



**MaineHousing**  
Maine State Housing Authority

## **Addendum to the Supportive Housing Programs**

### **MaineHousing General Requirements**

*The mission of MaineHousing is to assist Maine people to obtain and maintain decent, safe, affordable housing and services suitable to their unique housing needs.*

*In carrying out this mission, MaineHousing will provide leadership, maximize resources, and promote partnerships to develop and implement sound housing policy.*

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## ***Introduction***

### **Section 1: Overview**

MaineHousing provides subsidy funding for various supportive housing initiatives. Each subsidy offering is for a specified purpose and often is designed to serve a specific population. The specific program details are described in a unique program guide. However, there is an array of general requirements that are applicable to all subsidy funded supportive housing projects. This manual sets out the general requirements that are applicable to all MaineHousing subsidy funded supportive housing projects. In addition, Chapter 29 of MaineHousing's Rules, Multifamily Development and Supportive Housing Loans and Grants, applies. Applicants may also apply for debt financing under MaineHousing's Supportive Housing Debt Program.

### **Section 2: Background**

The State of Maine Consolidated Housing and Community Development Plan identifies the need for a continuum of affordable and appropriate housing options for people with special needs, including persons who are homeless. The MaineHousing supportive/homeless housing programs address the need for both specialized and non-specialized rental housing for people with special needs and who may be homeless.

### **Section 3: Eligible Applicants**

To be eligible under the subsidy programs, an applicant must:

1. Be a non-profit corporation that is (i) duly organized in the State of Maine under Title 13-B of the Maine Revised Statutes Annotated or authorized to do business in the State of Maine and (ii) validly existing and in good standing under Maine law;
2. Qualify for tax exemption under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, (Code);
3. Provide evidence that the proposed initiative is within the charitable and corporate purposes of the applicant;
4. Provide evidence of legal existence and authority to incur the liability of the financing;

5. Demonstrate capacity to deliver or ensure the delivery of appropriate services for the proposed resident population;
6. Demonstrate financial, organizational and development capacity to undertake the proposed initiative; and
7. Provide evidence of a qualified development team;

\*An applicant may apply under a subsidy program while in the process of applying for its 501(c)(3) exemption. The applicant must have applied for the exemption at the time the applicant submits an application under the program. By loan closing, the applicant must provide a valid Internal Revenue Service (IRS) determination, which may be in the form of an advance ruling, that the applicant is exempt from taxation under Section 501(c)(3) of the Code and is not a private foundation under Section 509(a) of the Code. If the applicant has not been issued a final determination by the IRS by loan closing, the applicant must obtain a final determination before the end of the advance-ruling period. Further, if applicant is not the service provider or the property manager, the applicant must provide evidence that the service provider or the property manager is exempt from taxation under Section 501(c)(3) of the Code and is not a private foundation under Section 509(a) of the Code or meets certain safe harbor requirements under the Code.

No applicant will be accepted, processed, or approved by MaineHousing if the applicant, or any entity controlled by the applicant or its affiliate, (i) in the last six months has been declared in default or has been 60 days or more delinquent on any loan with MaineHousing unless an approved payment or workout plan is in place and in good standing or (ii) has ever been the owner of a MaineHousing-financed project upon which MaineHousing has foreclosed.

State and federal law and MaineHousing's policy on conflicts of interest prohibit current employees or commissioners from working on certain transactions with applicants with whom they have a financial or personal relationship, prohibit past MaineHousing employees from working on certain transactions, and prohibit persons who exercised responsibilities in connection with certain federal funds from benefiting from those funds. Accordingly, applicants for funding under MaineHousing's programs must complete a conflict of interest disclosure form and comply with the law and policy and any requests by MaineHousing to ameliorate potential or perceived conflicts of interest.

## **Section 4: Eligible Activities**

Typical eligible activities include acquisition and rehabilitation, rehabilitation, and new construction. Specific programs may limit eligibility to specific activities. A specific program may also restrict activities to those that create *new* special needs beds or units, i.e. applicants may acquire existing housing, but the housing may not have been used as special needs housing. The program guide for the subsidy offering will provide further guidance on this topic.

Refinancing of existing debt is **not** an eligible activity. MaineHousing will examine the relationship of the buyer and seller of any property to ensure an "arm's length" transaction.

## **Section 5: Non-Residential Activities**

MaineHousing may limit the amount of space in a project that can be used for non-residential purposes. The non-residential use must be functionally related to and compatible with the residential component. Commercial uses and any activity that involves an unrelated trade or business income or violates the corporate charitable purposes of the applicant are not eligible for MaineHousing financing. MaineHousing will evaluate the amount of commercial income that can be dedicated to support debt service and operating expenses on a case-by-case basis.

## ***Funding Terms***

### **Section 1: Subsidy Terms**

Minimum Amount	Set by the specific program guide
Maximum Amount	Set by the specific program guide
Term	Subsidy awards are offered as either forgivable or non-forgivable loans. Typically subsidy awards are structured with 0% deferred terms. The specific program guide will detail the terms of repayment if applicable.
Subsidy Cap	The total of any subsidy and debt funding may not exceed the total development costs of the project. MaineHousing's concurrence will be required as to the reasonableness of a project's total development cost and all components of the total development cost.
Late Charge	6% of any payment more than 15 days in arrears
Prepayment	Subsidy loans may not be prepaid without the written concurrence of MaineHousing. Generally, involuntary prepayment penalties are 2% for prepayment during the first 15 years and 1% during the 16 <sup>th</sup> through the 20 <sup>th</sup> years. MaineHousing reserves the option to revise the penalties. Penalties that are specific to a particular program will be detailed in the subsidy program guide.
Recourse	Subsidy loans are non-recourse, i.e. in the event of a default, MaineHousing will not look to other developer assets to recover the full loan amount.

### **Section 2: Security**

Subsidy loans must be secured by a mortgage on the land and improvements, a general assignment of the project's leases, rents, contracts, accounts and a security interest in all fixtures and personal property of the project. If a first lien position is available, the subsidy lien will occupy that position.

However, the subsidy loans may be subordinated to other liens as needed to ensure the viability of the project. MaineHousing reserves the option of requiring specific lien arrangements as circumstances may warrant. MaineHousing may require an inter-creditor agreement between the lender and MaineHousing which describes their relationship and their rights on terms and conditions acceptable to MaineHousing.

If the applicant is an instrumentality, subsidiary, or otherwise controlled by another non-profit corporation, MaineHousing reserves the right to require that the parent corporation guarantee the loan to its subsidiary.

The subsidy loans are not freely assumable. Transfers of title of any interest in the project by the developer or any change in use of the project must comply with MaineHousing's Ownership Transfer Rule.

MaineHousing may cross-collateralize the supportive housing financing with other existing or future financing from MaineHousing to the developer or a related entity.

### **Section 3: Secondary Debt**

No other liens, security interests or mortgages may encumber the project without MaineHousing's consent. Any person or entity with a mortgage subordinate to MaineHousing's mortgage and security interest may be required to enter into a subordination agreement with MaineHousing.

### **Section 4: Vacancy Rate**

Projects must consider the use of a vacancy rate if applicable to the type of housing being developed. The application should provide support for the projected vacancy rate for the project, as applicable. The vacancy rate should be supported by either historical experience or industry standards.

### **Section 5: Review of Organizational Credit and Capacity**

MaineHousing reserves the option of requiring a review of an applicant's financial and organizational capacity to undertake the proposed project. If a review is required, the following are examples of the types of data that may be reviewed. The applicant will need to provide information as required to complete the review (when applicable). The information will be required prior to the issuance of any MaineHousing commitment letter for subsidy funding (when applicable).

- Positive annual cash flow/working capital position;
- Evidence of sufficient start-up capital;
- Adequacy of liquidity and net worth;
- Debt repayment history;
- Documentation supporting the reliability of income projections; and

- Size, scope and reliability of contracts by which organization is funded.

## Section 6: Market Value

Generally, MaineHousing does not require an appraisal in connection with a subsidy award. MaineHousing reserves the right to require an appraisal for projects in which the market value may be unsupportable. If an appraisal is required, MaineHousing will commission the appraisal from a list of MaineHousing-approved appraisers after MaineHousing determines that the project is viable. Viability means that a project is financially, legally and physically feasible. The developer will reimburse MaineHousing for the cost of the appraisal from loan closing proceeds, provided that the project is funded. Developers will not be required to repay the cost of the appraisal if the project is not funded. The cost of the appraisal is a mortgageable expense and should be included in the development budget (if an appraisal is required). MaineHousing will notify the developer of the cost of the appraisal when it is commissioned.

MaineHousing may also look to a current tax assessment in lieu of an appraisal for projects in which there are issues concerning the project's market value.

## Section 7: Replacement Reserve

The program guide for the subsidy funding will detail if there will be a Replacement Reserve requirement for projects that receive subsidy funding. If the program employs the use of Replacement Reserves, there are certain MaineHousing general requirements that will apply. Those requirements are set out in this section.

The initial funding to the replacement reserve account is an amount equal to one percent of the *cost of structures*. For acquisition/rehabilitation projects, the *cost of structures* is defined as the percentage of the acquisition attributable to the cost of the building plus the cost of the rehabilitation (including contractor's overhead, profit, general requirements, and contingency). The percentage of the acquisition attributable to the building can be determined either by an appraisal or by applying the ratio in the tax assessment between land and building to the overall acquisition cost. For new construction projects, the *cost of structures* is defined as the total construction contract.

The developer must establish and deposit the initial funding amount in the replacement reserve account at the loan closing. This initial funding of the account is a mortgageable cost. The developer must establish the account at a financial institution approved by MaineHousing. The developer and MaineHousing must be "either/or" signatories on the account, i.e. both the developer and MaineHousing will be able to authorize transactions. The signatory card for the account must be delivered to MaineHousing at or prior to the loan closing. MaineHousing will review on-going funding requirements through an annual review process. MaineHousing reserves the right to require sole signatory control based on the annual reviews.

On the first day of each month after loan closing, the developer must make monthly deposits to the replacement reserve account in an amount equal to 1/12<sup>th</sup> of one percent (1%) of the *cost of structures*. Each year thereafter, funding to the Replacement Reserve Account will increase by 2% of the previous year's funding, to account for inflation.

The lending institution that administers the Replacement Reserve will need to execute a Depository Account Control Agreement. Further details will be provided by MaineHousing concerning the process for complying with this requirement.

## **Section 8: Real Estate Taxes and Insurance**

Properties will be underwritten reflecting full tax liability. The tax amount will be based on certification by the local municipal tax assessor of the after-rehabilitation valuation and mil rate, unless the project is able to secure tax relief from the community. This may be in the form of abatement or an agreement for a payment in lieu of taxes (PILOT). MaineHousing neither encourages nor discourages non-profit corporations from seeking exemptions from local taxes and will not take any position in negotiations between developers and municipalities regarding property tax liability.

The developer must provide evidence of acceptable property insurance in the form of a binder or certificate of insurance prior to loan closing. The developer must pay the first year's property insurance premium in full at or before loan closing.

MaineHousing generally does not require a tax and insurance escrow in conjunction with subsidy funded projects. However, MaineHousing reserves the right to require a tax and insurance escrow account. If required, the developer must establish the escrow account at a financial institution acceptable to MaineHousing prior to the loan closing. The developer and MaineHousing must be "either/or" signatories on the account; i.e. both the developer and MaineHousing will be able to authorize transactions. The developer must deliver the signatory card for the account and pre-fund the account in an amount determined by MaineHousing at the time of the loan closing. The pre-funding requirement for property taxes will be the amount which, when combined with the monthly funding to the tax and insurance escrow account, will pay the next scheduled tax bill or to make the PILOT payment as applicable. Projects that will receive an exemption must prepay an amount that will adequately cover the tax obligation from the time of the closing to the commencement of the tax exemption.

Because taxes and insurance are operating expenses, not capital items, neither the cost of the first year's insurance premium nor the pre-funding requirement for property taxes are mortgageable expenses. The developer must pay for these two items from other sources of capital or equity.

## **Section 9: Documentation of Other Funding – Capital, Operating and Service Funding**

Prior to the issuance of a commitment letter for MaineHousing subsidy awards, the applicants must demonstrate the ability to secure all other sources of development capital as needed to complete the proposed project. Generally, commitment letters for all sources of development capital will be required. Other forms of documentation will be reviewed on a case by case basis.

Applicants will be required to demonstrate the ability to secure all sources of operating revenues and service funding as may be needed. The documentation of financial support will be reviewed on a case by case basis. MaineHousing reserves the right to accept/reject alternative forms of documentation.

## **Section 10: Title Insurance**

The developer must provide a lender's title insurance policy acceptable to MaineHousing insuring MaineHousing's mortgage position with mechanics lien and survey exceptions deleted prior to the loan closing.

## **Section 11 Rehabilitation and Construction Period Financing**

For projects involving rehabilitation, MaineHousing will establish and administer a rehabilitation escrow account. For projects involving substantial rehabilitation or new construction, MaineHousing may require developers to secure construction financing from a non-MaineHousing source. MaineHousing may elect to not provide a rehabilitation escrow with rehabilitation period financing for those projects that exceed MaineHousing's oversight and administrative capabilities.

For projects with a MaineHousing-administered rehabilitation or construction escrow account, the developer shall deposit all funds necessary for the rehabilitation or construction of the project in the account at the loan closing. MaineHousing will hold and administer the account in accordance with the terms of a Rehabilitation Escrow Agreement to be executed by the developer and MaineHousing at the loan closing. MaineHousing will disburse funds from the escrow following MaineHousing's inspection and approval. MaineHousing will provide the developer with the procedure for requesting disbursements at or following the loan closing. Payment from the escrow account will be in the form of two-party checks requiring both the developer and the contractor to endorse the check as payment is received.

*As MaineHousing does not charge a fee for administering the rehabilitation escrow, the rehabilitation escrow account will not pay any interest earnings to the developer.*

## ***Affordability***

### **Section 1: Affordability and Use Requirements**

Affordability and use requirements will be detailed in the program guide for the subsidy programs. Affordability and use restrictions are enforced in restrictive covenants that are recorded in the applicable registry of deeds and will remain as covenants for the required use period. The restrictive covenants will run with the land and bind all subsequent owners.

For purposes of the affordability requirements, individuals that are under the guardianship of the State of Maine will be determined to be earning low income.

## ***Process***

### **Section 1: Processing**

Following is the typical process for subsidy loans:

1. The subsidy selection process is completed (detailed in the subsidy program guide)
2. MaineHousing issues either Notice to Proceed Letters or Award Letters, depending on the program
3. MaineHousing visits the site to determine completeness and feasibility of proposed scope of work.
4. MaineHousing commissions an appraisal (if applicable).
6. MaineHousing reviews final specifications and plans for construction; reviews contractor's contracts.
7. MaineHousing confirms availability of State development and operating subsidies (if applicable).
8. MaineHousing performs final underwriting and makes decision on complete loan application.
9. MaineHousing issues a commitment letter, if the financing decision is affirmative.
10. MaineHousing prepares loan documents.
11. Developer provides all items on the loan closing agenda acceptable to MaineHousing.

## ***Site and Construction Standards***

### **Section 1: Site Control**

Developers must provide signed purchase and sale or option agreements for the proposed site upon securing site control. Purchase and sale agreements should provide the developer with a sufficient period of time in which to purchase the property. It is recommended that 120 days be the minimum if possible. MaineHousing encourages applicants to secure agreements that credit option payments or earnest money deposits toward the reduction of the purchase price.

MaineHousing strongly encourages developers to secure contingencies in the purchase and sale agreements by which the earnest money deposit will be returned to the developer if certain requirements or standards cannot be met. Examples of these contingencies include without limitation:

- an acceptable survey;
- satisfactory inspection by the State Fire Marshal's Office (if applicable);
- receipt of 501(c)(3) determination;
- satisfaction of all relevant title and land use issues as evidenced in an attorney's title and land use opinion;
- standard contingencies, such as success in securing financing, satisfactory environmental assessment, etc.;
- presence of lead-based paint.

Purchase and sales agreements should allow access to the site for environmental reviews, architect's inspections, and contractor's estimates.

Developers must secure all required land use approvals and any and all federal, state and local permits and approvals required to proceed with acquisition, construction and/or rehab, and operation of the supportive housing project. The appeal period for all approvals must be expired without appeal as of the loan closing.

## **Section 2: Site Standards**

MaineHousing will not approve a site if the surroundings will detract excessively from the quality of the development, or when the development has/will have an adverse effect on its surroundings. Existing neighborhood conditions must be free of physical deterioration severe enough to compromise the viability of a development, free of conditions which present visual blight, free of nuisances from water pollution, noise and/or odor, and free of hazards from physical features which would detract from the development.

MaineHousing may require a Phase I Environmental Site Assessment prepared by a qualified professional to evaluate potential hazards. The survey will be paid by the developer and is a mortgageable cost.

## **Section 3: Survey**

MaineHousing requires a certified mortgage inspection plan for all projects. MaineHousing reserves the right to require a standard boundary survey. MaineHousing shall require an as-built survey for rehabilitation projects involving a substantial change to the footprint of the building or for new construction. The plan or survey will need to be certified to the title insurer and MaineHousing in a manner acceptable to the title insurer. The plan or survey must be acceptable to the title insurer to delete the survey exception in the title insurance policy.

## **Section 4: Growth Management Preference**

To the extent feasible and consistent with the program, MaineHousing gives preference as follows:

1. First, to an application for a project located in a municipality that has received a certificate of consistency for its growth management program from the State Planning Office pursuant to 30-A MRS §4347-A;
2. Second, to an application for a project located in a municipality that has adopted a comprehensive plan that the State Planning Office has determined is consistent with the State's growth management procedures, goals and guidelines and that has adopted a zoning ordinance that is consistent with the municipality's comprehensive plan;
3. Third, to an application for a project located in a municipality that has adopted a comprehensive plan that the State Planning Office has determined is consistent with the State's growth management procedures, goals and guidelines; and
4. Finally, to an application that does not satisfy any of the above criteria.

The above preferences shall be given based on the most current information available from the State Planning Office at the time the final decision about subsidy awards is made.

## **Section 5: General Building Standards**

MaineHousing has adopted standards of design and construction to develop safe housing, which will serve the needs of its residents, with as much quality as the market place demands and resources

permit. The standards of design and construction will include compliance with the **MaineHousing Green Building Standards** (as revised on October 2006). The **MaineHousing Green Building Standards** may be accessed on the MaineHousing website at <http://www.mainehousing.org>.

All work undertaken must minimally comply with the *Building Officials and Code Administrators Standards* (BOCA Codes) and *National Fire Protection Association Codes* (NFPA). These codes are a series of standards to be applied according to building type, number of units, type of improvements, etc. and include, among others:

- BOCA National Building Code
- BOCA National Plumbing Code
- BOCA National Mechanical Code
- NFPA 13 Sprinkler Systems
- NFPA 70 the National Electrical Code
- NFPA 101 the Life Safety Code
- American National Standards Institute (ANSI) CABO/ANSI A117.1-92 which addresses Accessible and Usable Buildings and Facilities
- The Americans with Disabilities Act (ADA)
- International Building Code (IBC)

Projects shall comply with all state laws that govern construction including Laws of the Fire Service. The applicant shall comply with applicable Federal and State handicapped accessibility laws and regulations promulgated pursuant thereto, including, without limitation, the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. § 3601 *et seq.*, 24 CFR Part 100.205), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794 *et seq.*, 24 CFR Part 8), Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12131, 47 U.S.C. §§ 155, 201, 218 and 225), and Maine Human Rights Act (5 M.R.S.A. Chapter 337, Subchapters IV and V).

In addition, alterations of housing facilities that are to be made accessible pursuant to Section 504 of the Rehabilitation Act of 1973 must be done according to the Uniform Federal Accessibility Standards (UFAS). The Maine Human Rights Act applies to renovated buildings with rehabilitation costs over \$100,000. Pursuant to Maine law and applicable federal law, the project must meet all accessibility and adaptability requirements, and be reviewed for such compliance by the State Fire Marshal's Office.

MaineHousing requires that **all** projects be in compliance with ADA. Compliance with ADA may be documented by a certification by a Maine licensed architect or a barrier free construction permit from the State Fire Marshal Office.

For existing structures, MaineHousing will conduct an initial site visit to evaluate the proposed scope of work. A successful applicant must undertake all necessary maintenance, capital improvements and code compliance work required by MaineHousing. When the scope of building rehabilitation or construction is complex, or if required by State law, MaineHousing may require the applicant to retain a licensed architect to develop the plans and specifications for the project. MaineHousing will review and approve all plans and specifications.

All projects with a private water source must satisfy the State Department of Health Engineering water quality test requirement. The developer must submit evidence of satisfaction of this test to MaineHousing. The State of Maine has Energy Efficiency Building Standards applicable to all buildings that are funded by MaineHousing. The Department of Economic and Community Development, Energy and Conservation Division, has implemented rules to restrict the installation of electric resistance heating units in new, conditioned space. MaineHousing will not accept any application to acquire or improve existing electrically heated units (electric resistance heat) unless the application includes a plan for conversion to an alternatively fueled heating system.

State and Federal Requirements pertaining to the mitigation of lead based paint are applicable. Generally, rehabilitation activities and lead-based paint hazard reduction must conform to 24 CFR 35.

The State of Maine Water Conservation Rule must be incorporated into project design. Specific water flow restrictions and water conserving equipment must be installed pursuant to this rule.

**MaineHousing will act as the final authority when interpreting any codes or standards for MaineHousing-financed properties.**

## **Section 6: Habitability Standards**

Projects must meet all State and Federal environmental, labor, civil rights, relocation and other requirements.

All projects constructed prior to 1978 are subject to applicable federal lead-based paint requirements set forth in the Lead-Based Paint Poisoning Prevention Act of 1971, as amended, 42 U.S.C. § 4821 *et seq.*, the Residential Lead-Based Paint Hazard Reduction Act of 1992, as amended (Title X), 42 U.S.C. § 4851 *et seq.* and 24 CFR Part 35.

In particular, MaineHousing will require owners to notify the occupants of housing built before 1978 of the hazards of lead poisoning. MaineHousing will require that, where they exist, potential lead-based paint and asbestos hazards be addressed according to Federal or State requirements. To protect MaineHousing's security interest in the project, additional requirements relative to the abatement or removal of lead-based paint surfaces and asbestos may be imposed.

## **Section 7: Contractor Selection**

Developers are responsible for securing a price from and engaging competent contractors to perform the work. MaineHousing will review all contractor(s) proposal(s) for cost reasonableness and completeness prior to issuing a funding commitment. MaineHousing reserves the right to require a competitive bidding process for a general contractor and/or sub-contractors and to require bonds.

MaineHousing will review the relationship of the developer and the suppliers of goods and/or services to confirm that there is no identity of interest. This means that no amount financed by MaineHousing should represent the cost of goods acquired from a party related to the developer, either by a family, partnership or corporate relationship.

MaineHousing strongly encourages the participation of minority and women’s business enterprises.

The developer’s responsibilities to promote the use of women-owned and minority-owned business enterprises include:

1. Placing qualified women-owned and minority-owned business enterprises on solicitation lists.
2. Assuring that women-owned and minority-owned business enterprises are solicited whenever they are potential sources.
3. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by women-owned and minority-owned business enterprises.
4. Maintaining records of advertising, telephone contacts, and other efforts used to encourage the use of and contracting with women-owned and minority-owned business enterprises.

## **Section 8: Bonding Guidelines**

In the event MaineHousing provides financing for construction and rehabilitation activities, MaineHousing may require a payment and performance bond. MaineHousing will decide on a case-by-case basis using the following guidelines.

For conventional site built projects, decisions regarding “bonding” will be based, in part, on the following construction cost schedule:

- Less than \$100,000 – no bonds required
- \$100,000 to \$200,000 – MaineHousing may require bonds
- over \$200,000 – bonds required

For “modular” projects, decisions regarding “bonding” will be based, in part, on the following construction cost schedule:

- Less than \$200,000 – no bonds required
- \$200,000 to \$400,000 – MaineHousing may require bonds
- over \$400,000 – bonds required

## ***Project Management & Reporting Requirements***

### **Section 1: Ongoing Reporting Requirements**

The financial, physical and administrative management of subsidy funded projects will be regularly reviewed by MaineHousing for the duration of the subsidy and affordability/use restriction period. MaineHousing's procedures, as well as the financing commitment and mortgage loan documents, permit MaineHousing to monitor and preserve the financial viability of the project for the purpose of protecting its security interest and ensuring continued public benefit. For units (apartments), owners must provide initial and annual certifications and initial tenant income certifications. For group living arrangements (beds), owners must provide annual certification that the property continues to be operated in the manner required at permanent loan closing.

All marketing activities must be conducted in accordance with Federal and State laws on human rights, equal opportunity, and fair housing.

The project must continue to meet BOCA standards throughout the period in which MaineHousing's debt is outstanding. MaineHousing will periodically inspect all units, annually review project financial reports (MaineHousing reserves the right to require audited financial statements), and review the activities of the borrower to assess compliance with applicable regulations and mortgage requirements. The Developer shall furnish to MaineHousing within 60 days after the close of each fiscal year an annual financial statement showing all expenses and earnings or revenues of the project in reasonable detail. MaineHousing reserves the right to require a yearly budget at least 30 days prior to the beginning of Developer's fiscal year.

MaineHousing cautions applicants to be aware of the potential applicability of provisions of the Maine Human Rights and Federal Fair Housing legislation and Section 504 to any housing proposed for funding. Procedures for selection of residents, conditions of residency, and rules regarding termination may fall within the scope of this legislation. Providers must make reasonable accommodations of rules, policies and procedures, and may be required to allow reasonable structural modifications to buildings, if necessary to allow an individual with disabilities equal access to housing.

## ***Displacement / Relocation Policy***

### **Section 1: Tenant Relocation Policy**

MaineHousing **strongly** discourages the development of projects that will require displacement of tenants. All projects financed with MaineHousing funds must comply with MaineHousing's Displacement and Relocation Policy. A summary of this policy is provided below. Developers may obtain a copy of the full policy upon request. Developers should be aware that displacement costs can be very significant and can result in projects being financially infeasible.

#### **Summary of Policy on Displacement/Relocation**

Part I (**General Policy**) states the fundamental principles of the policy: that applicants for financing take all reasonable steps to minimize displacement; but that in certain cases it cannot be avoided. Where it cannot, we impose financial obligations upon the developer to assist those displaced. These obligations are project costs eligible for MaineHousing financing.

Part II (**Temporary Tenant Relocation**) covers tenants not required to move permanently but who must relocate temporarily because of rehabilitation to a MaineHousing-assisted project. The policy simply requires keeping such tenants informed, and paying their out-of-pocket moving costs.

Part III (**Benefits and Procedures for Persons (permanently) Displaced From Projects Receiving Federal Funds**) clearly lays out who federal law defines as a displaced person, with examples, and what that law requires a developer to do for them. In summary, they are:

<b>Notice</b>	90 days.
<b>Advisory Services</b>	1) explanation of relocation assistance available; 2) location of up to three comparable units for the tenant to choose from; and 3) offer of transportation to inspect the comparable units.
<b>Moving</b>	Either a) actual and reasonable out-of-pocket moving and related expenses;

**Expenses** or b) if the tenant chooses, a moving expense allowance, based on a schedule reflecting the number of rooms to be moved.

**Replacement Housing Assistance** In most cases, 42 months' rental assistance, i.e. 42 times the difference, if any, between: the cost of a comparable unit and either the cost of the original unit or 30% of the person's gross monthly income, whichever is less.

The one part of this section which goes beyond simply presenting and explaining federal requirements concerns "**economic displacement**": tenants forced to move after a project is complete because of rents rising to recoup the past costs of a project. HUD defines this as displacement--triggering all the benefits to the displaced renter--yet gives no guidance as to when rent increases may be justified. Trying to balance tenants' interest not to be displaced as a direct result of rising rents caused by MaineHousing-financed projects, with developers' need for guidance as to what will (and will not) expose them to liability, we arrive at the following formulation:

<b><u>Time Frame</u></b>	<b><u>Rent Increase Allowed</u></b>
Closing to completion of rehab	Any, as long as below Section 8 tenant payment (low-income persons) or 30% of income (non-low income)
1st year after rehab completion	No rent increases
Next 2 and 1/2 years	Rent increases only in proportion to documented increases in operating costs
After 3 and 1/2 years	Rebuttable presumption that rent increases not a result of the acquisition/rehab financed by MaineHousing

"Targeted" units are also restricted by the terms of MaineHousing's covenant documents with the developer.

Part IV (**Benefits and Procedures for Persons** (permanently) **Displaced From Projects Not Receiving Federal Funds**) is crafted by MaineHousing to strike a balance between the protection of the tenants and the lack of funds to pay for the level of protection provided by federal funding. These protections are:

**Notice** Supportive housing projects: **60 days**.  
Projects involving density reduction: **60 days**.  
Projects requiring displacement to meet tenant income targets: **90 days**.

**Advisory** For persons below 80% of median income, same as what's required

**Services** for all income levels in federally assisted projects, i.e.: a) explanation of relocation assistance available; b) location of up to 3 comparable units for the tenant to choose from; and c) offer of transportation to inspect the comparable units.

**Moving Expenses** For persons below 80% of median income, either a) actual and reasonable out-of-pocket moving and related expenses; or b) if the tenant chooses, a one-time \$300 payment in lieu of moving and related expenses.

**Replacement Housing Assistance** For persons below 60% of median income, 12 months' rental assistance (i.e. the difference, if any, between the cost of the unit from which they were displaced and **either** the unit to which they moved or a comparable unit, whichever is cheaper).

Any relocation and displacement benefits that are determined to be due to a displaced tenant are the financial responsibility of the developer.

## ***Funding for Pre-Development Activities***

### **Section 1: Pre-Development Loan Program**

Pre-development loans are interest-free loans to cover mortgageable pre-development costs of non-profit developers who are securing site control, applying for project approvals, and preparing financing applications for housing development projects which ensure affordability for lower income residents of Maine.

MaineHousing offers a Pre-Development Loan Program for non-profit developers. MaineHousing has developed a program guide for the Pre-Development Loan Program which provides details on the eligibility, terms and benefits of pre-development funding. The program may be accessed at the MaineHousing website <http://www.mainehousing.org> or by contacting the MaineHousing Development Department at (207) 626-4600 or 1-800-452-4668 (voice) or 1-800-452-4603 (TTY).

Applicants for pre-development loans are encouraged to contact MaineHousing's Development Department with questions concerning the requirements of the program and to discuss the proposed project prior to submitting a funding application.

### ***MaineHousing Non-Discrimination Policy***

MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, age, physical or mental disability, or familial status in the admission or access to, or treatment or employment in, its programs, and activities. MaineHousing will provide appropriate communication auxiliary aids and services upon sufficient notice. MaineHousing will also provide this document in alternative formats upon sufficient notice. MaineHousing has designated the following person responsible for coordinating compliance with applicable federal and state nondiscrimination requirements and addressing grievances: Mary Darling, Maine State Housing Authority, 353 Water Street, Augusta, Maine 04330-4633, Telephone Number (207) 626-4600 or 1-800-452-4668 (voice) or 1-800-452-4603 (TTY).

Applicants are cautioned to be aware of the potential applicability of provisions of the Americans with Disabilities Act, the Maine Human Rights Act, federal Fair Housing legislation and Section 504 of the Rehabilitation Act of 1973 to any housing proposed for funding. Procedures for selection of residents, conditions of residency, and rules regarding termination may fall within the scope of this legislation. Providers must make reasonable accommodations of rules, policies, and procedures and may be required to allow reasonable structural modifications of buildings to be made, if necessary, to allow an individual with disabilities equal access to housing.