

Tenant Selection Plan Best Practices

City of Madison Affordable Housing Initiative

The Affordable Housing Fund (AHF) Loan Agreement requires a tenant or resident selection plan and adherence to all state, local, and federal fair housing requirements.

Below is a set of best practices that may assist housing developers and property managers in drafting a Tenant Selection Plan (TSP). These best practices serve to align the City's AHF goals with those of the project and to ensure Madison residents have reduced barriers to fair housing choice. They are not intended to be a complete or exhaustive list. In creating your project's Tenant Selection Plan, housing developers and property managers should consult with your attorney to ensure that your plan complies with all applicable laws and regulations, program requirements, and the Fair Housing Act.

The TSP should clearly identify the project's criteria regarding the following categories:

- **Income criteria**, including providing clear information on minimum and maximum income requirements of applicants and the processes and criteria used to evaluate applications. Identify the **unit mix**, i.e., the quantity of housing units that are available for rent at each level of income-restriction (e.g. 30% of the Area Median Income, 50% of the Area Median Income, 60% of the Area Median Income). The TSP should also indicate the rent structure that identifies the rental rates of units by bedroom size and income distribution.
- **Occupancy criteria**, including defining the minimum number of persons allowed to occupy each unit in the project, subject to local, state, and federal laws. Each unit should be occupied by a minimum of one person per bedroom at the time of occupancy.
- **Credit score and/or report**. The TSP, marketing, and application materials should include a section noting whether or not a credit report will be ordered. The housing provider must provide a notice to applicants if adverse action is taken based on information obtained from the credit report.
- Landlord or **housing history**, including eviction judgment.
- **Waitlist process** and waitlist preference criteria, if applicable. The TSP should note that apartments are rented on a first come, first served basis.
- **Notice of denial**, which includes a written explanation of the TSP criteria the applicant failed to meet. The notice of denial should inform applicants how to seek an appeal of the housing provider's decision.
- **Compliance with the Violence Against Women Act (VAWA)**, which provides that an applicant may not be denied admission on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission.
- Tenant selection and application **criteria for supportive housing units**.
- **Criminal and felony convictions**, including defining the number of years that will be considered in a criminal background search. A housing provider's TSP should clearly define what information will be collected for the use of screening an applicant's criminal history:
 - It is unlawful for a housing provider to reject applicants solely based on arrest records (without conviction)

- Housing providers should distinguish between convictions for **criminal conduct that indicates a demonstrable risk to resident safety and/or property** and criminal conduct that does not.
 - Screening policies should take into account the nature and severity of a conviction and the amount of time that has passed since the criminal conduct occurred
 - Housing providers should take into account evidence that the individual has maintained a good tenant history before and/or after the criminal conduct occurred.
- **Preferences:**

The project should establish preferences that conform to preferences identified in the development's approved LIHTC application submitted to WHEDA, and in the signed Supportive Services Agreement, as applicable. The TSP should identify the **age-restriction**, or lack thereof, of tenancy for the project. Acceptable age-restrictions may include "family" housing for units without an age-restriction; "active-adult" or "senior" housing for units restricted to households with at least one member aged 55 and above; and "elderly" housing for units restricted to households aged 62 and above.

The TSP should establish resident preferences that do not diminish or obstruct the Project's fair housing obligations. Both existing tenant preferences and new tenant preferences should be outlined in the TSP. The TSP should identify the populations targeted to lease supportive services units in the Project, if applicable. The Project's waitlist must indicate if certain tenant populations will be given a higher priority for units than others.

The TSP should explicitly state that applicants would not be denied solely due to:

- A lack of housing history;
- A low credit score, provided that the applicant has a cosigner and/or is enrolled in a credit repair program;
- Information on a credit report that is or has been formally disputed, in repayment, or unrelated to a past housing or housing utility obligation;
- The applicant owing money to a prior landlord for rent or damages, or to a utility company, provided the applicant has entered into a payment arrangement with the debtor and is current on the repayment arrangement

Security Deposits

The project should not implement a security deposit that puts an undue financial burden on applicants or creates a financial impediment to accessing housing. Housing providers should consider whether existing security deposit policies create a barrier to entry for low-income households and those requiring supportive services. Security deposits for prospective residents should be reasonable, and the City has a preference for security deposit policies that incorporate some or all of the following:

- A maximum security deposit equal to one-half month's rent, as a standard;

- For tenants with conditional credit, limited rental histories, or other limiting factors: a security deposit equal to one-half month's rent with a cosigner, or a deposit equal to one month's rent;
- A set amount applied equally to all applicants that approximate one-half month's rent and one month's rent for standard and conditionally approved applicants, respectively (e.g. a \$500 standard security deposit and a \$1,000 security deposit for conditionally-approved applications);
- For units and/or tenants with rental payments guaranteed through an operating subsidy (e.g. Housing Choice Vouchers, VASH Vouchers, or Project-Based Vouchers), the lower or standard security deposit amount should be imposed, regardless of credit history

The City of Madison and the U.S. Department of Housing and Urban Development (HUD) stress the importance of applying TSP standards consistently to all applicants.