** Not complying with these standards could lead to the revocation of the tax credit allocation.

## **I. Identity of Interest**

The applicant must disclose any and all relationships (generally based on financial interests or family ties) with others involved in the project. A written disclosure to Minnesota Housing detailing the nature of all identity of interest relationships is required for all parties.

## **J. Disclosure and Eligibility of Development Team**

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

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

1. Significant parties who have been convicted of, enter an agreement for immunity from prosecution from, or plead guilty, including a plea of *nolo contendere*, to a crime of dishonesty, moral turpitude, fraud, bribery, payment of illegal gratuities, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records.
2. Significant parties who are currently debarred from any Minnesota program, other states' program(s), or any federal program(s).
3. At the sole discretion of Minnesota Housing, significant parties who have serious and persistent compliance monitoring violations may not be eligible.
4. At the sole discretion of Minnesota Housing, significant parties having an Identity of Interest with persons or entities falling into any of the above categories may not be eligible.

## **K. Determination of Credit Amount**

Federal law mandates that, although a proposed project may be eligible for up to 70 percent or up to 30 percent present value credit amount, Minnesota Housing may not allocate more credit than is necessary for the financial feasibility of the project and its viability as a qualified affordable housing project throughout the compliance period.

After a project meets the development selection criteria, including marketability, Minnesota Housing will evaluate each proposed project, taking into consideration:

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

Based on this evaluation, Minnesota Housing will estimate the amount of credit to be reserved for each application. This determination is made solely at Minnesota Housing's discretion and is not a representation as to the feasibility of the project. Rather, it will serve as the basis for making a reservation of credits. The amount of the tax credit can change during the process due to variations in cost, mortgage amount, tax credit percentage, syndication proceeds, etc.

This analysis to determine the maximum amount of tax credits must be performed by both Minnesota Housing and the owner/developer at the time of application, at the time a carryover allocation is approved, and at the time the project is placed in service, providing all project costs are finalized and certified.

If there are changes in resources and/or uses of funds or other material changes, Minnesota Housing will adjust the tax credit amount to reflect the changes, and the tax credit may be reduced. Tax credit amounts will not automatically be increased above the initial reservation request or allocation amount. Requests for additional tax credits for the project must follow the procedures in Chapter 2.L of the manual and will depend upon the availability of credits.

#### **L. Requests for Additional Credit Amounts**

Projects that have had a justifiable increase in eligible basis or previously received a partial allocation may be eligible to apply for supplemental tax credit amounts. To receive a supplemental tax credit amount, the owner must submit an application when applications are due for Round 1, Round 2, or at the time the carryover application is submitted.

Developers who have a Minnesota Housing reservation from the current year will be required to submit a revised "Multifamily Workbook," documentation supporting the increased amount of credits requested, an updated and revised "Self-Scoring Worksheet," any new or revised documentation obtained since the previous application and a supplemental application fee.

A complete application package with all attachments and a full application fee will be required for an application for additional tax credits for developments initially awarded tax credits from a suballocator or that have a tax credit allocation from a prior year.

Minnesota Housing permits only one supplemental or additional tax credit allocation award for each development. Awards of additional credits requested as part of a carryover application are not counted against this limit.

Applications that are submitted for an additional tax credit amount will be subject to the same evaluation process described above, the availability of credits, as well as limitations on the time period for allocation of additional credits under Section 42.

### **M. Resubmission Process for Non-Select Projects**

In a current allocation year, if a project fails to receive credits in Round 1, it may be considered for a reservation of tax credits in Round 2 by following these guidelines. Re-submittal must occur by Minnesota Housing's HTC application deadline. Minnesota Housing will not consider applications resubmitted after the deadline. A resubmitted application must include the following:

1. Cover letter requesting resubmission with a copy of Minnesota Housing's non-selection letter attached.
2. Re-signed and re-dated "Multifamily Workbook" (all changes from the initial application must be clearly identified).
3. Any new or revised documentation obtained since the previous application.
4. An updated and revised "Self-Scoring Worksheet" including all documentation that clearly supports the points claimed.
5. Any documentation Minnesota Housing deems necessary (upon request only).
6. The Supplemental Application fee.

Minnesota Housing reserves the right to require a full, new application for any project. This right will be exercised if staff feels the proposed project differs substantially from the initial application.

### **N. Qualified Census Tracts, Difficult Development Areas and State Designated Basis Boosts**

Federal law permits, but does not require, Minnesota Housing to reserve a greater amount of credits than the legislated maximum credit percentage for projects in areas that meet one of the following criteria:

1. **Qualified census tracts (QCT)** designated by HUD in which 50 percent of the population has an income of less than 60 percent of the area median or has a poverty rate of at least 25 percent; where such areas do not comprise more than 20 percent of the overall population (for a current list of the HUD-designated QCTs on the Internet, go to



Minnesota Housing's website under HTC Reference Materials or go directly to <http://qct.huduser.org/index.html> or <http://209.48.228.153/qctmap.html>).

2. **Difficult development areas (DDA)** designated by HUD as having high construction, land, and utility costs relative to area median income. For DDA information, reference the same website for QCT above.
3. **State Designated Basis Boost** - Buildings Designated by State Housing Credit Agency [pursuant to 42(d)(5)(B)(v)]\*

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

- a. Development must meet state identified housing priorities as evidenced by competitive tax credit score and at least one of the following:
  - i. The development receives an award of points in the "Self-Scoring Worksheet" in one or more selection priority areas for the following:
    1. Historic preservation – Points must be awarded through the Federal/Local/Philanthropic Contributions priority for inclusion of historic tax credits.
    2. Preservation – Points must be awarded through the Preservation priority subcategory of Existing Federal Assistance or the subcategory of Critical Affordable Units at Risk of Loss for existing tax credit units.
    3. Permanent Supportive Housing for Households Experiencing Homelessness.
    4. Economically integrated housing providing at least 25 percent but not greater than 80 percent of the total units in the project as qualified tax credit low-income units (not including full-time manager or other common space units). (See Chapter 3.O.)
  - ii. The development, as determined by Minnesota Housing, will be affordable to households at or below 30 percent of area median income. As part of its application, the applicant must provide detailed and credible supporting evidence of financial feasibility.
  - iii. The development, as determined by Minnesota Housing, responds to significant proposed expansions in area employment. As part of its application, the applicant must provide detailed and credible supporting evidence of such significant proposed expansions in area employment.

- iv. The development, as determined by Minnesota Housing, is part of Planned Community Development.
- v. The development, as determined by Minnesota Housing, responds to natural disaster recovery efforts when a qualifying natural disaster is declared /certified (by Presidential, Governor and/or Minnesota Housing Board designation) and as provided for in the QAP. As part of its application, the applicant must provide detailed and credible supporting evidence of such response to natural disaster recovery efforts.
- b. The application must demonstrate that without the basis boost a significant funding gap will remain for the proposed development.
- c. The application must demonstrate that any tax credits allocated in connection with the basis boost shall be no more than needed to achieve financial feasibility.

\*Requests by applicants or developers to Minnesota Housing to apply the 30 percent State designated basis boost must be formally made in writing. The request should clearly outline the reasons supporting the request and clearly demonstrate how the proposal meets the criteria established by Minnesota Housing for receiving boost considerations.

## **O. Reservations**

Once staff has ranked applications and determined allowable credit amounts for each application, staff will make recommendations to Minnesota Housing's Board for final approval of the reservation of credits. After the 10-day adjustment period (referenced below), the selected applicant will have 20 days to acknowledge selection by returning an executed project profile, and the appropriate reservation fee (see Chapter 8).

A development selected for a reservation of tax credits is selected based upon many specific factors relating to the application including site location. **Reservations are site specific.** Changing a development's site could lead to the revocation of the tax credit reservation/allocation.

Minnesota Housing's HTC Program permits its owners to elect the applicable percentage either at reservation or placed in service. If the election is not made at the time the reservation letter is issued, the percentage will be fixed for the month in which the building is placed in service. The owner must be sure to consider the best options for this election and make sure the election is made at the correct time. Once made, the election is irrevocable. Upon receipt of the required documents, Minnesota Housing will complete its reservation review and send reservation agreements to be executed by the owner. Each reservation must be conditioned upon receipt of written certification, evidence of timely progress toward completion of the project acceptable to Minnesota Housing, and evidence of compliance with federal tax requirements.

Choosing the gross rent floor date as the date of allocation or the date of placed in service can be done at any time from reservation forward but the election must be made and the

completed election form received by Minnesota Housing no later than the date the project is placed in service. If you choose to make the election as of the date of the reservation, submit a fully executed Gross Rent Floor Election Form (HTC 26) including each building of the development in which there are tax credit units. If the required owner-executed forms with all elections made by the owner; are not submitted to Minnesota Housing by a date no later than the placed in service date, the gross rent floor date will be effective on the allocation date of the tax credits.

Minnesota Housing maintains the right not to reserve tax credits for any project if it determines, in its sole discretion, that a reservation for such project does not further the purpose and goals as set forth in Chapter 1 of this manual.

### **P. Administrative Errors/Appeals Process**

If the applicant believes that Minnesota Housing has misinterpreted, was not aware of a submission item, or miscalculated the applicant's selection points or credit amount at time of application/reservation, the applicant must submit in writing evidence supporting their position within five business days of Minnesota Housing's notification of application status. The applicant's appeal must be written in letter form, containing an original signature, and stating that the communication is an appeal under Chapter 2.P of the "Housing Tax Credit Program Procedural Manual." The appeal letter may be submitted through email to [mhfa.htc.appeals@state.mn.us](mailto:mhfa.htc.appeals@state.mn.us) or to:

Minnesota Housing  
Housing Tax Credit Administrator  
400 Sibley Street, Suite 300  
St. Paul, MN 55101-1998

An applicant is not permitted to contest the scores of other applicants. Notification will be in the form of a selection or non-selection letter. The first business day after the date on this letter will be the first day of the notification period.

If the evidence provided by the applicant is accepted and the selection points of the project are affected, Minnesota Housing will re-rank all projects in the order of descending selection points. After an additional five-business day period, Minnesota Housing's rankings will stand and reservations for selected projects will be distributed.

### **Q. Waiting List**

In Round 2, eligible applications will be maintained on a waiting list until the end of the year in the event Minnesota Housing receives National Pool credits or returned credits. A project on the waiting list that is awarded its credit request through the subsequent Round 1 will no longer be eligible to receive credits through the waiting list and will be removed from the list. The waiting list will follow Minnesota Housing's selection point ranking. Generally, projects will be chosen in order; however, depending on time and funds available, Minnesota Housing

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

## **R. Carryover Allocations**

Federal law (IRS Regulations 1.42-06 Carryover Allocation) provides that Minnesota Housing may give a carryover allocation to certain qualified building(s), which are to be placed in service no later than December 31 of the second year after the allocation year for which the reservation was issued. To receive a carryover allocation, the owner must submit a complete carryover application package to Minnesota Housing no later than November 1 of the allocation year for which the reservation was issued.

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

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

1. The amount of the reasonably expected basis at the end of the second year after the initial reservation.
2. The carryover basis expended by the later of:
  - a. The date which is one year after the date that the allocation is made, or
  - b. The close of the calendar year in which the allocation is made.

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

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

## **S. Final Allocations**

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

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

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

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

The tax credit amount that will be allocated is based on Minnesota Housing's final determination of the qualified basis for the building or project and a review of the project costs as outlined in the "Minnesota Housing Tax Credit Program Procedural Manual." The allocation may be reduced to comply with federal law based on the final review of the project.

Prior to final allocation, the project owner is required to execute and record a Declaration of Land Use Restrictive Covenants.

Non-compliance with the terms of a reservation of credits or a carryover allocation will result in a loss of credits.

## **T. Monitoring for Compliance**

Federal law requires that Minnesota Housing provide a procedure to be used in monitoring for compliance with Section 42 and for notifying the IRS of noncompliance. Minnesota Housing is required to apply the monitoring procedure to all tax credit projects developed within Minnesota Housing's jurisdiction including tax credits issued with tax-exempt bonds since the inception of the HTC Program. Minnesota Housing will perform such duties in accordance with its "Housing Tax Credit Compliance Manual." Copies are available upon request.

1. All tax credit recipients must submit an annual certification to Minnesota Housing in a manner, form, and time established by Minnesota Housing. The certification will include, but is not limited to, the submission of completed IRS forms, compliance report including demographic data on households and monitoring fees. Owners are required to certify whether or not the property is in compliance with Section 42 regulations and also whether or not the property complies with the restrictions and/or set-asides under which the allocation was awarded.
2. A periodic review of tenant certifications including the tenant applications and verification of income and income from assets, as well as general project appearance will be conducted in accordance with the "Housing Tax Credit Compliance Manual." If a property received its credit allocation based on serving specific targeted population(s), the tenant files must also contain supporting documentation showing that the unit is serving such population(s).
3. Minnesota Housing will conduct its first monitoring inspection no later than the end of the second year of the credit period. Such inspection will include, but is not limited to, a review of tenant files and physical inspection of 20 percent of the low-income units.
4. Minnesota Housing will conduct a compliance inspection of each development at least once every three years. Such inspection will include, but is not limited to, a review of tenant files and physical inspection of 20 percent of the low-income units.
5. Minnesota Housing must have access to all official project records, including IRS reporting forms, upon reasonable notification. All official project records or complete copies of such records must be made available to Minnesota Housing upon request.
6. To accomplish its compliance monitoring responsibilities, Minnesota Housing will charge a fee of \$25 for each unit in the project annually. The fee for properties covered by the Memorandum of Understanding by and between Minnesota Housing and USDA Rural Development is \$15 per unit per year. Minnesota Housing reserves the right to adjust the annual fee to offset administrative costs.
7. Minnesota Housing will promptly notify the IRS of any project noncompliance within its responsibility as contained in Section 42. Minnesota Housing has no jurisdiction to interpret or administer Section 42, except in those instances where specific delegation has been authorized.
8. Properties that received a credit allocation in 1990 and later are subject to a minimum 15-year Extended Use Period. Minnesota Housing has defined compliance requirements and monitoring procedures during the Extended Use Period in the "Housing Tax Credit Compliance Manual."

## **U. Qualified Contract**

Section 42(h)(6)(E)(i)(II) of the Internal Revenue Code created a provision that housing credit agencies respond to the request for presentation of a qualified contract for tax credit developments with expiring compliance periods. The request for presentation of a qualified contract may occur after year 14 of the compliance period. The request for presentation of a

qualified contract is a request that the housing credit agency find a buyer (who will continue to operate the property as a qualified low-income property) to purchase the property for a “qualified contract” price pursuant to IRS regulations. If the housing credit agency is unable to find a buyer within one year, the extended use period is terminated.

Many owners have chosen to waive the right to request a qualified contract and have committed to thirty years or more of operation as low-income rental housing. Owners should review the respective QAP, development tax credit application, carryover agreement, and Declaration of Land Use Restrictive Covenants to determine whether the development has waived the right to request a Qualified Contract prior to contacting Minnesota Housing.

A Request for Qualified Contract may be submitted only once for each development. If an owner rejects an offer presented under the Qualified Contract or withdraws its request at any time after the notification letter and application materials have been received by Minnesota Housing, no other opportunity to request a Qualified Contract will be available for the development in question.

Owners who are contemplating requesting the presentation of a Qualified Contract should directly contact a member of Minnesota Housing’s tax credit team or reference the “Qualified Contract Guide.”

## **V. Tenant Selection Plan**

Minnesota Housing requires that a Tenant Selection Plan (Plan) is readily available to anyone interested in such Plan for review and/or retention. Minnesota Housing will not develop or provide such a Plan to owners or management companies.

Federal, State and local fair housing laws should be consulted when owners/managers are developing a Plan. It is the responsibility of the owner/manager to have a thorough understanding of the basis under which discrimination is prohibited.

A Plan developed for the purpose of objectively selecting potential residents should have a focus on demonstrating an ability to live in harmony with others in a respectful manner. Factors to consider of persons interested in the available housing should include but not be limited to income eligibility, ability to pay the required rent, deposits and applicable tenant paid utilities, previous rental history, references, and expectations of all residents to management, neighbors, visitors to the development, etc. (Also see related items in Chapter 6 B and C, and Chapter 7 G.)

## **W. Other Conditions**

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

**X. Revisions to the Manual and Allocation Plan**

To the extent necessary to facilitate the award of tax credits that would not otherwise be awarded, this Procedural Manual and associated QAP may be modified by Minnesota Housing from time to time. Minnesota Housing may make minor administrative modifications deemed necessary to facilitate the administration of the HTC Program or to address unforeseen circumstances. Further, the Board is authorized to waive any conditions that are not mandated by Section 42 on a case-by-case basis for good cause shown.

A written explanation will be made available to the general public for any allocation of a housing credit dollar amount that is not made in accordance with Minnesota Housing’s established priorities and selection criteria.

The QAP may be amended for substantive issues at any time following public notice and public hearing. Public hearings are held at the main offices of the Minnesota Housing in St. Paul, Minnesota. Any substantive amendments will require approval of Minnesota Housing Board and the Governor.

To the extent that anything contained in the “Housing Tax Credit Program Procedural Manual;” and QAP does not meet the minimum requirements of federal law or regulations, such law or regulation will take precedence.



## Chapter 3 – Federal Program Requirements

### A. Eligible Activities

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

### B. Applicable Percentage

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

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

The 9 percent and 4 percent credit percentage represents the maximum potential rate.

Section 42(b)(2)(A) and (B) of the Internal Revenue Code established a **temporary** minimum credit rate for non-federally subsidized buildings. In the case of any new building which is placed in service by the taxpayer after July 30, 2008 and before December 31, 2013, and which is not federally subsidized for the taxable year, the applicable percentage shall not be less than 9 percent. H.R. 8, The American Taxpayer Relief Act of 2012, amended these provisions and extends the flat 9 percent applicable percentage to be available for any new building placed in service after July 30, 2008, with respect to any tax credit allocations made before January 1, 2014. H.R. 5771, the Tax Increase Prevention Act of 2014, extends this provision to apply for allocations made before January 1, 2015.

**Unless Congress extends the flat 9 percent rate prior to the application due date, applicants must utilize the floating 9 percent rate.**

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

### C. Qualifying Rehabilitation

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

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

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

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

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

#### **D. Existing Buildings**

In order for an existing building to qualify for the 30 percent acquisition credit in connection with rehabilitation, there must have been a period of at least 10 years between the date the building was acquired and the date it was last placed in service.

Please note that the 10-year rule also applies to existing tax credit projects applying for a new allocation of acquisition credits at the end of the original 15-year compliance period.

#### **E. Exception to the 10-Year Rule**

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

1. A person who inherits a property;
2. A government unit or qualified nonprofit group if income from the property is exempt from federal income taxation;
3. A person who gains a property through foreclosure (or instrument in lieu of foreclosure) of any purchase money security interest, provided the person resells the building within 12 months after placing the building in service following foreclosure; or

4. Single family residences that had no use during the prior 10-year period except, as an owner-occupied principal residence will not be treated as being placed in service for purposes of the 10-year holding period. Note that although the 10-year rule does not apply, the property must still be rehabilitated to claim the acquisition costs of such a property.

## **F. Federal Subsidies**

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

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

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

## **G. Review of Federally Assisted Projects**

Minnesota Housing will review projects using Rural Development Section 515 Rural Housing Loan funds in accordance with Minnesota Housing's currently approved underwriting practices and procedures. So as to achieve a coordinated underwriting to the extent reasonably possible, it is the responsibility of the applicant to provide Minnesota Housing with available underwriting requirements and other requirements for the project which have been established by Rural Development. Prior to issuance of the IRS Form 8609, the applicant must submit to Minnesota Housing a copy of RD Form 3560-51, Multiple Family Housing Obligation-Fund Analysis for reference in the determination of the final allocation of tax credits to a project.

## **H. Federal Subsidy Layering Review**

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

Suballocators are responsible for assuring that subsidy layering reviews are completed for developments within their jurisdiction where they are the housing credit allocating agency.

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

- Metropolitan Housing Opportunity Program (MHOP)

- U.S. Housing and Urban Development (HUD) Insurance
- Section 8 project-based rental assistance, etc.

At a minimum the following documents must be submitted:

- Partnership (Syndication) Agreement, spelling out the equity contributions and dates of disbursement; and
- Copy of the “Multifamily Workbook.”

## **I. Project Eligibility**

Applicants must set aside a minimum number of units that meet both rent and income restrictions to qualify for tax credits for each year of the credit period. A project must, for a specific period of time, meet one of the following minimum tests:

- **20/50 Test:** To meet the 20/50 Test, a minimum of 20 percent of the residential units must be both rent restricted and occupied by individuals whose income is at or below the 50 percent Multifamily Tax Subsidy Project limits, “MTSP limits” (as established for different geographical areas and published by the U.S. Department of Housing and Urban Development) adjusted for family size.
- **40/60 Test:** To meet the 40/60 Test, a minimum 40 percent of the residential units must be both rent restricted and occupied by individuals whose income is at or below the 60 percent MTSP limits, adjusted for family size.

Once made, the choice between the 20 percent at 50 percent and the 40 percent at 60 percent set-asides is irrevocable.

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

## **J. Affordable Rents**

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

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

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

Therefore, the rent restrictions applicable to a low-income unit are determined by which test is elected and how many bedrooms are contained in the unit. Current income limits, as derived from the Department of Housing and Urban Development, for Minnesota counties are described in the Rent and Income tables found in the Multifamily Common Application Reference Materials section.

For tax credit compliance purposes, “gross rent” means all payments by the tenant, including non-optional charges and payments for utilities other than telephone and cable. If the tenant pays utilities directly, the maximum rent that can be paid to the landlord is reduced by a utility allowance determined in accordance with rules under Section 8 of the U.S. Housing Act of 1937 (Section 8). IRS Regulations (Section 1.42-10 Utility Allowance, as amended) provides guidance relating to Utility Allowances and lays out options for establishing them. The options, depending on assistance or regulation characteristics of the project or the tenant, may require use of an RD utility allowance, a HUD utility allowance, a PHA/HRA utility allowance, an Agency Estimate, a HUD utility Schedule Model, an Energy Consumption Model, or a utility allowance produced with information obtained through a local utility company in a manner consistent with Section 1.42-10. Utility allowances must be updated at least annually.

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

Additional rent restrictions may apply if the award of tax credits was made based on such additional restrictions.

## **K. Tenant Eligibility**

To be a low-income unit for purposes of determining the qualified basis, the tenant must have income at or below 50 percent of the applicable MTSP limits if the 20/50 Test is elected or 60 percent of MTSP limits if the 40/60 Test is elected. The unit must be rent restricted as set forth above, and the unit must be suitable for occupancy.

The combined household income of all tenants occupying a tax credit eligible unit must be less than or equal to the elected income requirements as shown on Rent and Income Limits.

Section 42 does not allow households comprised of full-time students to qualify as low-income units unless certain exceptions are met. The student exceptions are found in Section 42 (i)(3)(D):

**CERTAIN STUDENTS NOT TO DISQUALIFY UNIT - A UNIT SHALL NOT FAIL TO BE TREATED AS A LOW-INCOME UNIT MERELY BECAUSE IT IS OCCUPIED**

1. By an individual who is

i. A student and receiving assistance under title IV of the Social Security Act,

- ii. A student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act, or
  - iii. Enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State or local laws, or
2. Entirely by full time students if such students are
- i. Single parents and their children and such parents are not dependents (as defined in IRC § 152 determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of another individual and such children are not dependents of another individual other than a parent of such children, or
  - li. Married and file a joint tax return

See Chapter 17 of the Guide for Completing Form 8823, Low-Income Housing Credit Agency's Report of Noncompliance or Building Disposition, for additional guidance.

## **L. Eligible Basis**

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

1. The eligible basis may be increased for new buildings and rehabilitation to existing buildings that are located in designated qualified census tracts (QCT), difficult development areas (DDA) or in developments utilizing the state designated basis boost.
2. The cost of the non-low income residential units in a building is included in eligible basis only if the quality of these units does not exceed the average quality of the low-income units. If the cost of a non-low income unit exceeds the cost of a low-income unit (using the average cost per square foot and assuming the same size) by more than 15 percent, the entire cost of the non-low income unit must be excluded from the building's eligible basis. If the excess cost is not more than 15 percent, the owner may make an election to exclude only the excess cost of the non-low income unit(s) from eligible basis.
3. The cost of depreciable property used in common areas or provided as comparable amenities to all residential units (e.g., carpeting and appliances) is included in determining eligible basis. The cost of tenant facilities (e.g., parking, garages, and swimming pools) may be included in eligible basis if there is no separate charge for use of the facilities and they are available to all tenants in the project.
4. The cost of a community service facility is included in basis only if the building is located in a qualified census tract. The eligible basis of that facility must not exceed 25 percent of first \$15 million of eligible basis plus 10 percent of additional basis in the project. All community service facilities that are part of the same qualified low-income housing project shall be treated as one facility. A community service facility is defined as a

facility that is part of the qualified low-income housing project designed to serve primarily individuals including tenants and non-tenants whose income is 60 percent or less of area median income. Only limited guidance has been issued by the IRS regarding these changes. No assurances can be given that additional IRS guidance will not require further adjustments to the QAP and additional reviews of selected developments.

5. Eligible basis is reduced by federal grants, residential rental units that are above the average quality standard of the low-income units, historic rehabilitation credits, and nonresidential rental property. Buildings located in areas designated as a QCT, DDA or developments utilizing the State designated basis boost may be eligible for an increase in allowable basis.

### **M. Qualified Basis**

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

### **N. Applicable Fraction**

The applicable fraction is the lesser of:

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

A full time resident manager's unit is not considered a residential unit and must not be included in the numerator or denominator for calculating the applicable fraction.

Throughout the planning, construction and placed in service periods, the applicable fraction has different nuances. At initial application and at carryover, the **"estimated project applicable fraction"** will be used. It is an approximate goal that the developer is striving to attain. It is calculated by project in order to obtain a rough estimate of the percentage of eligible units and square footage needed and an estimate of the total amount of tax credits necessary for a particular project.

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

## **O. Economically Integrated Projects**

**Project Economic Integration:** Projects under common ownership and management that have tax credit units and market rate units are considered to be economically integrated. These projects receive priority points for selection, and may be eligible for the State Designated Basis Boost. (See Selection Priority #2, "Self-Scoring Worksheet," and Chapter 2.N of the Manual) In an economically integrated project each building must have an applicable fraction of less than 100 percent. Unless otherwise approved by Minnesota Housing, all buildings must have comparable applicable fractions with necessary variations due to building size. Tax credit selection points will generally be based upon the characteristics of only the tax credit units.

**Note: The actual number of restricted units within the project must be consistent from selection, through carryover and to approval of an 8609 and maintained throughout the term of the declaration.**

**Community Economic Integration:** Projects located in certain higher income communities (outside of rural/tribal designated areas) that are close to jobs are also considered to promote economic integration, and may be eligible for points in the "Self-Scoring Worksheet."

## **P. Annual Credit Amount**

The tax credit is available each year for 10 years. The amount of tax credit awarded is based on the Qualified Basis multiplied by the applicable percentage. However, Section 42(m)(2) requires Minnesota Housing to limit the amount of credit to the amount necessary to assure project feasibility under rules established by the IRS. Therefore, the actual amount of tax credits awarded could be less than the maximum allowable if the analysis reveals the project would still be feasible with fewer tax credits.

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

## **Q. Declaration of Land Use Restrictive Covenants**

As a condition of receiving tax credits, a project will be subject to a Declaration of Land Use Restrictive Covenants (Declaration) between the owner and Minnesota Housing through which the owner commits the building(s) to low-income use for an extended use period of at least 15 years after the conclusion of the 15-year compliance period (a total of 30 years).

The Declaration terminates upon:

1. Foreclosure of the building (or deed in lieu of foreclosure); or
2. During the extended use period, upon failure of Minnesota Housing to find a purchaser by the end of one year after a request by the owner to Minnesota Housing to find a purchaser for the low-income portion of the building, at a statutory minimum purchase price, unless the owner has waived its right to exercise their option.



Throughout the term of the Declaration and for a three-year period after the termination of the Declaration, the owner shall not evict or terminate the tenancy of an existing tenant of any low-income unit other than for good cause and shall not increase the gross rent above the maximum allowed under the Code with respect to such low-income unit. Beginning with the 2007 tax credit program, tax credits (non-competitive credits, 4 percent) allocated in association with issuance of Tax Exempt Bonds will not be subject to the waiver of rights to request a Qualified Contract. Beginning with the 2006 tax credit program, owners applying for the 9 percent credits (competitive credits, 9 percent) must commit their developments to Section 42 income and rent restrictions for a period of 30 years beginning with the first day of the compliance period in which the building is part of a qualified low-income housing project.

The Declaration must be recorded in accordance with 42(h)(6) as a restrictive covenant and submitted to Minnesota Housing prior to Minnesota Housing issuing the allocation (IRS Form 8609). The Declaration will set forth the commitments made by the owner to Minnesota Housing in obtaining points including any additional rent restrictions and occupancy requirements placed upon the building at the time of reservation. Non-compliance with these additional conditions may result in serious penalties being applied to the owner entities which could result in a ban on future allocations of tax credits being made to the owner entities.

#### **R. Ineligible Properties**

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

#### **S. Passive Loss Restrictions**

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

#### **T. State Volume Limits**

Each state is limited to the amount of tax credits it may allocate annually. An estimate of Minnesota's annual per capita volume limit is published annually in April.

Projects with tax-exempt bond financing, which are subject to a separate volume limitation, are not counted against the state volume limit. (See Article 8 of the QAP and Chapter 7 of the Manual for further details.)

#### **U. Recapture**

Minnesota Housing reserves the right to recapture tax credits from projects that do not provide evidence satisfactory to Minnesota Housing of progress toward completion of the project in accordance with the project schedule (submitted at initial application and updated at carryover), or noncompliance with the terms of the allocation.

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

## **V. Market Study**

Internal Revenue Code Section 42(m)(1)(A)(iii) requires that a comprehensive market study of the housing needs of low-income individuals in the area to be served by a developer's housing credit project must be conducted by a disinterested party, at the developer's expense, who is approved by the housing credit agency (refer to the Market Study Guidelines on the Minnesota Housing website).

## **W. Tenant Ownership**

Minnesota Housing will review projects incorporating tenant ownership provisions in accordance with Sec. 42 (h)(6), IRS Revenue Ruling 95-49 and Minnesota Housing's requirements. Minnesota Housing requires that developments proposing an eventual tenant ownership component must have 100 percent of the development's tax credit units specified for this ownership component. (See also Chapter 6.A.)

## **X. Fair Housing and Contract Compliance Policy**

1. 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, or sexual orientation. Minnesota Housing's fair housing policy incorporates the affirmative fair housing marketing practices addressed in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendment Act of 1988, which state that it is unlawful to discriminate in the sale, rental, and financing of housing based on race, color, religion, sex, handicap, familial status or national origin; as well as the fair housing protections provided by the Minnesota Human Rights Act, which adds creed, marital status, status with regard to public housing, and sexual orientation.

The Policy exists to assist all persons involved with Minnesota Housing financed programs in providing fair housing opportunities. The Policy applies to Minnesota Housing staff and everyone doing business with Minnesota Housing. It is required that all Minnesota Housing programs are marketed affirmatively using specific steps for each program.

These steps include but are not limited to:

- a. Outreach to all groups protected by the Civil Rights Act of 1968, as amended in 1988, and those protected by the Minnesota Human Rights Act;
- b. Affirmative marketing strategy that reaches protected groups;
- c. Self-analysis to make sure all steps are non-discriminatory;

- d. The submission of reports and documents that confirm the owner's fair housing effort

Failure to comply with Minnesota Housing's fair housing policies, procedures or requirements will prompt Minnesota Housing staff to report non-compliance matters to Minnesota Housing's Commissioner. Continued non-compliance may result in appropriate action by the Commissioner, including the assessment of up to -25 penalty points. (Refer to Chapter 2.G Unacceptable Practices.)

2. It is the policy of Minnesota Housing to take affirmative action to provide equal opportunity in all of our programs and other endeavors. Minnesota Housing's goal is to achieve a client and recipient mix that is representative of the people who live in our state and our communities, so that all employment and contractual benefits that develop as a result of our programs will be shared by all residents of Minnesota. This policy applies to all Minnesota Housing employees and everyone with whom we do business.
3. Memorandum of Understanding among the U.S. Department of the Treasury, the U.S. Department of Housing and Urban Development and the U.S. Department of Justice.

The parties to this agreement, among other measures, agree to share information with the appropriate state housing finance agency including the name of the low-income housing tax credit property owner, the address of the property and a summary of current actions, including, charges, lawsuits, settlement agreement or consent decree and other actions.

The U.S. Department of Housing and Urban Development (HUD) enforces the Fair Housing Act. Minnesota Housing will refer complainants to HUD for follow-up and/or investigation. Any finding of discrimination, adverse final decision by HUD, adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a federal court is a violation that Minnesota Housing must report to the IRS.

## Chapter 4 – Development Standards

All applications to Minnesota Housing for tax credits will be evaluated according to the following standards (small projects, local Planned Community Development projects, and projects developed in difficult-to-develop areas may be considered eligible for variances from these standards, if justified).

### A. Project Cost Reasonableness

1. Minnesota Housing will evaluate the costs of each proposed project in comparison to current comparable projects to determine whether the proposed costs are reasonable taking into consideration unique characteristics of the project and its comparability to similar projects. Additional documentation will be required if the proposed costs are not comparable or reasonable.
2. Minnesota Housing will use its predictive cost model to test cost reasonableness for all projects. The model uses cost data from tax credit properties, industry cost data from RSMeans, and regression analysis to predict total project costs. Based on a project's characteristics (building type, building characteristics, project size, project location, population served, financing, etc.), the model predicts the total development costs.
3. Minnesota Housing will evaluate the cost reasonableness of proposed acquisition costs through an as-is appraisal, and reserves the right to reject applications that appear, at Minnesota Housing's sole discretion, to have excessive costs, or to size its award based on the lesser of the option/purchase agreement purchase price or the appraised value of the property. Minnesota Housing will require an as-is appraisal at application for all projects with an acquisition cost of over \$100,000, except for the following cases:
  - a. Projects on tribal land,
  - b. Projects where acquisition consists of land only in **an arms-length, non-related party transaction where no identity of interest\* exists (though Minnesota Housing will reserve the right to require if it is determined to be necessary at the Agency's sole discretion), and**
  - c. **Projects consisting of an aggregation of single family homes (homes containing one to four units).**

\*"Identity of interest" is used broadly to include non-arm's length transactions, related party transactions

The as-is appraisal will be ordered by Minnesota Housing and all costs will be the responsibility of the applicant. (See Chapter 8 Fees) Appraisals will be considered expired by Minnesota housing one year after the effective date of the report. (Refer to the [Multifamily Underwriting Standards for additional details.](#))

### 4% HTC only - Issuance of a Preliminary Determination

Developments who are requesting a Preliminary Determination and are not receiving Minnesota Housing deferred or first mortgage loans can submit a lender approved as-is appraisal in lieu of a Minnesota Housing ordered appraisal. The lender's appraisal must be approved by Minnesota Housing and Minnesota Housing reserves the right to request an Agency ordered appraisal.

## **B. Eligible Basis Tax Credit Fees**

Minnesota Housing will limit the amount of developer fees and general contracting fees (Contractor's Profit, General Requirements, Contractor's Overhead) based on the requirements contained in the [Multifamily Underwriting Standards](#) for the purposes of calculating eligible basis to determine the amount of tax credit.

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

## **C. Reserves/Contingencies**

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

## **D. Comparative Analysis**

Notwithstanding these Development Standards and the Selection Criteria within this manual and the QAP, each and every proposed project is analyzed on a comparative basis in a variety of categories to ensure the highest value for the tax credits awarded.

## **E. Property Standard**

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

All completed developments must comply with the Minnesota Housing "[Rental Housing Design/Construction Standards](#)."

- Additional design requirements will also be imposed if a developer claims and is awarded High Speed Internet Access, Large Family, or Universal Design Points on the "Self-Scoring Worksheet." To satisfy the Large Family Points on the "Self-Scoring Worksheet," all of the units included in the application/development must meet the following minimum dimensions:
- For the living room: 11 feet 6 inches.
- For the bedrooms: 9 feet 6 inches, and 100 sq. ft. in area.

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

## Chapter 5 – Project Selection

### A. First Round - Application Requirements

All applicants statewide must meet one of the threshold types as defined in Article 5 of the QAP. Greater Minnesota projects should also refer to the sample Threshold Letter in the Housing Tax Credits Application Reference Materials section on the Minnesota Housing website for a suggested format relating to evidencing thresholds. In meeting the requirements of thresholds, fractions of units are not counted as a whole unit. Where unit percentage calculations result in a fraction of a unit being required, the fraction of a unit must be rounded up to next whole unit.

In the final competition, projects that previously received an allocation of tax credits will receive priority in accordance with the provisions of Article 5 of the QAP.

### B. Strategic Priority Policy Threshold

To be eligible for tax credits from the State's volume cap under Minnesota Housing's QAP, a developer must demonstrate that the project meets at least one of the Strategic Priority Policy Thresholds defined in Article 9.0 of the QAP.

### C. Scoring

Minnesota Housing will first rank proposals in accordance with the Selection Priorities and Preference Points contained in the "Self-Scoring Worksheet" and, if necessary, Chapter 5.D Tie-Breakers, below. The highest-ranking proposals based on the selection priorities and preference points will then be reviewed in accordance with the following Project Selection requirements described in E through K of this Chapter. Minnesota Housing reserves the right to reject applications not meeting these project selection requirements, or to revise proposal features, and decrease associated scoring, to ensure project meets the requirements. Lower ranking proposals will only be processed further if tax credit volume cap remains available after the higher-ranking proposals are processed.

### D. Tie Breakers

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

1. First tie breaker: Priority will be given to the project with the greater number of points in Preference Priority criteria; if a tie still remains;
2. Second tie breaker: Priority will be given to a project located in a city that has not received tax credits in the last two years; if a tie still remains;
3. Third tie breaker: Priority will be given to the project with the highest "Percentage of Funds Committed" as measured by the Selection Priority category of Financial Readiness to Proceed; if a tie still remains;

4. Fourth tie breaker: Priority will be given to the project with the lowest percentage of intermediary costs; if a tie still remains;
5. Fifth tie breaker will be by lot.

### **E. Market Review**

Minnesota Housing will conduct a market review to determine the housing needs of low-income individuals in the area to be served by the project. Minnesota Housing will evaluate the Market Study and in-house occupancy data to determine the marketability of the proposed project. For market consideration, applicants are responsible for providing evidence to document market feasibility at the time of application. Minnesota Housing may contact the applicant if there is a question as to the marketability of the proposed projects. The applicant may be given an opportunity to adjust the unit mix and/or number of units and resubmit prior to Minnesota Housing scoring of selection priority points.

Proposed projects that do not appear marketable and do not modify their proposal will not receive further consideration in the current funding round.

### **F. Design Review**

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

### **G. Development Team Review**

Minnesota Housing will also consider the following factors when evaluating an application for a tax credit allocation.

1. The ability and capacity of the development team to proceed expeditiously to complete the proposed development.
2. The prior record of the development team in meeting Minnesota Housing and IRS reporting requirements.
3. The experience of the development team in developing and managing similar residential housing.

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

### **H. Site Review**

Minnesota Housing staff will conduct a site inspection for each project passing all the project selection requirements described in parts A through G of this chapter for consistency with the principles of sound, affordable housing development. Site inspections will be conducted to analyze physical characteristics, surrounding property and community, location of schools, shopping, public transportation, employment centers, community and housing service facilities,



availability of utilities, water and sewage treatment facilities, and the suitability of the site for the proposed housing.

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

- **Linkage:** Housing development should be part of a comprehensive community development effort that links housing, jobs, transportation, recreation, retail services, schools, social and other services.
- **Jobs:** Housing is part of the infrastructure necessary to sustain economic vitality. New housing should be located near jobs and in areas of job growth and should address housing needs of the local work force. Preference will be given to proposals that provide housing in communities with job growth.
- **Land Use:** Housing must be developed to maximize the adaptive reuse of existing residential rental buildings and the use of existing infrastructure, where financially feasible. In cases of new development, housing that maximizes the efficient use of land and infrastructure and minimizes the loss of agricultural and green space.
- **Transportation:** Housing must be developed near regional and interregional transportation corridors and transit ways.

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

- Noise
- Flood plains and wetlands
- Site safety
- Toxic and hazardous waste
- Underground storage tanks
- Asbestos and lead based paint

Minnesota Housing may, at its sole discretion, reject applications or recapture tax credits from projects that appear unsuitable for the housing proposed.

## **I. Underwriting Standards**

Proposals must meet all [Multifamily Underwriting Standards](#) to receive an allocation of tax credits.

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

Refer to the “Minnesota Housing Multifamily Underwriting Standards” and “Multifamily Consolidated RFP Guide” for additional information and requirements.

**J. Financial Feasibility**

Proposals that meet the Project Selection Requirements in paragraphs B through I and K will be evaluated for financial feasibility as required by Section 1.42-17(a)(3) and Chapter 2K of this Procedural Manual. Projects determined not to be financially feasible will not be processed further in the current funding cycle.

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

**K. Development Cost Review**

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

## Chapter 6 – Submission Requirements

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

### A. Application Requirements

**Submission Requirements and Instructions:** Required Housing Tax Credit application materials are incorporated into the Minnesota **Multifamily Rental Housing Common Application**, including the Intent to Apply due in advance of the application. The Multifamily Request for Proposal Guide and Help Text Guide provide comprehensive resources for these application materials and submittal instructions. The Multifamily and Housing Tax Credit application materials can be found through the [Minnesota Housing website](#). If a Minnesota Housing Multifamily first mortgage and/or deferred loan are sought in conjunction with the tax credit application, many HTC forms and submissions are identical to the forms and submissions required for other Minnesota Housing funding sources under the Consolidated Request for Proposals (RFP) or open pipeline. The submissions for a tax credit application package must follow the stacking order outlined in the **Multifamily Rental Housing Common Application Checklist**.

Minnesota Housing will base its selection decision upon the application and attachments received on the application due date. No applications, attachments or documentation will be accepted after the application due date unless requested by Minnesota Housing.

Upon receipt of an application, as required by federal law, Minnesota Housing will notify the Chief Executive Officer of the local jurisdiction where the proposed project is planned. This notification will include characteristics of the proposed tax credit project and provide an opportunity for the local unit of government to comment on the project. Minnesota Housing will also notify the local public housing authority, City Administrator, and the suballocators.

Information submitted in an application for tax credits is public information that is accessible to the public pursuant to Minnesota Statutes, Chapter 13.

**“Self-Scoring Worksheet” Documentation:** In addition to the application materials outlined in the Multifamily Rental Housing Common Application, applicants must include documentation supporting all points claimed, including but not limited to the following. No application, documentation will be accepted after the application due date unless requested by Minnesota Housing.

**Threshold Evidence:**

For Round 1, provide evidence of meeting one of the threshold types defined in Article 5 of the Minnesota Housing QAP. A copy of the QAP and Sample Letter Format are located in the Housing Tax Credit Allocation or Housing Tax Credits Reference Materials sections. In meeting the requirements of thresholds, fractions of units are not counted as a whole unit. Where unit percentage calculations result in a fraction of a unit being required, the fraction of a unit must be rounded up to next whole unit.

**Location Efficiency Map:**

When required as supporting documentation for points claimed on the “Self-Scoring Worksheet” in the Location Efficiency criterion, at the time of application, the applicant must submit a map identifying the location of the project with exact distances to the eligible public transit station/stop and routes and include a copy of the route, span and frequency of service schedules. For more detailed information refer to requirements contained in the “Self-Scoring Worksheet.”

Also, when required as supporting documentation for points claimed on the “Self-Scoring Worksheet” in the Location Efficiency criterion, provide documentation of project’s Walk Score, as found on [www.walkscore.com](http://www.walkscore.com).

For developments in the Metro area, if required as supporting documentation for points under the Location Efficiency criterion on the “Self-Scoring Worksheet,” provide documentation of:

- Minimum residential and visitor parking requirements allowable under local zoning, and parking units planned for the development,
- Location of parking, planned or existing walkable or bikeable connections to station area, evidence of funding to secure any planned connections, and orientation of at least one accessible building entrance toward such connections,
- Maximum density allowable under the local comprehensive plan, and density planned for the development,
- A reduction in the local minimum parking requirement due to car sharing, bike storage, shared parking arrangements with adjacent property owners, or other similar strategies, and parking units planned for the development.

For developments in Greater Minnesota, if required as supporting documentation for points under the Location Efficiency criterion in the “Self-Scoring Worksheet,” provide documentation of access and availability of dial-a-ride service, and describe how the service is a viable transit alternative that could be used for transportation to work, school, shopping, services, and appointments.

**Planned Community Development:**

To be considered Planned Community Development, an applicant must document the following about a community plan or initiative:

- The local community is actively working on implementation steps identified in the plan, or the plan includes a timeline of implementation activities that runs past the date when the Minnesota Housing Board of Directors would make its initial commitment decision regarding the funding request. Plans that have been superseded by more current plans do not qualify.
- Geographic boundaries of a targeted geographic area are identified by the plan or initiative. Qualifying plans in small communities may encompass the entire geography of the community or region, although the plan's targeted geographic area should be a subset of the community or region.
- The plan or initiative responds to a crisis or opportunity and pursues community, economic, or transit oriented development objectives for the target geography, aimed at creating a more vibrant, livable, sustainable and equitable community or, reversing historic underinvestment or decline in the area.
- The plan or initiative includes the rehabilitation or production of affordable housing as a key strategy to meet identified objectives.
- The plan or initiative identifies specific activities and investments by which the local community is pursuing and implementing the objectives.

A qualifying plan can be created and approved by a wide variety of public and private local community development partners such as cities, counties, private foundations and public housing authorities. Plans local entities are required to produce, such as comprehensive plans in the Seven County Metropolitan Area, are not by themselves considered evidence of Planned Community Development. In addition to submission of evidence of Planned Community Development, evidence must be provided that a specific project contributes to the goals of the plan. The evidence must come from an appropriate representative of the city or town that represents the geographic area in which the project would be located. The evidence must be in the form of a letter or resolution which identifies the plan and its consistency with local goals.

#### **Preservation:**

Dual application and preliminary determination of eligibility required:

- **Dual Application:** For developments containing 40 or more units, applicants claiming points under this section must submit dual applications, as defined in the "Multifamily Consolidated RFP Guide."
- **Preliminary Determination of Eligibility:** All applicants claiming points under this section will be required to participate in mandatory technical assistance and receive a "Preliminary Determination of Preservation Eligibility" letter from the Agency to be submitted with the application that details the Preservation Threshold and points claimed. Applicants must submit all documentation requested by staff no later than May 2, 2016 for HTC Round 1 and by December 16, 2016 for HTC Round 2 in order for staff to make a preliminary determination of eligibility.

Applicants must choose one of three thresholds: Risk of Loss Due to Market Conversion, Risk of Loss Due to Critical Physical Needs or Risk of Loss Due to Ownership Capacity. See required submittals for each below.

**1. Risk of Loss Due to Market Conversion:**

- a. Preservation Narratives
- b. Completed "Multifamily Workbook"
- c. Photographs of subject property and market rate comparable
- d. Evidence of significant market differential, property/unit comparability and local vacancy rates based on the Market Study, Community Profiles data and photos of subject property and market comparable.
- e. Market Conversion Model Workbook and documentation to support a scenario of market rate conversion, including, impact on revenue and expense, financial resources available for making necessary improvements to property/units to command market rents and time frame for completion.
- f. Evidence of property's ability to exit a federal project based program within five years
  - i. HAP or Rental Assistance contract, property loan documents and exhibits: Please provide a copy of all relevant documentation, such as HAP or Rental Assistance contract, regulatory agreement, note, mortgage, amortization schedules and restrictive covenants. Title commitment (with exhibits) is also an acceptable form of documentation; or
  - ii. Evidence of eligibility to exercise option under the provisions of Section 42(h)(6)(E)(i)(II) and 42(h)(6)(F) (Qualified Contract).

Note: Minnesota Housing, at its sole discretion, must agree that a market exists for a conversion to market rate housing.

**2. Risk of Loss Due to Critical Physical Needs:**

- a. Preservation Narratives
- b. Completed "Multifamily Workbook"
- c. Physical Needs Assessment Template
- d. 20 Year Capital Needs Analysis
- e. Completed Determination of Critical Needs Workbook
- f. Summary of critical physical needs to address items that do not meet HUD's Uniform Physical Conditions Standard (UPCS) or, for those components or systems for which UPCS does not provide a measure, critical needs identified by third party assessment and supported by a professional certification; such critical needs if left unaddressed, must tie to the risk of loss of the federal assistance or put the property in jeopardy of not meeting program standards (if assisted with housing tax credits or other program funding).
- g. Copies of recent site inspection reports.

Note: Minnesota Housing will conduct an inspection of the development and must concur with applicant on work scope, severity levels and cost estimates.

**3. Risk of Loss Due to Ownership Capacity:**

- a. Preservation Narratives
- b. Completed “Multifamily Workbook”
- c. Evidence that 15 or more years have passed since initial loan closing or most recent tax credit placed in service date
- d. Description and documentation to support that the current ownership puts the units at risk of remaining decent, safe or affordable, evidence of which may include bankruptcy, insolvency or self-determination by nonprofit board.
- e. Documentation to support that the development is located in one of three geographic priority areas; jobs growth area, household growth area OR an area designated as having a large affordable housing gap, as evidenced by Minnesota Housing’s community profiles interactive mapping tool, or as evidenced by tribal housing authority waiting list.

Note: Minnesota Housing, at its sole discretion, must agree that a change in ownership is necessary for units to remain decent, safe, or affordable.

Applicants meeting one of the three thresholds may claim points under Existing Federal Assistance or Critical Affordable Units at Risk of Loss.

- **Existing Federal Assistance:** All applicants claiming points under “Existing Federal Assistance” must provide documentation of the federal assistance.
- **Critical Affordable Units at Risk of Loss:** Applicants claiming points under “Critical Affordable Units at Risk of Loss” must provide documentation to support eligibility, such as a current recorded deed restriction that imposes rent or income restrictions at or below the greater of 80 percent of statewide median income or area median income.

**Tenant Ownership Plan\*:**

If applicable, provide a detailed proposal for eventual tenant ownership. The proposal should incorporate a financially viable plan to transfer 100 percent of the tax credit unit ownership after the 15-year compliance period from the initial ownership entity of the project (or Minnesota Housing approved “Transfer of Ownership”) to tenant ownership.

The unit purchase price at the time of sale must be affordable to incomes meeting tax credit eligibility requirements. To be eligible, the buyer must have an tax credit qualifying income at the time of initial occupancy (tax credit rental tenant) or time of purchase. The plan must incorporate an ownership exit strategy and the provision of services including home ownership education and training. The Declaration of Land Use Restrictive Covenants will contain

provisions ensuring compliance with these home ownership program commitments by the Owner. (Refer also to Chapter 3.W of this Manual for additional information.)

**Evidence for Household Targeting:**

To receive points under Special Populations, the proposal must meet all of the following conditions:

1. The applicant must contact the human services department for the county where the project will be located to discuss the proposal. The applicant must submit a letter from the human services department indicating that its staff has reviewed the proposed project, and stating whether there is a need for such housing and if the project would be eligible for funds to assist with the social service needs of the residents.
2. The applicant must complete and submit the Supportive Housing application materials, including the narratives, forms and submittals identified in the Multifamily Request for Proposal Guide, and the Multifamily Rental Housing Common Application Checklist, and;
3. The applicant agrees to pursue and continue renewal of rental assistance, operating subsidy, or service funding contracts for as long as the funding is available.

**Performance Requirement Relief Revisions:**

Specific performance requirement relief provisions are available for projects receiving points under the Single Room Occupancy Housing or Special Populations categories of the Household Targeting Selection Priority of the “Self-Scoring Worksheet” for “HTSP Units”.

If, for a particular unit meeting the criteria and receiving points under the Single Room Occupancy Housing or Special Populations categories of the Household Targeting Selection Priority (“HTSP Unit(s)”) the necessary rental assistance or operating support (collectively “HTSP\_Unit subsidy”) is (i) withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; (ii) such withdrawal or termination materially adversely impacts the financial feasibility of the project; (iii) alternative funding is unavailable; and (iv) the project is otherwise in full compliance with all the terms of the funding for the project, the owner may petition Minnesota Housing to eliminate its requirements for the affected HTSP Unit(s). Such petition shall contain all material facts and supporting documentation substantiating owner’s request including, but not limited to, items (i), (ii) and (iii) above. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, owner shall no longer be required to treat such HTSP Unit(s) as HTSP Unit(s) but must convert the rents of those units to the 50 percent tax credit rent limit; **provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply.** If such conversion occurs, in order to retain the tax credit allocation, the above described 50 percent tax credit rent limit and the Section 42 minimum set-aside elected for the project by the owner must be maintained for the remainder of the tax credit compliance and extended use periods.

If, for a particular Special Populations targeted HTSP Unit(s), the necessary tenant support services funding is (i) withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; (ii) alternative funding or an alternative service provider is unavailable;



and (iii) the project is otherwise in full compliance with all the terms of the funding for the project, the owner may petition Minnesota Housing to modify its requirements for the provision of such tenant services for the affected Special Populations targeted HTSP Unit(s). Such petition shall contain all material facts and supporting documentation substantiating owner's request including, but not limited to, items (i) and (ii) of this paragraph. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, owner shall modify its provision of such tenant support services for the affected Special Populations targeted HTSP Unit(s) in a manner consistent with Minnesota Housing's modified requirements for the provision of tenant services for the Special Populations targeted HTSP Unit(s); **provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply.**

If Minnesota Housing shall, at any time thereafter, in its sole discretion, determine that an HTSP Unit subsidy may be available for the remainder of the tax credit compliance and extended use periods, that would not adversely affect the full availability of the tax credit allocation and would permit the HTSP Unit(s) to again serve 30 percent income or Special Populations households, then at Minnesota Housing's request the owner shall promptly apply for such HTSP Unit subsidy for the HTSP Unit(s), upon terms reasonably acceptable to such owner, and if such HTSP Units subsidy is obtained, shall again set aside such HTSP Unit(s), when and to the extent then available, to income qualifying and or special populations needs qualifying individuals.

In addition, if Minnesota Housing shall, at any time thereafter, in its sole discretion, determine that Special Populations targeted HTSP Unit tenant support services funding may be available for the remainder of the tax credit compliance and extended use periods, that would not adversely affect the full availability of the tax credit allocation and would permit the affected HTSP Unit(s) to again provide tenant support services to Special Populations households, then at Minnesota Housing's request the owner shall promptly apply for such Special Populations targeted HTSP Unit tenant support services funding for the affected HTSP Unit(s), upon terms reasonably acceptable to such owner, and if such Special Populations targeted HTSP Unit tenant support services funding is obtained, shall resume providing Special Populations targeted HTSP Unit tenant support services, when and to the extent then available, to special populations needs qualifying individuals.

**Evidence of targeting units for Permanent Supportive Housing for Households Experiencing Homelessness:**

In accordance with the State's Plan to Prevent and End Homelessness, Minnesota Housing, in cooperation with the Departments of Human Services and Corrections, and a broadly inclusive working group, has developed a business plan to achieve this goal. Tax credits represent one of several resources selected to attain this goal.

To receive points under this category, the proposal must meet all of the following conditions:

1. Proposals must set aside a minimum of 5 percent of the total units, but no fewer than four units, as Homeless Units:

- a. Set aside and rented to households experiencing long-term homelessness (as defined in Minnesota Rule, Chapter 4900.3705<sup>1</sup>) targeted to single adults, or
  - b. Set aside and rented to households experiencing long-term homelessness, at significant risk of long-term homelessness, or as prioritized for permanent supportive housing by the Coordinated Entry System, targeted to families with children or youth<sup>2</sup>
2. The applicant must complete and submit the Supportive Housing application materials, including the narratives, forms and submittals identified in the Multifamily Request for Proposal Guide, and the Multifamily Rental Housing Common Application Checklist, and;
  3. The applicant agrees to pursue and continue renewal of rental assistance, operating subsidy, or service funding contracts for as long as the funding is available.

**Performance Requirement Relief Revisions:**

If, for a particular Homeless unit(s) the necessary rental assistance or operating support (collectively “Homeless unit subsidy”) is (i) withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; (ii) such withdrawal or termination materially adversely impacts the financial feasibility of the project; (iii) alternative funding is unavailable; and (iv) the project is otherwise in full compliance with all the terms of the funding for the project, the owner may petition Minnesota Housing to eliminate its requirements for the affected Homeless unit(s). Such petition shall contain all material facts and supporting documentation substantiating owner’s request including, but not limited to, items (i), (ii) and (iii) above. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, owner shall no longer be required to treat such Homeless unit(s) as Homeless unit(s) but must convert the rents of those units to the 50 percent tax credit rent limit; provided that more restrictive threshold, selection priority or funding requirements, if any, do not apply. If such conversion occurs, in order to retain the tax credit allocation, the above described 50 percent tax credit rent limit and the Section 42 minimum set-aside elected for the project by the owner must be maintained for the remainder of the tax credit compliance and extended use periods.

If Minnesota Housing shall, at any time thereafter, in its sole discretion, determine that a Homeless unit subsidy may be available for the remainder of the tax credit compliance and extended use periods, that would not adversely affect the full availability of the tax credit allocation and would permit the Homeless unit(s) to again serve households experiencing homelessness, then at Minnesota Housing’s request the owner shall promptly apply for such Homeless unit subsidy for the Homeless unit(s), upon terms reasonably acceptable to such owner, and if such Homeless unit subsidy is obtained, shall again set aside such Homeless unit(s), when and to the extent then available, to households experiencing homelessness.

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<sup>1</sup> Households experiencing long-term homelessness: Persons, including individuals, unaccompanied youth, and families with children, lacking a permanent place to live continuously for one year or more or at least four times in the past three years. Any period of institutionalization or incarceration shall be excluded when determining the length of time a household has been homeless, as defined in Minnesota Rule Chapter 4900.3705, Subpart 10a.

<sup>2</sup> As defined on the “Self-Scoring Worksheet.”

If, for a particular Homeless unit(s), the necessary tenant support services funding is (i) withdrawn or terminated due to reasons not attributable to the actions or inactions of the owner; (ii) alternative funding or an alternative service provider is unavailable; and (iii) the project is otherwise in full compliance with all the terms of the funding for the project, the owner may petition Minnesota Housing to modify its requirements for the provision of such tenant services for the affected Homeless unit(s). Such petition shall contain all material facts and supporting documentation substantiating owner's request including, but not limited to, items (i) and (ii) above. Upon confirmation of such facts, which such confirmation shall not be unreasonably withheld or delayed, owner shall modify such tenant support services for the affected Homeless unit(s).

**Universal Design\*:**

Provide Tax Credit Design Standards/Review Process Certification certifying that design features which allow points for the benefit of a development's selection will be included in the final project delivered.

**Smoke Free Building(s)\*:**

If applicable, provide the written policy prohibiting smoking in all the units and all common areas within the building(s) of the project for the term of the declaration. The project must include a non-smoking clause in the lease for every household.

The written policy must be submitted with the application and should include procedures regarding transitioning to smoke-free for existing residents and establishment of smoking areas outside of units and common areas if applicable. Consequences for violating the smoke-free policy are determined by owner but must be included in the written policy.

**B. Carryover Requirements**

Several changes to Section 42 of the Internal Revenue Code were included in legislation passed by Congress in July 2008 as part of the Housing and Economic Recovery Act of 2008. These amendments made certain changes to the Carryover Allocation requirements. Only limited guidance has been issued by the IRS regarding these changes. No assurances can be given that additional IRS guidance will not require further adjustments to the QAP and additional reviews of selected developments relating to carryover.

In addition to meeting requirements of federal law, the applicant of a selected project must provide no later than 5:00 p.m. on November 1 or the next calendar business day of the year in which the reservation was issued, a complete carryover package in final form containing all the required documents in a form satisfactory to Minnesota Housing. Late fees will be enforced (see Chapter 8). All required carryover application materials should be submitted on cd and in one original hard copy to:

Minnesota Housing  
Housing Tax Credit Administrator  
400 Sibley Street, Suite 300  
St. Paul, MN 55101-1998

**Note:** Requests by applicants/developers to Minnesota Housing to apply the 30 percent State designated basis boost at time of carryover application must be formally made in writing. The request should clearly outline the reasons supporting the request and clearly demonstrate how the proposal meets the criteria established by Minnesota Housing for receiving boost considerations.

**Multifamily Workbook:**

As part of your Carryover application package, an updated Workbook for Tax Credits must be submitted in both printed and electronic form. Please refer to Minnesota Housing's website for additional important [Carryover Information](#) and related forms. A printed and fully signed/executed version of the application form, with all changes from initial credit reservation application highlighted and initialed, must be submitted with your application package. The updated application form must be signed by at least one general partner involved in the project and if applicable, the nonprofit partner. For material changes, refer to Manual Chapter 2.G.4. An electronic version of the Excel version of the submitted application and a PDF of the signed and updated application form should be submitted to Minnesota Housing at the same time you submit your printed application package.

Application forms containing incomplete revisions including those not highlighted, initialed and dated are not acceptable and will be returned to the applicant.

**Project Schedule:**

Provide an Updated Project Schedule.

**Owner Certification/Application for Carryover Allocation (HTC 4):**

Provide a signed and notarized Owner Certification/Application for Carryover Allocation Form for every building.

**Building Information (HTC 5):**

Provide a completed Building Information Form.

**Attorney's Opinion Letter:**

Provide an Attorney's Opinion Letter in an approved Minnesota Housing Form verifying:

1. The legal description of the project property (to be attached to the opinion and labeled Exhibit A) and that it is correct and identical to the property identified in the application and the reservation letter.
2. The name of the entity that will be/is the owner for tax purposes, and/or has demonstrated continued site control of the land and depreciable real property identified as the project in the application and the reservation letter.
3. The name, legal designation and Tax Identification Number (TIN) of the ownership entity that will receive the tax credits and the legal designation of the party that signed the application.

4. The name, legal designation, and Tax Identification Number (TIN) of all the general partner(s), and the names of the managing partner(s), contact person(s) and the required authorized signatories. If the partners are an organized entity, such as a limited liability corporation, a limited liability partnership, or an organized partnership, provide the above information for each such entity.
5. Identification and copies of any waivers required by Section 42 obtained from the IRS.

**Certified Public Accountants Certification (HTC 6):**

Provide a written Certified Public Accountants Certification in an approved Minnesota Housing Form verifying:

1. The amount of the reasonably expected basis, the carryover basis, and the percent of the expenses incurred.
2. More than 10 percent of the reasonably expected basis on the project must be expended by the later of the date which is one year after the date that the allocation is made or the close of the calendar year in which the allocation is made. If the final carryover basis and expenditures information is not available at the time the carryover application is due, the application must include a written estimate of this information prepared by the owner. Final CPA certifications of this information must be submitted to Minnesota Housing prior to the deadlines established by Section 42 and by no later than Minnesota Housing's submission deadline of May 1, 2017. If May 1 is not a business day, then certification will be due the next calendar business day. Upon written request by the owner / applicant Minnesota Housing will consider an extension to this deadline, via written request. Minnesota Housing will issue a written response to all extension requests. An extension until October 1, 2017 will be the maximum allowable. If October 1 is not a business day then the certification will be due the next calendar business day.
3. Also include a statement of non-affiliation with the developer and/or owner.

**Sources of Funds:**

Identify the sources of construction, interim and permanent financing. Provide a firm letter of commitment in the form of a binding agreement as set forth in Minnesota Statutes Section 513.33. The agreement must:

1. Be in writing.
2. Specify the consideration for the transaction and pertinent terms.
3. Be signed by both the lender and the borrower (for RD Projects, Form 1944-51).
4. Be current and state both the effective and expiration dates.

**Rental Assistance:**

Provide a description of any governmental assistance and/or rental assistance. This includes copies of any contracts/agreements executed or any applications made for rental assistance for the project. This also includes copies of executed cooperatively developed housing

plans/agreements between owner and local housing authority or other similar entity if Rental Assistance points were awarded to the development. (Refer to the Rental Assistance section of the "Self-Scoring Worksheet.")

**Gross Rent Floor Election (HTC 26):**

If choosing to make the election at this time, supply a fully executed Statement of Election of Gross Rent Floor including each building of the development in which there are housing tax credit units. If the required fully executed form(s) with all elections made by the owner are not submitted to Minnesota Housing by a date no later than the date the project is placed in service, the gross rent floor will be determined to have been elected as the gross rent effective on the allocation date (the earlier of carryover or 8609) of the tax credits.

**Fair Housing and Equal Employment Opportunity Forms:**

It is the policy of Minnesota Housing to take affirmative action to provide equal opportunity in all of its endeavors. Complete, execute and return the following forms:

1. Affirmative Fair Housing Marketing Plan describing the marketing strategies that an owner will use, including, but not limited to special efforts the owner will make to attract persons who are least likely to apply in addition to a broad cross section of the local population without regard to religion, sex, national origin or status as a recipient of public assistance.
2. Equal Employment Opportunity Policy Statement.

**Tenant Selection Plan:**

Provide a written tenant selection plan describing the tenant selection policy that an owner will use that must be submitted, reviewed and approved by Minnesota Housing prior to the issuance of the 8609. The written tenant selection plan must establish procedures that, at a minimum, meet the following applicable requirements:

1. Minimum and Maximum Household Size: While IRS regulations do not specifically address occupancy requirements, Minnesota Housing encourages maximum utilization of space for developments receiving priority for serving large families; therefore:
  - a. The written occupancy policies should set a minimum of at least one person per bedroom and set maximum standards of at least two persons per bedroom. Owners should also comply with state and local laws, regulations and financing requirements (e.g., if Rural Housing Service, Use RHS regulations), and;
  - b. Where two equally qualified households apply for a unit, preference should be given to the larger household that is most suitable to the unit size.
2. Cooperatively Developed Housing Plan/Agreement to Provide Other Rental Assistance: Minnesota Housing requires a development receiving priority under the Rental Assistance category for entering into a cooperatively developed housing plan/agreement with the local Public Housing Authority or Redevelopment Authority or other similar entity to provide other rental assistance; therefore:

- a. The written selection plan between the owner and the local housing authority or other similar entity must include provisions to support and implement the cooperatively developed housing plan/agreement to provide other rental assistance.

**Smoke Free Building(s)\*:**

If applicable, provide the written policy prohibiting smoking in all the units and all common areas within the building(s) of the project for the term of the declaration. The project must include a non-smoking clause in the lease for every household.

The written policy must be submitted with the application and should include procedures regarding transitioning to smoke-free for existing residents and establishment of smoking areas outside of units and common areas if applicable. Consequences for violating the smoke-free policy are determined by owner but must be included in the written policy.

**Identity of Interest:**

Provide a written disclosure as to any and all Identity of Interest parties (see Chapter 2 I and J).

**Allocation Fee:**

Submit the nonrefundable Allocation Fee, based on the annual tax credit reservation amount (see Chapter 8 D and E). Additional fees for additional credits secured at carryover will be collected following the award. Complete an Application Fee Remittance Form and attach with the payment to top of application package.

**Project Design Certification Form:**

Provide a completed form signed and dated by the Developer and the Architect.

**Unit and Development Characteristics Profile Form:**

Provide a completed form indicating the unit counts and the related funding sources.

**C. Placed in Service Requirements**

Generally, the placed in service date for tax credit purposes, for a newly constructed building or for rehabilitation expenditures in an existing building, is the date when the first unit in the building is certified as available for occupancy. The placed in service date must occur for all buildings within a project within two years after the allocation year of tax credits.

An approved Minnesota Housing 8609 form must contain the signature of the authorized Minnesota Housing representative. Minnesota Housing will issue an approved IRS Form 8609 within 30 days after all the following items have been received by Minnesota Housing in a satisfactory form and substance. Issuance of the Minnesota Housing approved IRS Form 8609 is to be done only by Minnesota Housing or, as applicable, an authorized Suballocator. An approved Form 8609 shall not be created by any other entity. The owner/agent shall not file a Form 8609 with the IRS in advance of the owner/agent's receipt of the Minnesota Housing signed version of the approved Form 8609. In addition, the owner/agent shall not electronically

file a Form 8609 with the IRS which does not accurately reflect the information contained on the Minnesota Housing signed version of the approved Form 8609. (Also refer to Chapter 2.G Unacceptable Practices.) A condition to this effect will be added to the Carryover Agreement.

If Minnesota Housing is the credit-allocating agency, all required 8609 application materials should be submitted on CD and in one original hard copy to:

Minnesota Housing  
Housing Tax Credit Administrator  
400 Sibley Street, Suite 300  
St. Paul, MN 55101-1998

If your credit-allocating agency is a suballocator, please contact the suballocator for additional filing instructions.

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

If a complete 8609 application package is not received within 15 days of the last day of the first year of the credit period the application will be considered late.

**Transmittal Letter:**

Provide a transmittal letter indicating the project name, address and Minnesota Housing assigned HTC number. The letter should request the issuance of IRS Form 8609 and list the following required documents. In the letter, please list the revised information and explain the basis for the changes. The letter must be dated and signed by the owner or authorized individual.

**Placed in Service Evidence:**

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

**Utility Allowance Schedule:**

Provide a current utility allowance in a manner consistent with the options provided in IRC 1.42-10 (i.e., as appropriate, a utility allowance from RD, HUD, PHA/HRA, local utility company, an Agency Estimate, a HUD utility Schedule Model, an Energy Consumption Model). Include a breakdown of the utilities that a tenant pays directly (i.e., heat, electricity, etc.), the utility allowance for each type of utility (i.e., gas, electric, etc.), for the various unit types (one bedroom, two bedroom, etc.) and housing types (apartments, townhomes, etc.). Also, include a list of each unit type, total tenant paid utilities, contract rent, and gross rent.



**Final Cost Certification (HTC 9):**

Provide a final cost certification that evidences the CPA's Audit report and cost certification based upon an audit of the owner's schedule of total project costs.

All costs of projects with five or more units owned by all entities must be cost certified by a CPA when construction has been completed and before Minnesota Housing can complete its final evaluation.

Projects with four or less units must submit a sworn construction statement and/or certification by owner, as appropriate.

**Multifamily Workbook:**

As part of your 8609 application package, an updated Workbook for Tax Credits must be submitted in both printed and electronic form. A printed and fully signed/executed version of the "Multifamily Workbook," with all changes from the most recent of your initial credit reservation application or as applicable your carryover application highlighted and initialed, must be submitted with your application package. In particular, check to ensure that changes in number of units, rents, utility allowance, source of funds (loans, grants, etc.), hard and soft cost changes and qualified basis are updated on the revised application pages. The updated application form must be signed by at least one general partner involved in the project and if applicable, the nonprofit partner. For material changes, refer to Manual Chapter 2.G.3. An electronic Excel version of this updated application form should be submitted to Minnesota Housing at the same time you submit your printed application package.

Application forms containing incomplete revisions including those not highlighted, initialed and dated are not acceptable and will be returned to the applicant.

**Attorney's Opinion Letter:**

Provide an Attorney's Opinion Letter in an approved Minnesota Housing Form verifying:

1. The legal description of the project property (to be attached to the opinion and labeled Exhibit A) and that it is correct and identical to the property identified in the application, the reservation letter and the carryover agreement (if one was issued for the project).
2. The name of the entity that is the owner for tax purposes of the property to be part of the project and which is described in Exhibit A of the opinion.
3. The name, legal designation and Tax Identification Number (TIN) of the ownership entity that will receive the tax credits, the legal designation of the party that signed the application and the business remains in good standing and duly authorized in Minnesota.
4. The name, legal designation, and Tax Identification Number (TIN) of all the general partner(s), and the names of the managing partner(s), contact person(s) and the required authorized signatories. If the partners are an organized entity, such as a

limited liability corporation, a limited liability partnership, or an organized partnership, provide the above information for each such entity.

5. Identification and copies of any waivers required by Section 42 obtained from the IRS.

**Reserves, Contingencies, and any Cash Savings:**

Provide a signed and dated statement documenting the amount and disposition of Reserves, Contingencies, and any cash savings. If any of the above reverts back to developer/owner, general partner or any ownership interest, Minnesota Housing will consider them deferred developer fees, and for purposes of tax credit allocation, restrict the developer fees as specified in this Procedural Manual.

**Minnesota Housing Declaration of Land Use Restrictive Covenant:**

Provide a copy of the unrecorded Minnesota Housing Declaration of Land Use Restrictive Covenants for Housing Tax Credits. The Declaration must be completed and recorded before the end of the first credit period to preserve the tax credits allocated to the project. Check with your tax advisor as to timing of filing and claiming of credits. HUD may require that certain Riders be attached to your tax credit Declaration if your development has primary financing via a HUD direct insured loan. Check with your financing and legal advisors to determine if this may be required of your development.

**Final Tax Credit Proceeds or Receipts:**

Documentation of the final amount of tax credit proceeds or receipts generated. Provide an executed copy of the final Syndication, Private Placement, or Individual Investment Agreements disclosing terms and conditions.

**Minnesota Green Communities Criteria:**

Provide the Green Communities Certification Workbook (including the Compliance Report Worksheet and Green Communities Compliance Report Agreement).

**8609 Certification by Owner (HTC 3):**

Provide a completed, executed and notarized original 8609 Certification by Owner/Application, verifying:

1. The placed in service date as defined in IRS Notice 88-116 for each building and/or type of tax credit. Month and year should correspond with occupancy certificate. If the month and year do not correspond, submit a written statement indicating the reason.
2. Compliance with all applicable design requirements.
3. Compliance with all requirements of selection, and additional or special conditions of reservation, commitment, or carryover.

**Final Loan or Grant Documents:**

Provide copies of final executed permanent loan and/or grant documents for all sources of funds (loan/grant agreements, mortgage and note) that support the amount, terms and

conditions stated on the “Multifamily Workbook.” Minnesota Housing must evaluate all final sources of funds to ensure the amount of tax credits allocated to a project do not exceed the amount necessary for financial feasibility. Therefore, Minnesota Housing will not issue an IRS Form 8609 prior to the execution of final permanent loan documents, or its equivalent, for all funding sources.

**15-Year After-Tax Cash Flow Pro Forma:**

Provide a 15-year after-tax cash flow pro forma. Where applicable, the cash flow pro forma must reflect required payment of deferred developer fees.

**Governmental Assistance and/or Rental Assistance:**

If not previously provided as part of a carryover application, provide a description of any governmental assistance and/or rental assistance. This includes copies of any contracts/agreements executed or any applications made for rental assistance for the project. This also includes copies of Cooperatively Developed Housing Plans/Agreements between owner and the local housing authority or other similar entity if Rental Assistance points were awarded to the development. (Refer to the Rental Assistance section of the scoring worksheet.)

**Transfer Ownership:**

If the ownership entity has changed, provide a copy of the assignment, a revised Transfer Agreement (HTC 20) and Notice of Intent to Transfer Ownership (HTC 27), an updated Qualification Form for all the new team members, and Release of Information Authorization Form (HTC 17) (see Chapter 2.F and G), and the Transfer of Ownership Fee (see Chapter 8).

**Partnership Agreement:**

Provide a copy of the executed final Partnership Agreement.

**Photographs:**

Provide clear photographs of completed building(s).

**Building Map (HTC 28):**

Provide a completed Building Map for each building.

**Identity of Interest:**

A written disclosure as to any and all Identity of Interest parties (see Chapter 2.I and J).

**Affirmative Action and Equal Opportunity Forms:**

It is the policy of the Minnesota Housing Finance Agency to take affirmative action to provide equal opportunity in all of its endeavors. Complete, execute and return the following forms:

1. Affirmative Fair Housing Marketing Plan describing the marketing strategies that an owner will use, including, but not limited to special efforts the owner will make to attract persons who are least likely to apply in addition to a broad cross section of the

local population without regard to religion, sex, national origin or status as a recipient of public assistance.

2. Equal Employment Opportunity Policy Statement.

**Tenant Selection Plan:**

Provide a written tenant selection plan describing the tenant selection policy that an owner will use that must be submitted, reviewed and approved by Minnesota Housing prior to the issuance of the 8609. The written tenant selection plan must establish procedures that, at a minimum, meet the following applicable requirements:

1. Minimum and Maximum Household Size: While IRS regulations do not specifically address occupancy requirements, Minnesota Housing encourages maximum utilization of space for developments receiving priority for serving large families; therefore:
  - a. The written occupancy policies should set a minimum of at least one person per bedroom and set maximum standards of at least two persons per bedroom. Owners should also comply with state and local laws, regulations and financing requirements (e.g., if Rural Housing Service, Use RHS regulations), and;
  - b. Where two equally qualified households apply for a unit, preference shall be given to the larger household that is most suitable to the unit size.
2. Cooperatively Developed Housing Plan/Agreement to Provide Other Rental Assistance: Minnesota Housing requires a development receiving priority under the Rental Assistance category for entering into a cooperatively developed housing plan/agreement with the local Public Housing Authority or Redevelopment Authority or other similar entity to provide other rental assistance; therefore:
  - a. The written selection plan between the owner and the local housing authority or other similar entity must include provisions to support and implement the cooperatively developed housing plan/agreement to provide other rental assistance.

**Smoke Free Building(s)\*:**

If applicable, provide the written policy prohibiting smoking in all the units and all common areas within the building(s) of the project for the term of the declaration. The project must include a non-smoking clause in the lease for every household.

The written policy must be submitted with the application and should include procedures regarding transitioning to smoke-free for existing residents and establishment of smoking areas outside of units and common areas if applicable. Consequences for violating the smoke-free policy are determined by owner but must be included in the written policy.

**Allocation Fee:**

Submit the non-refundable allocation fee, based on the annual tax credit allocation amount (if not already paid at carryover). (See Chapter 8 Complete an Application Fee Remittance Form and attach with the payment to top of application package.)

## Chapter 7 – Tax Exempt Projects Seeking Tax Credits

### A. General

Section 42 of the Internal Revenue Code establishes a separate set of procedures to obtain housing tax credits through the issuance of tax-exempt bonds. Although the tax credits are not counted in the tax credit volume cap for the State of Minnesota, developers of projects should be aware of the information contained in Article 8 of the “State of Minnesota Housing Tax Credit Qualified Allocation Plan.”

The project must comply with the QAP that is in effect for the calendar year in which the tax-exempt bonds were first issued. If the tax-exempt bonds are initially issued on a short-term basis, the year the tax-exempt bonds are reissued on a long-term basis may occur any time after the year the tax-exempt bonds were first issued and the effective QAP will always be the QAP for the year in which the tax-exempt bonds were first issued.

Developers should also be aware of the requirements of Minn. Stat. § 474A.047 including subdivision 1, which requires the extension of existing U.S. Department of Housing and Urban Development (HUD) Housing Assistance Payment (HAP) contracts to the full extent available.

### B. Application for Issuance of Preliminary Determination Letter

Prior to Bond issuance, the developer must submit to Minnesota Housing a full and complete application for issuance of a Preliminary Determination by Minnesota Housing pursuant to Section 42(m)(1)(D) [also see the QAP for additional detail]. The developer must submit to Minnesota Housing all documents required for an application for tax credits under Chapter 6.A of the Housing Tax Credit Program Procedural Manual and any additional information requested by Minnesota Housing. For projects in which Minnesota Housing is the allocating agency, the developer must submit an application fee (review fee). (See Chapter 8) In addition, if the issuer of the bonds is not Minnesota Housing, the initial submission must include a preliminary determination issued by the issuer of the bonds addressing the tax credit dollar amount and project costs pursuant to Section 42(m)(2)(D) of the Internal Revenue Code [also see the QAP for additional detail]. Based upon the submission of documents, Minnesota Housing will prepare a letter with its preliminary determination pursuant to Section 42(m)(1)(D) as to whether the project satisfies the requirements for allocation of a housing credit dollar amount under the QAP. A Preliminary Determination fee must be submitted to Minnesota Housing prior to release of the letter (See Chapter 8). **This process may take six weeks or more from the time the full application package is submitted. All applicants should develop their timelines and schedules accordingly.**

### C. Election of Applicable Percentage

Section 42 of the Internal Revenue Code requires that the owner elect the applicable percentage for the project. The election is made at the time the tax-exempt obligations are issued to fix the percentage for the month in which the building is placed in service or the month in which the tax-exempt obligations are issued. If the election is not made at the time

the tax exempt obligations are issued, the percentage will be fixed for the month in which the building is placed in service. The owner must be sure to consider the best options for this election and make sure the election is made at the correct time. Once made, the election is irrevocable.

**D. Requests for Building Identification Numbers (BIN)**

At the time of application for issuance of a Preliminary Determination letter, the applicant must obtain Building Identification Numbers (BIN) for each of the proposed buildings in the development. Minnesota Housing will assign all BIN numbers. An address or other specific legal description is needed for each BIN number to be identified with. The address and BIN numbers will be needed as part of an application for Form 8609.

**E. Election of Gross Rent Floor**

The owner/taxpayer of a qualified tax credit project financed with tax exempt bonds is permitted under IRS Revenue Procedure 94-57 to fix the date of the gross rent floor to be the date on which Minnesota Housing initially issues its Preliminary Determination letter to the building or the Placed in Service date (Gross Rent Floor Election Form). The election of one of the two timing options must be completed and the election form(s) received by Minnesota Housing by a date no later than the date the project is placed in service. If no election is made and/or no form(s) received by Minnesota Housing by a date no later than the date the project is placed in service, then the gross rent floor date will automatically be fixed by Minnesota Housing to be the initial issuance date of the Preliminary Determination letter for the building.

**F. Application for Issuance of Form 8609**

Subsequent to the project being placed in service and prior to a Form 8609 being issued for the project by Minnesota Housing, the owner must submit an application for the issuance of Form 8609 to Minnesota Housing. The application must contain those items as identified in Section G below titled Tax Exempt Placed in Service, in addition to any other submissions deemed necessary by Minnesota Housing. For projects for which Minnesota Housing is the allocating agency, the developer must submit an 8609 fee based upon the requested annual tax credit amount. (See Chapter 8)

**G. Tax Exempt Placed in Service**

Placed in service dates for tax credit purposes must be established for all buildings using credits including acquisition credits (which are treated as a separate building for tax credit purposes). Generally, the placed in service date for a newly constructed building or for rehabilitation expenditures in an existing building, is the date when the first unit in the building is certified as available for occupancy. The placed in service date for acquisition credits is generally the date of the acquisition of the building. Except for buildings eligible to receive tax credits outside the state cap by virtue of the issuance of tax exempt financing, the placed in service date for all buildings of a credit project must occur within two years after the allocation year of the tax credits. It is highly recommended that owners/developers of tax-exempt projects seek the appropriate legal and bond professional advice on these matters.

An approved Minnesota Housing Form 8609 must contain the signature of the authorized Minnesota Housing Finance Agency representative. Minnesota Housing will issue an approved IRS Form 8609 within 30 days after all of the following items have been received by Minnesota Housing in a satisfactory form and substance. Issuance of the Minnesota Housing approved IRS Form 8609 is to be done only by Minnesota Housing or, as applicable, an authorized Suballocator. An approved Form 8609 shall not be created by any other entity. The owner/agent shall not file a Form 8609 with the IRS in advance of the owner/agent's receipt of the Minnesota Housing signed version of the approved 8609. In addition, the owner/agent shall not electronically file a Form 8609 with the IRS which does not accurately reflect the information contained on Minnesota Housing signed version of the approved 8609. (Also refer to Chapter 2.G Unacceptable Practices).

**Transmittal Letter:**

A transmittal letter indicating the project name, address and Minnesota Housing assigned HTC number. The letter should request the issuance of IRS Form 8609 and list the following required documents. In the letter, please list the revised information and explain the basis for the changes. The letter must be dated and signed by the owner or authorized individual.

**Placed in Service:**

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

**Evidence of Tax Exempt Bond:**

If the issuer of the bonds is not Minnesota Housing, submit evidence from the issuer of the bonds that the project received an approval of an allocation of tax-exempt bond volume cap from the state of Minnesota.

**Utility Allowance Schedule:**

Provide a current utility allowance in a manner consistent with the options provided in IRC 1.42-10 (i.e. as appropriate, a utility allowance from RD, HUD, PHA/HRA, local utility company), an Agency Estimate, a HUD utility Schedule Model, an Energy Consumption Model). Include a breakdown of the utilities that a tenant pays directly (i.e., heat, electricity, etc.), the utility allowance for each type of utility (i.e., gas, electric, etc.), for the various unit types (one bedroom, two bedroom, etc.) and housing types (apartments, townhomes, etc.). Also, include a list of each unit type, total tenant paid utilities, contract rent, and gross rent.

**Final Cost Certification (HTC 9):**

Provide a Final Cost Certification when construction has been completed that evidences the CPA's Audit report and cost certification based upon an audit of the owner's schedule of total project costs.



**Multifamily Workbook:**

Provide an updated “Multifamily Workbook” signed by at least one general partner involved in this project and if appropriate, nonprofit partner. Highlight all changes from Preliminary Determination Application, re-date and initial the revised pages. For material changes, refer to Chapter 2.G.4. Incomplete revisions or those not highlighted, initialed and dated are not acceptable and will be returned to the developer. In particular, check to ensure that changes in number of units, rents, utility allowance, source of funds (loans, grants, etc.), hard and soft cost changes and qualified basis are updated on the revised application pages.

**Determination of Credits:**

Provide evidence that the governmental unit which issued the bonds (or on behalf of which the bonds were issued) made a determination that the amount of credits allocated to the project do not exceed the amount necessary to assure project feasibility pursuant to Section 42(m)(2)(A) and (B), including a copy of the final written determination (and the analysis on which it was based) that the credits allocated to the building did not exceed the maximum tax credit based upon the lesser of the eligible basis or the amount necessary to achieve financial feasibility. The issuer analysis and determination must address all of the items set forth in Section 42(m)(2)(B). The determination must be made by the issuer based upon review of the submission items required in Chapter 6.C of the manual.

**Attorney’s Opinion Letter:**

Provide an Attorney’s Opinion Letter in a Minnesota Housing approved form verifying:

1. The legal description of the project property (to be attached to the opinion and labeled as Exhibit A) and that it is correct and identical to the property identified in the application, the preliminary determination letter issued by Minnesota Housing and the legal description of the property financed with the tax exempt bonds.
2. The name of the entity that is the owner for tax purposes of the property to be part of the project and which is described in Exhibit A of the opinion.
3. The name, legal designation and Tax Identification Number (TIN) of the ownership entity that will receive the tax credits, the legal designation of the party that signed the application and the business is in good standing and duly authorized in Minnesota.
4. The name, legal designation, and Tax Identification Number (TIN) of all the general partner(s), and the names of the managing partner(s), contact person(s) and the required authorized signatories. If the partners are an organized entity, such as a limited liability corporation, a limited liability partnership, or an organized partnership, provide the above information for each such entity.
5. Identification and copies of any waivers required by Section 42 obtained from the IRS.
6. The buildings identified in the application qualify for an allocation of credits under Section 42(h)(4).

**Reserves, Contingencies, and any Cash Savings:**

A signed and dated statement documenting the amount and disposition of Reserves, Contingencies, and any cash savings. If any of the above reverts back to developer/owner, general partner or any ownership interest, Minnesota Housing will consider them deferred developer fees, and for purposes of tax credit allocation, restrict the developer fees as specified in the Underwriting Standards.

**Minnesota Housing Declaration of Land Use Restrictive Covenants:**

Provide a copy of the unrecorded Declaration of Land Use Restrictive Covenants for Housing Tax Credits.

Note: A copy of a properly recorded Declaration, in final form and content as approved by Minnesota Housing following its review, must be provided to Minnesota Housing prior to the release of any 8609's to the Owner. A Declaration must be completed and recorded before the end of the first credit period to preserve the tax credits allocated to the project. Check with your tax advisor as to timing of filing and claiming of credits.

**Final Tax Credit Proceeds or Receipts:**

Documentation of the final amount of tax credit proceeds or receipts generated. Provide a copy of the executed final Syndication, Private Placement, or Individual Investment Agreements disclosing terms and conditions.

**8609 Certification by Owner/Application Form:**

Submit a fully completed, executed and notarized original 8609 Certification by Owner/Application Form, (HTC 3) verifying:

1. The placed in service date as defined in IRS Notice 88-116 for each building and/or type of tax credit. Month and year should correspond with occupancy certificate. If the month and year do not correspond, submit a written statement indicating the reason.
2. **It is highly recommended that Owners/Developers of tax exempt projects seek the appropriate legal and bond professional advice on these matters.**
3. Compliance with all applicable design requirements.
4. Compliance with all requirements of the Preliminary Determination letter issued by Minnesota Housing on the project and the requirements of Article 8 of the State of Minnesota Housing Tax Credit QAP.

**Final Loan or Grant Documents:**

Provide copies of final executed loan and/or grant documents for all sources of funds (loan/grant agreements, mortgage and note) that support the amount, terms and conditions stated on the HTC Application.

**Minnesota Green Communities Criteria:**

Provide the Green Communities Certification Workbook (including the Compliance Report Worksheet and Green Communities Compliance Report Agreement).

**15-Year After-Tax Cash Flow Pro Forma:**

Provide a 15-year after-tax cash flow pro forma. The proforma must reflect required payments of any deferred developer fees.

**Transfer Ownership:**

If the ownership entity has changed, submit a copy of the assignment, a revised Transfer Agreement (HTC 20), an updated Qualification Form for all the new team members, a written disclosure as to any and all Identity of Interest parties and Release of Information Authorization Form (HTC 17) (See Chapter 2 F and G), and the Transfer of Ownership Fee (See Chapter 8).

**Partnership Agreement:**

Provide a copy of the executed final Partnership Agreement.

**Photographs:**

Provide clear photographs of completed building(s).

**Building Map Form (HTC 28):**

Provide a completed Building Map Form.

**Affirmative Action and Equal Opportunity Forms:**

It is the policy of the Minnesota Housing Finance Agency to take affirmative action to provide equal opportunity in all of its endeavors. Complete, execute and return the following forms:

1. Affirmative Fair Housing Marketing Plan describing the marketing strategies that an owner will use, including, but not limited to special efforts the owner will make to attract persons who are least likely to apply in addition to a broad cross section of the local population without regard to religion, sex, national origin or status as a recipient of public assistance.
2. Equal Employment Opportunity Policy Statement.

**Tenant Selection Plan:**

Provide a written tenant selection plan describing the tenant selection policy that an owner will use that must be submitted, reviewed and approved by Minnesota Housing prior to the issuance of the 8609. The written tenant selection plan must establish procedures that, at a minimum, meet the following applicable requirements:

1. Minimum and Maximum Household Size: While IRS regulations do not specifically address occupancy requirements, Minnesota Housing encourages maximum utilization of space for developments receiving priority for serving large families; therefore:
  - a. The written occupancy policies should set a minimum of at least one person per bedroom and set maximum standards of at least two persons per bedroom. Owners should also comply with state and local laws, regulations and financing requirements (e.g., if Rural Housing Service, Use RHS regulations), and;

- b. Where two equally qualified households apply for a unit, preference shall be given to the larger household that is most suitable to the unit size.
2. Cooperatively Developed Housing Plan/Agreement to Provide Other Rental Assistance: Minnesota Housing requires a development receiving priority under the Rental Assistance category for entering into a cooperatively developed housing plan/agreement with the local Public Housing Authority or Redevelopment Authority or other similar entity to provide other rental assistance ; therefore:
  - a. The written selection plan between the owner and the local housing authority or other similar entity must include provisions to support and implement the cooperatively developed housing plan/agreement to provide other rental assistance.

**Smoke Free Building(s)\*:**

If applicable, provide the written policy prohibiting smoking in all the units and all common areas within the building(s) of the project for the term of the declaration. The project must include a non-smoking clause in the lease for every household.

The written policy must be submitted with the application and should include procedures regarding transitioning to smoke-free for existing residents and establishment of smoking areas outside of units and common areas if applicable. Consequences for violating the smoke-free policy are determined by owner but must be included in the written policy.

**8609 Fee:**

Submit a non-refundable 8609 fee based upon the annual tax credit amount (see Chapter 8) along with a completed Fee Remittance Form.

## **Chapter 8 – Fees**

### **A. Application Fee**

An \$800 application fee must be submitted with all applications. The fee is non-refundable. For multi-building projects, Minnesota Housing will require only one application and a single fee.

### **B. Supplemental Application Fee**

The application fee for projects requesting supplemental tax credits is \$350. This fee is non-refundable and will be charged to projects that resubmit their proposals in Round 2 of the allocation year and were underwritten by Minnesota Housing in Round 1.

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

### **C. Reservation Fee**

After the project has been selected, a reservation fee of 3.5 percent of the annual credit amount to be reserved must be paid to Minnesota Housing. The developer will have approximately 30 days in which to pay the reservation fee and maintain their tax credit selection/reservation. An additional 3.5 percent reservation fee must also be paid for any additional credits awarded and allocated through carryover and must be paid following issuance of the Carryover Agreement. A reservation fee is non-refundable and will not be adjusted if the final tax credit amount is reduced or the tax credits are returned or unused.

### **D. Allocation Fee**

At the time the taxpayer/owner submits an application for a carryover allocation or for issuance of IRS Form(s) 8609 (whichever occurs earlier), an allocation fee will be due which is equal to 3.5 percent of the annual tax credit allocation amount. This fee is non-refundable and will not be adjusted if the final tax credit amount is reduced or the tax credits are returned or unused.

Note: See section C. above for fee information relating to additional credits allocated at carryover.

### **E. Allocation Late Fee**

Developers submitting a carryover package or, if an owner has elected not to request a carryover, an 8609 package prior to the end of the year of allocation for which the reservation was issued that:

1. Do not submit a carryover/8609 application by the established due date; or
2. Submit a substantially incomplete carryover/8609 application by the established due date; or
3. Do not submit the carryover CPA final certification by the established due date

Must pay a \$1,000 late fee plus an additional penalty fee of \$200 for each business day from the original due date; through the date on which Minnesota Housing receives a substantially complete carryover/8609 application.

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

#### **F. Tax Exempt Credit Preliminary Determination Fee**

A Preliminary Determination Fee must be submitted to Minnesota Housing prior to issuance of a Preliminary Determination letter. For projects for which Minnesota Housing is the allocating agency, the developer must submit a fee equal to 3.5 percent of the requested annual tax credit amount. This fee is non-refundable.

#### **G. Tax Exempt Credit 8609 Fee**

An 8609 Fee must be submitted at the time of application to Minnesota Housing for Form 8609. For projects for which Minnesota Housing is the allocating agency, the developer must submit an 8609 fee equal to 3.5 percent of the requested annual tax credit amount. This fee is non-refundable.

#### **H. Monitoring Fee**

Minnesota Housing will charge an annual monitoring fee of \$25 per unit, based on the total number of units, with a minimum of \$50 except for projects covered by the memorandum of understanding (MOU) between Minnesota Housing and the U.S. Department of Agriculture, Rural Housing Service. The compliance monitoring fee will be \$15 per unit per year for projects covered by the MOU. This fee may be increased depending upon the requirements of the U.S. Treasury, IRS, or increased costs of Minnesota Housing. The fee will be due in a manner and time as prescribed by Minnesota Housing. Failure to pay the fee will result in Minnesota Housing notifying the IRS that the project is out of compliance.

During the extended use period required by Internal Revenue Code Section 42(h)(6), Minnesota Housing will charge a monitoring fee of \$15 per unit per year. No HTC monitoring will be required during this time for properties with project-based Section 8, Rural Development or HUD Contract Administration since these properties are already subject to monitoring and consequences under those programs are in place, and no HTC monitoring fee will be charged. However, if a property is no longer subject to monitoring for HUD and/or Rural Development programs, then the owner must notify Minnesota Housing Tax Credit compliance staff immediately so that the property can be placed back on the monitoring schedule. At that time, the property will be subject to the \$15 per unit per year monitoring fee.

#### **I. Transfer of Ownership Fee**

A non-refundable transfer of ownership fee of \$2,500 must be submitted to Minnesota Housing along with updated materials of the new owner/management team for each project in which 50 percent or more of the ownership entity is new since reservation or carryover allocation.

Prior to 8609, changes in ownership must be approved by Minnesota Housing. See Chapter 2.G. Unacceptable Practices for further details on Transfer of Ownership.

#### **J. Check Cashing Procedure**

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

#### **K. Right to Adjust Fees**

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

#### **L. Appraisal Fee**

The appraisal fee will be determined based on fees charged by the appraiser to complete Minnesota Housing's requirement for an as-is appraisal. These fees are subject to change at Minnesota Housing's sole discretion based upon changes in fee structures found in the appraisal marketplace and on the type of appraisal required by Minnesota Housing for a particular application type. For current estimates of appraisal fees please reference the current "Multifamily Request for Proposal Guide." Minnesota Housing will require an as-is appraisal at application for all projects with an acquisition price of over \$100,000, except for the following cases:

- a. Projects on tribal land,
- b. Projects where acquisition consists of land only in **an arms-length, non-related party transaction where no identity of interest\* exists (though Minnesota Housing will reserve the right to require if it is determined to be necessary at the Agency's sole discretion), and**
- c. **Projects consisting of an aggregation of single family homes (homes containing one to four units).**

\*"Identity of interest" is used broadly to include non-arm's length transactions, related party transactions

The as-is appraisal will be ordered by Minnesota Housing, and all costs will be the responsibility of the applicant. This fee is non-refundable. Appraisals will be considered expired by Minnesota housing one year after the effective date of the report. (Refer to the [Multifamily Underwriting Standards for additional details.](#))

#### **4% HTC only - Issuance of a Preliminary Determination**

Developments who are requesting a Preliminary Determination and are not receiving Minnesota Housing deferred or first mortgage loans can submit a lender approved as-is appraisal in lieu of a Minnesota Housing ordered appraisal. The lender's appraisal must be

approved by Minnesota Housing and Minnesota Housing reserves the right to request an Agency ordered appraisal.



## Chapter 9 – Allocation Schedule of Critical Dates

### A. Tentative 2017 Allocation Dates

Milestone	Details	Date
Public Hearing	Minnesota Housing – 400 Sibley St, Saint Paul	March 19, 2015
Request for Proposal	Publish RFP for Round 1 and 2 in <u>State Register</u> and <u>statewide Star Tribune</u>	April 18, 2016
2017 HTC Webinar Release	Minnesota Housing	May 2, 2016
2017 Round 1	Applications due	June 16, 2016
	Selections announced	October 19, 2016
	Reservation materials and fees due	December 1, 2016
2017 Round 2	Applications due	January 31, 2017
	Selections announced	April 27, 2017
	Reservation materials and fees due	May 16, 2017
2017 Carryovers Due	Applications due – Complete Carryover packages with appropriate fees enclosed	November 1, 2017
2017 8609* *Applicable when no Carryover Agreement completed for 2-year extension	Applications due – Complete 8609 packages for 2017 Allocations. Appropriate fees must be enclosed. When a Carryover Agreement is not executed, an IRS Form 8609 must be issued to the 2017 project before the end of the year to retain your tax credits. (See also: Placed In Service below.)	November 1, 2017

### B. Previous Years Allocation of Credits

- **Placed in Service Allocation:** To optimize timely processing of requests for issuance of Form 8609, it is recommended the Owner make every effort to submit the complete Application for 8609 to Minnesota Housing no later than 30 days following completion of the project.

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

### C. 2016 Compliance Dates

- **February 15, 2017:** Owners Certifications Due
- **When filed with IRS:** Completed first year 8609, Schedule A, and 8586 due

## Chapter 10 – Alphabetical Index of HTC Forms

### A. Application Materials

All HTC Application Forms are identified in the [Multifamily Request for Proposal Guide](#) and are available on Minnesota Housing’s Multifamily website.

Forms	Multifamily Application Checklist Section Reference	HTC Form Number
Application Form	A.1. Forms and Submittal Items	“Multifamily Workbook” (formerly known as the “HTC-1” or the “402”
Building Identification Number (BIN) Request Form (Tax Exempt Bonds Only)	D. Tax Exempt Bond Forms	HTC Form 31
Gross Rent Floor Election Form (Tax Exempt Bonds Only)	D. Tax Exempt Bond Forms	HTC Form 34
Fee Remittance Form	B. Application Fees	HTC Form 25
Local HRA/ PHA Notice and Agreement Form	A. MHFA Supplemental Forms	HTC Form11 MHR Form 101
Market Conversion Workbook		
Notification of Local Official Form	A. MHFA Supplemental Forms	HTC Form18 MHR Form 103
Design Standards Certification	C. MHFA Supplemental Forms/HTC	HTC Form 33
Determination of Physical Needs Workbook		
Qualifications of Architect	Common Application Forms	MHR Form 206A
Qualifications of Attorney	Common Application Forms	MHR Form 208A
Qualifications of Developer	Common Application Forms	MHR Form 203A
Qualifications of Sponsor	Common Application Forms	MHR Form 203B
Qualifications of General Contractor	Common Application Forms	MHR Form 209A
Qualifications of Management and Marketing Agent	Common Application Forms	MHR Form 210A
Qualifications of Processing Agent	Common Application Forms	MHR Form 205A
Qualifications of Primary	Common Application Forms	MHR Form

Service Provider		215A
Release of Information Authorization	C. MHFA Supplemental Forms/HTC	HTC Form 17 MHR Form 317
Self-Scoring Worksheet	C. MHFA Supplemental Forms/Htc	

**B. Post Application Materials**

<b>Forms</b>	<b>Form Location/Web Link (Below links updated as Minnesota Housing website is updated)</b>	<b>HTC Form Number</b>
8609 Certification by Owner/Application Exhibit A Determination of Targeted Applicable Fraction and Qualified Basis by Building	HTC Allocation / 8609	HTC3 Exhibit A
Building Map	HTC Allocation / 8609	HTC28
Declaration of Land Use Restrictive Covenants Exhibit A Legal Description Exhibit B Applicable Fraction	HTC Allocation / 8609	
Final Cost Certification	HTC Allocation / 8609	HTC9
Gross Rent Floor Election Form (see carryover or 8609 website)	HTC Allocation / See Carryovers or 8609's	HTC26
Notice of Intent to Transfer Ownership or Change Owner Name or Status	HTC Allocation / Changes in Ownership	HTC27
Transfer Agreement (Prior to Issuance of 8609(s))	HTC Allocation / Changes in Ownership	HTC Form 20