

MAINE STATE HOUSING AUTHORITY

EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION PLAN FOR MULTI-FAMILY HOUSING FINANCE PROGRAMS

Introduction

This document is the affirmative action plan for Maine State Housing Authority (*MaineHousing*) programs which make financing available for the acquisition, rehabilitation and construction of affordable multi-family housing in Maine. This plan identifies the equal opportunity and affirmative action policies and goals for the applicants, developers, project owners, contractors, subcontractors and other persons or entities that benefit from MaineHousing's programs. This plan includes affirmative outreach and recruitment procedures designed to provide equal access for women, minorities and persons with disabilities to the economic benefits of MaineHousing's programs.

This plan is established pursuant to the following applicable Federal and State equal employment opportunity and affirmative action laws: Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086 and 12107 and 40 C.F.R. Part 60 (*Equal Employment Opportunity Programs*), Section 3 of the Housing and Urban Development Act of 1968 (24 C.F.R. Part 135), Executive Order 11625, as amended by Executive Order 12007 (*Minority Business Enterprises*), Executive Order 12432, Executive Order 12138, as amended by Executive Order 12608 (*Women's Business Enterprise*), the Maine Human Rights Act (5 M.R.S.A. Chapter 337, Subchapter III), Section 3 of the Housing and Urban Development Act of 1968 ("Section 3") and the Code of Fair Practices and Affirmative Action (5 M.R.S.A. Chapter 65), and regulations promulgated pursuant thereto).

Equal Opportunity Policy

MaineHousing does not discriminate in any manner against any employee, applicant for employment or contractor or in engaging the services of any contractor on the basis of race, color, religion, national origin, ancestry, age, sex, sexual orientation, or physical or mental disability. Employment activities in which MaineHousing does not discriminate include, without limitation, employment, upgrading, promotions, demotions, transfers, recruitment or recruitment advertising, disciplinary action, layoffs, terminations, rates of pay, benefits or other forms of compensation and selection for training.

As an equal opportunity employer, MaineHousing requires all applicants, developers, project owners, contractors (including construction managers), subcontractors and agents of MaineHousing and all other persons and entities that benefit from MaineHousing's programs to provide equal opportunity in employment and contracting and comply with all State and Federal statutes, regulations and directives governing equal opportunity.

Contract Requirements

All contracts and subcontracts entered into by MaineHousing, applicants, developers, project owners, agents, contractors (including construction managers) and subcontractors in connection with MaineHousing's programs shall contain the following provisions.

"During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate in any manner against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, sexual orientation, or physical or mental disability. Such action shall include, without limitation, employment, upgrading, promotions, demotions, transfers, recruitment or recruitment advertising, layoffs or terminations, rates of pay or other forms of compensation and selection for training.
- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, or physical or mental disability.
- c. The contractor will send to each labor union or representative of the workers with which the contractor has a collective bargaining agreement or other contract or understanding whereby the contractor is furnished with labor for the performance of this contract, a notice advising such labor union or workers' representative of the contractor's obligations under this section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment.
- d. The contractor will cause the foregoing provisions to be inserted in all contracts for any work covered by this Agreement so that such provisions will be binding upon each agent or subcontractor."

Affirmative Action Goal

It is MaineHousing's goal to foster the development of a well-qualified diverse workforce in all segments and at all levels of the industries that benefit from MaineHousing's programs. In particular, there is a manifest imbalance in the construction industry's employee profile. Traditionally, there have been few, if any, women, minorities and persons with disabilities employed in the segment of the construction industry that rehabilitates and constructs MaineHousing-financed multi-family housing.

Initially, MaineHousing's goal is to achieve the minimum level of participation by women and minorities in the housing construction industry required by Federal law. At least 6.9% of all hours worked by employees of a contractor or subcontractor during the prior calendar year must be worked by women. In addition, at least 0.5% of all hours worked by employees of a contractor or subcontractor during the prior calendar year must be worked by other minorities.

In furtherance of this goal, MaineHousing is establishing the following procedures to actively recruit women, minorities and persons with disabilities in the housing construction industry.

On-the-Job Training Requirement

All construction contracts between a project owner and a contractor (including a construction manager) for the construction or rehabilitation of multi-family housing funded by MaineHousing in an amount equal to \$1,000,000 shall provide for on-the-job training in a skilled trade or technical area for women and minorities in accordance with this plan.

Contractors or subcontractors shall provide a minimum of 700 hours of on-the-job training (*OJT*) for each \$1,000,000 increment of the total construction contract. For example, if the construction contract amount is \$3,500,000, the contractor and/or subcontractor(s) must provide at least 2100 hours of the on-the-job training to persons who are women or minorities. The *OJT* hours may be performed in connection with a MaineHousing-funded multi-family housing project or other construction project, provided that the project is located in the State of Maine. The general contractor (or construction manager) and MaineHousing, including any consultant retained by MaineHousing to monitor *OJT* and the construction analyst assigned to the MaineHousing-funded project, will collectively determine how the requisite *OJT* hours will be performed. The general contractor and MaineHousing, including the consultant and the construction analyst, will enter into a written agreement which describes the plan for satisfying the requisite *OJT* hours to be performed.

A person receiving on-the-job training shall be paid wages equal to 75% of the wage rate for the trade in which the person is receiving the training as established annually by the Maine Department of Labor pursuant to the *State Minimum Wage Rates on State Construction Projects*, 26 MRSA § 1304 et seq. and associated regulations. An amount equal to Five and No/100 Dollars (\$5.00) per hour of the wages paid to the person receiving on-the-job training must be included as an allowance in the project development budget. The owner will pay this allowance as a reimbursement to the contractor or subcontractor providing the on-the-job training upon notice from MaineHousing's *OJT* Compliance Monitor that the contractor or subcontractor satisfied its on-the-job training obligations. The owner shall not release the allowance to reimburse the contractor or subcontractor until it receives such notice.

A contractor (including construction managers and subcontractors) will be exempt from the above *OJT* requirement if the percentage of all hours worked by its employees during the prior calendar year is 6.9% for women and 0.5% for minorities.

Outreach Efforts to Women and Minority-Owned Businesses

Certain federal equal access and affirmative action laws require recipients of federal funding to provide job training, employment and contracting opportunities to women- and minority-owned businesses to the greatest extent possible. Accordingly, all developers, applicants and contractors shall solicit construction (including construction management) and other bids from women and minority-owned businesses involved in the construction of multi-family housing in Maine.

MaineHousing will require all developers and applicants to provide evidence of their outreach efforts prior to issuing a financing commitment under MaineHousing's programs.

Outreach Efforts to Women and Minorities

All applicants, developers, contractors and subcontractors shall post all employment opportunities within their businesses or organizations with Maine Career Centers and Women Unlimited or any successor organization designated by MaineHousing. MaineHousing will require all developers and applicants to provide evidence of their outreach efforts prior to issuing a financing commitment under MaineHousing's programs.

Section 3 - Outreach Efforts to Low Income Persons

Section 3 requires recipients of federal funding to provide job training, employment and contracting opportunities to Section 3 residents and Section 3 businesses to the greatest extent possible. Section 3 residents are residents of public or federally-assisted housing and persons with low income (defined as persons with income at or below 80% of area median income as determined by HUD). A Section 3 business is a business in which 51% or more of the business is owned by persons with low income or a business that employs a substantial number of persons with low income, i.e. at least 30% of its full-time, permanent employees are persons with low income. Ideally, the Section 3 residents should be from the area in which the multi-family housing is being constructed. In accordance with the goals of Section 3, at least 10% of the contracts for building trades and at least 3% of all other contracts associated with the construction or rehabilitation of a multi-family housing project should be directed to Section 3 businesses.

MaineHousing will require all developers and applicants to provide evidence of their outreach efforts prior to issuing a financing commitment under MaineHousing's programs.

Bid Requirements

All bid packages for the construction and rehabilitation of multi-family housing financed by MaineHousing must set forth the above requirements. MaineHousing is flexible with respect to how the on-the-job training requirements are set forth in the bid package. Contractors (including construction managers) shall consult with the MaineHousing construction analyst assigned to the project to determine whether to include the general requirements or specify how the OJT training requirements will be satisfied in the bid package.