

SF4593 - 0 - MHFA Use of Responsible Contractors Required

Chief Author: **Tou Xiong**
 Committee: **Housing**
 Date Completed: **3/18/2024 12:27:06 PM**
 Lead Agency: **Housing Finance Agency**
 Other Agencies:
 Labor and Industry Dept

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium		Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Housing Finance Agency					
General Fund	-	-	318	318	318
Labor and Industry Dept					
Workforce Development	-	-	61	61	61
State Total					
General Fund	-	-	318	318	318
Workforce Development	-	-	61	61	61
Total	-	-	379	379	379
Biennial Total			379		758

Full Time Equivalent Positions (FTE)		Biennium		Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Housing Finance Agency					
General Fund	-	-	2	2	2
Labor and Industry Dept					
Workforce Development	-	-	.48	.48	.48
Total	-	-	2.48	2.48	2.48

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Steve McDaniel **Date:** 3/18/2024 12:27:06 PM
Phone: 651-284-6437 **Email:** steve.mcdaniel@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Housing Finance Agency						
General Fund	-	-	318	318	318	
Labor and Industry Dept						
Workforce Development	-	-	61	61	61	
Total	-	-	379	379	379	379
Biennial Total			379		758	
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Housing Finance Agency						
General Fund	-	-	318	318	318	
Labor and Industry Dept						
Workforce Development	-	-	61	61	61	
Total	-	-	379	379	379	379
Biennial Total			379		758	
2 - Revenues, Transfers In*						
Housing Finance Agency						
General Fund	-	-	-	-	-	
Labor and Industry Dept						
Workforce Development	-	-	-	-	-	
Total	-	-	-	-	-	-
Biennial Total			-		-	-

SF4593 - 0 - MHFA Use of Responsible Contractors Required

Chief Author: **Tou Xiong**
 Committee: **Housing**
 Date Completed: **3/18/2024 12:27:06 PM**
 Agency: **Housing Finance Agency**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Dollars in Thousands					
General Fund	-	-	318	318	318
Total	-	-	318	318	318
Biennial Total			318		636

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	2	2	2
Total	-	-	2	2	2

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Steve McDaniel **Date:** 3/18/2024 12:25:17 PM
Phone: 651-284-6437 **Email:** steve.mcdaniel@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026
					FY2027
General Fund	-	-	318	318	318
Total	-	-	318	318	318
Biennial Total			318		636
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	-	318	318	318
Total	-	-	318	318	318
Biennial Total			318		636
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

SF 4593 relates to state prevailing wage applicability and provisions to address wage theft.

Section 1 of the bill adds federal low-income housing tax credits (LIHTC) to the list of financial assistance resources where state prevailing wage is required.

Section 2 requires: additional disclosures for applicants, recipients to use responsible contractors, certified contractor lists be posted, wage thefts be remedied, developers to submit wage theft prevention plans if certain conditions are met and conditions on when developers would be disqualified from agency resources, enforcement related to the new section of law.

Assumptions

Section 1 applies state prevailing wage rates to federal low-income housing development. While this provision may increase the cost of construction for projects financed with LIHTC throughout the state, the provision does not have a direct state fiscal impact.

Section 2 requires a limited number of administrative changes to Minnesota Housing's processes, such as creating disclosure forms that are minimal to comply with as part of preparation for each funding process and there provisions of the bill that have state fiscal impact. The subdivisions that have fiscal impact are subdivision 4 - certified contractor list and subdivision 6 - wage theft prevention plans. These requirements apply across all of the agency's rental development programs including but not limited to: LIHTC, Greater Minnesota Workforce Housing and new construction Housing Infrastructure.

Subdivision 4 This provision requires the developer to submit details on every contractor and subcontractor of any tier that performs work or is expected to perform on the proposed project. The initial list must be established 30 days before the

start of construction and updated each month until construction is completed. We assume that agency is required to monitor each developer's compliance with this subdivision. The number of projects where this is required each year varies from year to year based on the funding authorized at the state and federal level. With the language as written, we anticipate needing to hire at least 1 FTE to comply with this requires because of number of developments it applies to and the high frequency of the compliance work. The work would be completed by a Housing Program Officer/middle manager. The average compensation for this position (salary and benefits including FICA, retirement and insurance) is \$159,237.

Subdivision 6 - This provision requires the agency to consider 'the adequacy of a wage theft prevention plan in evaluating an application for financial assistance and may require the applicant to amend the plan or adopt policies or protocols to prevent wage theft.' With the language as written, we anticipate needing to hire at least 1 FTE to comply with the requirements because the agency does not have any staff knowledge or capacity regarding wage theft, since enforcement of wage theft is completed by the Department of Labor and Industry. The work would be completed by a Housing Program Officer/middle manager. The average compensation for this position (salary and benefits including FICA, retirement and insurance) is \$159,237.

Expenditure and/or Revenue Formula

Staff to administer provisions in Section 2, subdivision 4:

$$1 \text{ FTE} \times \$159,237 = \$159,237$$

Staff to administer provisions in Section 2, subdivision 6:

$$1 \text{ FTE} \times \$159,237 = \$159,237$$

Long-Term Fiscal Considerations

The requirements of this bill are on-going.

Local Fiscal Impact

N/A

References/Sources

N/A

Agency Contact:

Agency Fiscal Note Coordinator Signature: Ryan Baumtrog

Phone: 651-296-9820

Date: 3/18/2024 12:20:25 PM

Email: ryan.baumtrog@state.mn.us

SF4593 - 0 - MHFA Use of Responsible Contractors Required

Chief Author: **Tou Xiong**
 Committee: **Housing**
 Date Completed: **3/18/2024 12:27:06 PM**
 Agency: **Labor and Industry Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026
	Workforce Development	-	-	61	61
	Total	-	-	61	61
	Biennial Total			61	122

Full Time Equivalent Positions (FTE)		Biennium			Biennium
		FY2023	FY2024	FY2025	FY2026
	Workforce Development	-	-	.48	.48
	Total	-	-	.48	.48

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karl Palm **Date:** 3/17/2024 12:21:35 PM
Phone: 651-296-6055 **Email:** karl.palm@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Workforce Development	-	-	61	61	61
Total	-	-	61	61	61
Biennial Total			61		122
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Workforce Development	-	-	61	61	61
Total	-	-	61	61	61
Biennial Total			61		122
2 - Revenues, Transfers In*					
Workforce Development	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

This bill amends MN Statute 116J.871, Subd. 1(c) by expanding the definition of “financial assistance” to include allocations of low-income housing tax credits by all sub allocators for which tax credits are used for multifamily housing projects consisting of more than ten units. Therefore, this bill expands the application of Minnesota’s Prevailing Wage Act to multifamily housing projects of more than ten units receiving tax credits under LIHTC and TIF.

The bill also creates additional requirements for applicants and recipients of financial assistance provided by the Minnesota Housing Finance Agency (MHFA). Applicants for financial assistance from MHFA would be required to disclose labor law violations to the agency and to use responsible contractors and subcontractors to perform work on the project.

The bill would also require applicants to submit to MHFA a list of all contractors and subcontractors on the project as well as certain information about each contractor and subcontractor.

The bill requires financial assistance recipients to have a wage theft prevention plan to be eligible for further financial assistance if any contractor or subcontractor on the project fails to pay required wages. MHFA must consider the adequacy of the wage theft prevention plan in evaluating an application for financial assistance and may require the applicant to amend the plan or adopt policies or protocols to prevent wage theft, in consultation with DLI.

Assumptions

Consultation

MHFA, and not DLI, has responsibility for processing financial assistance applications and awarding financial assistance under MN Statute 116J.871. However, under the bill, MHFA may consult with DLI regarding wage theft prevention plans it receives. As financial assistance recipients only need to create and submit wage theft prevention plans to MHFA when: (1) a contractor or subcontractor on their project fails to pay required wages; (2) this nonpayment of wages is determined by an enforcement entity; and (3) the recipient is seeking additional financial assistance, it is assumed DLI will be asked to provide consultation services on 10 or fewer wage theft prevention plans each year. Assuming that review, feedback, and consultation regarding each plan will take up to 5 hours, DLI will spend approximately 50 hours (0.02 FTE / Labor Investigator Sr. MAPE 12G) each year providing consultation services under this bill.

Training and Outreach

DLI currently provides training and outreach to contractors and contracting authorities under section 177.43. DLI assumes

some additional training and outreach efforts relating to this bill to be immaterial and handled by existing staff.

Enforcement

DLI enforces Minnesota's Prevailing Wage Act (MS 177.41 177.45) for projects financed in whole or part with state funds. Enforcement activity is initiated when DLI performs an on-site project review or when a complaint is filed with DLI. The expansion of the definition of financial assistance under section 116J.871 would require additional enforcement efforts.

DLI estimates that an average prevailing wage investigation of a multifamily housing development project under federal low-income housing tax credits would be consistent with other multifamily housing project investigations. Based upon the Department's experience, a prevailing wage investigation requires an average of 240 hours to complete. Investigatory records examined would include construction bids and contracts; project schedules; certified payroll reports; fringe benefit plan documents and statements; apprenticeship agreements, time records; and earning statements; worker interviews would also likely be conducted.

DLI assumes that in response to this bill it will receive and respond to four additional prevailing wage complaints each year.

4 prevailing wage investigations X 240 hours = 960 hours (0.46 FTE / MAPE 12G Labor Investigator Sr).

Expenditure and/or Revenue Formula

Expenditures	2024	2025	2026	2027
Labor Investigator Sr (MAPE12G)	0	60,782	60,782	60,782
Cumulative Expenditures	0	60,782	60,782	60,782

FTE Count	2024	2025	2026	2027
Labor Investigator Sr (MAPE 12G)	0	0.48	0.48	0.48
Total FTE	0.00	0.48	0.48	0.48

Long-Term Fiscal Considerations

NA

Local Fiscal Impact

NA

References/Sources

NA

Agency Contact: Karen Bugar 651-284-5658

Agency Fiscal Note Coordinator Signature: Jacob Gaub

Phone: 651-284-5812

Date: 3/13/2024 7:56:15 AM

Email: jacob.gaub@state.mn.us