



## **2014 Tax-exempt Debt with Subsidy Financing Program for the Acquisition and Rehabilitation of Existing Housing**

MaineHousing is making the following resources available under the Rental Loan Program to finance the acquisition and rehabilitation of eligible existing housing:

- Proceeds of tax-exempt facility bonds issued pursuant to Section 142(d) of the Internal Revenue Code of 1986, as amended (the “Code”);
- 4% “automatic” Low Income Housing Tax Credit; and
- Bond-related subsidy subject to MaineHousing’s Mortgage Purchase Program Bond Resolution and Section 142(d) of the Code

Funding under this program is available for eligible Projects on a competitive basis until such time as the resources allocated to this program are exhausted or are insufficient to fund an eligible Project. Applications for eligible Projects will be scored and ranked according to the scoring criteria set forth in this program. Projects that have a Notice to Proceed from another MaineHousing program are not eligible to apply.

Applicants must comply with the requirements of MaineHousing’s Rental Loan Program Guide dated July 2013 (the “RLP Guide”) not specifically addressed herein and the applicable requirements of MaineHousing’s 2014 Qualified Allocation Plan (the “QAP”). The Rental Loan Program Guide dated July 2013 and the 2014 Qualified Allocation Plan can be found at MaineHousing’s website, [www.mainehousing.org](http://www.mainehousing.org). Capitalized terms used but not defined herein have the meanings set forth in the QAP.

**MaineHousing reserves the right to suspend or terminate this program at any time and to reject or cease processing any application prior to issuing a financing commitment. MaineHousing is under no obligation to finance any Project until a financing commitment has been issued by MaineHousing and accepted by the applicant in accordance with its terms.**

### **TAX-EXEMPT DEBT AND TAX CREDITS**

The source of funding for all debt for Projects under this program will be proceeds from the issuance of qualified tax-exempt facility bonds pursuant to Section 142(d) of the Code. MaineHousing will provide construction-period financing for Projects. MaineHousing will utilize a financial institution, selected by the Applicant and acceptable to MaineHousing, to serve as MaineHousing’s escrow agent for disbursing the proceeds of the construction financing. The financial institution must enter into an escrow agreement on terms and conditions acceptable to MaineHousing.

All Projects must be eligible for and utilize the “4% automatic” federal Low Income Housing Tax Credit (“4% LIHTC”) as described in Section 42 of the Code generated by the tax-exempt funding provided to the Project.

Projects must comply with the QAP, Section 142 of the Code and associated regulations regarding the use of tax-exempt bond proceeds, and Section 42 of Code and associated regulations regarding the 4% LIHTC.

## **SUBSIDY**

MaineHousing is making subsidy in an aggregate amount up to \$3,000,000 available for eligible Projects. The amount of any subsidy awarded to a Project will be limited to the lesser of (i) \$30,000 per Credit-eligible unit in the Project, (ii) \$1,000,000 per Project, and (iii) the amount necessary for the Project to achieve feasibility.

Any subsidy awarded to a Project will be in an amount that MaineHousing determines, in its sole discretion is necessary for the feasibility of the Project, considering other resources that are available for the Project, and maximizes the use and efficiency of the subsidy available under this program.

Applicants awarded subsidy must comply with the requirements of MaineHousing’s Mortgage Purchase Program Resolution and with the requirements of Section 142 of the Code and associated regulations.

**MaineHousing reserves the right to award all, a portion or none of the available subsidy during any offering, depending on the quality and merits of the applications received.**

## **UNDERWRITING CRITERIA**

**Construction Financing Terms:**

- 2.5% interest rate per year plus a 2-point origination fee, subject to change based on market conditions at the time the tax-exempt facility bonds are issued.

- Secured by a first-lien mortgage and security interest in the Project and related personal property.

**Debt Financing Terms:**

- 5.75% interest rate per year, subject to change based on market conditions at the time the tax-exempt facility bonds are issued.

- At the Applicant’s option, (a) interest only payments for 30 years with a final balloon payment of all amounts owed due at the end of 30 years, (b) interest only payments for 15 years with a 30-year amortization beginning in year 16 and a final balloon payment of all amounts owed due at the end of 30 years, or (c) interest only payments for 15 years with a 40-year amortization beginning in year 16 and a final balloon payment of all

amounts owed due at the end of 30 years.

**Subsidy Terms:**

- Secured by a first-lien mortgage and security interest in the Project and related personal property.
- 0% interest deferred payment loan with payment due on the earliest of (a) 30 years, (b) a sale, transfer, or assignment of the Project, (c) the discontinuation of the intended public purpose, or (d) a default of the MaineHousing loan(s).
- Secured by a first-lien mortgage and security interest in the Project and related personal property.
- All other resources available for the Project, including without limitation equity generated from the 4% LIHTC and any other tax credits, will be considered in determining the need for subsidy. Applicants must maximize all other resources available for the Project.
- The amount of subsidy awarded to a Project may be less than the amount requested by the Applicant if MaineHousing determines that the Project can support more debt financing based on its review of the Project's operating budget.
- MaineHousing will use the maximum tax credit rent for Credit-eligible units to determine the need for subsidy, except for (a) three or more bedroom Credit-eligible units in family Projects which will be underwritten at the maximum tax credit for two-bedroom units plus \$50, and (b) Credit-eligible units in Projects for which the comparable market rent is less than the maximum tax credit rent as supported by an independent market study acceptable to MaineHousing.
- Applicants that propose affordability targeting that is deeper than 60% of area median income must demonstrate additional subsidy resources from a non-MaineHousing source to support the greater affordability, unless the affordability targeting is required under an existing affordability covenant.
- If a Project is underwritten at rents that are less than the maximum tax credit rent, the Project will be obligated to maintain the lower rents during the term of the

MaineHousing funding.

- Subsidy may be made available during the rehabilitation of the Project to the extent possible, as determined by MaineHousing in its sole discretion, considering any limitations of the sources and the requirement that the Project satisfy the 50% test for 4% LIHTC eligibility.

**Construction Cost Increases:**

- If the construction costs of a Project increase after the date of the Application due to market conditions or other reasons beyond the control of the Applicant, as determined by MaineHousing in its sole discretion, and the Project has been awarded the maximum 4% LIHTC allowed under the QAP, MaineHousing may, at its sole discretion, award additional subsidy resources to the Project, provided that the additional subsidy (a) when combined with the equity generated by any additional 4% LIHTC awarded under the QAP, will not exceed an amount equal to 5% of the Total Construction Cost for the Project estimated at the time construction bids on the Project are requested, and (b) does not exceed the subsidy limits set forth above.

**The following rules and guidelines apply:** The RLP Guide (to the extent not in conflict with this program), Chapter 16 of MaineHousing’s Rules, *Low-Income Housing Tax Credit Rule* (the 2014 Qualified Allocation Plan), and Chapter 29 of MaineHousing’s Rules, *Multifamily Development and Supportive Housing Loans and Grants*.

## **ELIGIBLE PROJECTS**

**To be eligible, Projects must meet the applicable threshold requirements in the QAP and the following requirements.**

1. The Project must be included on a *Maine State Housing Authority Notice of Public Hearing on Proposed Issuance of Tax-exempt Bonds* published on August 7, 2013 or February 10, 2014 and must receive public approval pursuant to Section 147(f) of the Code (so-called TEFRA approval).
2. Funding under this program is limited to the preservation and rehabilitation of existing multi-family rental housing that (a) is subject to existing affordability covenants requiring any of the housing units in the Project to be affordable to persons with income at or below 80% of area median income, as determined by HUD, and (b) needs at least \$40,000 of Hard Rehabilitation Costs per unit.

The Applicant must submit a capital needs assessment as part of the Application that meets the requirements in Section 5.D.2 of the QAP. MaineHousing will rely on the capital needs assessment, as reviewed and approved by MaineHousing, to determine whether the Project satisfies the minimum rehabilitation requirement set forth above. The Project must also

comply with the minimum rehabilitation requirement in Section 42(e)(3) of the Code, which may be greater than the minimum rehabilitation requirement set forth. The Applicant must agree to complete the rehabilitation recommended in the capital needs assessment and include the costs of completing the proposed rehabilitation in the Total Development Cost of the Project to the maximum extent feasible, as determined by MaineHousing, even if the proposed rehabilitation exceeds the minimum rehabilitation requirements set forth above and in Section 42(e)(3) of the Code.

3. For a period of 45 years, at least 40% of the units in the Project must be available for rent by persons who earn no more than 60% of the area median income and must be rent-restricted in accordance with Section 42 of the Code. The Project owner, and any fee interest owner if the Project or land on which the Project is located is leased, must execute a restrictive covenant that obligates compliance with these affordability requirements and any additional affordability pledged by the Applicant and must be recorded in the appropriate registry of deeds.
4. The Application must identify all existing project accounts and reserves that will be transferred with the acquisition of the Project and describe the use or disposition of the accounts and reserves transferred with the Project, including any use of the accounts or reserves as a source of funding for the rehabilitation of the Project.
5. Projects involving the rehabilitation of an historic structure must apply for federal and state historic rehabilitation tax credits, if eligible, unless the Applicant can demonstrate good cause to MaineHousing's satisfaction for not pursuing these credits.

## **SELECTION CRITERIA**

Applications for eligible Projects that are accepted by MaineHousing will be reviewed and scored according to the scoring criteria outlined below. The Applicant must complete all information and submit all documentation required in the Application for this program with respect to the scoring criteria to be eligible for the points under the scoring criteria. Applications will be ranked and funded from the highest scoring to the lowest scoring application.

### **Scoring Criteria**

- A. Project Characteristics (maximum of 8 points).
  1. Preference for Populations with Special Needs. An Application will be awarded 2 points if preference is given in at least 20% of the units in the Project to persons who are homeless or displaced or have other special housing needs. The Applicant must commit to maintain a waiting list for and offer services appropriate to the needs of the persons for whom the preference is given.
  2. Family Housing. An Application for a family housing Project will be awarded 4 points if a minimum of 50% of the total low income units in the Project are two or more bedroom units and a minimum of 20% of the total low income units in the Project are three or more bedroom units. An Application for a family housing Project will be awarded 2 points if a minimum of 70% of the total low income units

in the Project are two or more bedroom units.

3. Historic Rehabilitation. An Application will be awarded 2 points if the Project includes the rehabilitation of a certified historic structure and uses capital generated from both the federal historic preservation tax credit under Section 47 of the Code and the State historic preservation tax credit under 36 M.R.S.A. § 5219-BB for the development of the Project.

B. Financial Characteristics (maximum of 43 points).

1. Total Development Cost. An Application will be awarded points or lose points based on the Total Development Cost of the Project relative to the per-unit Benchmark Total Development Cost for projects involving the acquisition and rehabilitation of existing multi-family rental housing. The per-unit Benchmark Total Development Cost is \$110,000 with a range from \$105,000 (referred to below as the “Lower Limit”) to \$115,000 (referred to below as the “Upper Limit”).

- a. An Application will be awarded up to 10 points based on the percentage by which the Total Development Cost of the Project is less than the Lower Limit as follows.

<u>Percentage of Total Development Cost to Lower Limit</u>	<u>Points</u>
>15% less	10 points
10% - 15% less	6 points
<10% less	4 points

- b. An Application will lose up to 8 points based on the percentage by which the Total Development Cost of the Project is higher than the Upper Limit as follows.

<u>Percentage of Total Development Cost to Upper Limit</u>	<u>Points</u>
<10% higher	-3 points
10% - 13% higher	-5 points
>13% higher	-8 points

If there is any increase in the Total Development Cost of the Project between the date of the Application and the later of the construction loan closing for the Project or an allocation of Credit for the Project and the increase is not the result of market conditions or other reason beyond the control of the Applicant as determined by MaineHousing, MaineHousing will re-score the Application based on its effect under this scoring criteria and the below market capital scoring criteria in subsection B.2 below.

The Applicant shall submit a written plan describing how the Applicant intends to cover the increased Total Development Cost to MaineHousing within 30 days of the

date MaineHousing notifies the Applicant that the Application has been re-scored. The plan must identify the source(s) of funding to cover the increased cost and provide the timeframe for application, commitment and closing for the source(s) of funding, and must otherwise be acceptable to MaineHousing. If any of the source(s) of funding in the plan qualify as below market capital under subsection B.2. below and the plan is otherwise acceptable to MaineHousing, then MaineHousing will again re-score the Application under subsection B.2. below.

Any Notice to Proceed issued with respect to the Application will be automatically terminated and the Application will be placed on the waiting list in the order of its score relative to other Applications if (1) the total score of the Application, after re-scoring, is less than the total score of the highest scoring Application on the waiting list, and (2) the Applicant cannot submit a plan to cover the increased Total Development Cost with eligible below market funding in an amount sufficient to increase the score of the Application (if re-scored under subsection B.2. below) to a total score that is higher than the highest scoring Application on the waiting list. If the total score of the Application is equal to the score of one or more other Applications, MaineHousing will use the tie breaker mechanism in subsection D below to determine the priority of the Application.

2. Below Market Capital. An Application for a Project with eligible below market capital funding from a source other than MaineHousing will be awarded up to 6 points based on the present value or net present value, as applicable, of the below market funding (referred to in this subsection as subsidy) relative to the Total Development Cost of the Project as follows.

<u>Percentage of Subsidy to Total Development Cost</u>	<u>Point(s)</u>
Up to 3%	1 point
> 3% up to 6%	2 points
>6% up to 9%	3 points
>9% up to 12%	4 points
>12% up to 15%	5 points
> 15%	6 points

Tax credit equity, service and operating funds, rental assistance, construction financing and donations or below market purchases of land and buildings are not eligible sources of below market funding under this category. Resources made available, either directly or indirectly, by MaineHousing are not eligible for consideration under this subsection.

The total amount of eligible below market funding for the Project will be reduced by the amount the Total Development Cost of the Project exceeds the Benchmark Total Development Cost set forth above.

MaineHousing will only give consideration to below market funding that has been committed and below market funding that has been applied for, but a commitment has not yet been received by the Applicant. Funds that have not yet been committed will be evaluated at 10% of the amount applied for by the Applicant.

Eligible below market funding will be evaluated based on a present value or net present value basis, as applicable, using the 10-year Treasury note rate as of 30 days prior to the deadline for Applications for the applicable Credit round plus 300 basis points to determine the amount of subsidy. Examples of the calculation of the amount of subsidy for different loan types based on a current market rate of 5.25% (10- year Treasury rate for a comparable loan plus 300 basis points) follow.

- a. Example 1 - The value of a \$500,000 loan @ 3% amortized over 30 years is calculated as follows: The difference between the monthly payments at 5.25% (\$2,761.02) and the monthly payments at 3% (\$2,108.02) is \$653.00. The net present value of this cost savings over 30 years is \$118,253.16.
- b. Example 2 - The value of a \$500,000 loan with interest accruing at 3% for 30 years is calculated as follows: The difference between the future value of the loan at 5.25% (\$2,230,776) and the future value at 3% (\$1,213,631) is \$1,107,144. The present value of this lump sum payment savings due in 30 years is \$238,528.95.
- c. Example 3: The value of a \$500,000 loan at 0% for 30 years is the difference between the future value of the loan (\$500,000) and the present value of the loan at 5.25% (\$107,723), which is \$392,227.

Capital funding made possible by an Affordable Housing TIF that directly benefits the Project will be evaluated as if it were a grant, provided that funding made possible by an Affordable Housing TIF will not be eligible for consideration under this subsection if a complete application for the Affordable Housing TIF is submitted to MaineHousing less than 45 days prior to the deadline for Applications for the applicable Credit round.

If a below market funding source that an Applicant was awarded points for under this subsection is terminated or not awarded and the Project is not feasible, the Applicant has 90 days from the date MaineHousing notifies the Applicant that the Project is no longer feasible to find alternative funding with similar terms. If after 90 days the Applicant cannot find a replacement source or the replacement source has different terms, MaineHousing will re-score the Application.

If an Application is re-scored and the total score of the Application is less than the total score of the highest scoring Application on the waiting list, any Notice to Proceed issued with respect to the Application will be automatically terminated and the Application will be placed on the waiting list in the order of its score relative to other Applications. If the total score of an Application is equal to the score of one or more other Applications, MaineHousing will use the tie breaker mechanism in subsection D below to prioritize the Applications.

3. Acquisition Cost. An Application will be awarded up to 4 points based on the percentage of the per-unit acquisition costs of the Project relative to the \$47,000 per unit average acquisition costs for projects involving the acquisition and rehabilitation of existing multi-family rental housing, as determined by MaineHousing based on historical average



acquisition costs of such projects, as follows.

<u>Acquisition Cost Relative to Average Acquisition Cost</u>	<u>Points</u>
0% to 1% (nominal)	4 points
>1% to <25%	3 points
25% to 50%	2 points
>50% to 75%	1 point

A Project that involves the acquisition and complete demolition of all existing structures on the site will be treated as a new construction project. For purposes of this subsection, the acquisition costs of the Project include the purchase price for all of the land and any existing building(s) that are part of the Project, the cost of razing any building(s) and structure(s) on the Project site and the Capitalized Lease Value of all leases of land or land and building(s) that are part of the Project.

4. Efficient use of Subsidy. An Application will be awarded 1 point for each \$1,000 in subsidy per Credit-eligible unit below the \$30,000 per unit subsidy limit that is requested in the Application up to a maximum of 20 points. For example, Projects that are not eligible for federal and state historic rehabilitation tax credits will be scored as follows:

\$30,000 - \$29,001 per Credit-eligible unit	<b>0 points</b>
\$29,000 - \$28,001 per Credit-eligible unit	<b>1 point</b>
\$28,000 - \$27,001 per Credit-eligible unit	<b>2 points</b>
and so on until	
\$10,000 or less per Credit-eligible unit	<b>20 points</b>

5. Operating Subsidy. An Application for a Project that is directly benefited by an operating subsidy or reduction in operating costs through a tax increment financing program, a payment in lieu of taxes arrangement, abatement or other form of property tax relief that satisfies the following requirements will be awarded 3 points. The tax increment financing, payment in lieu of taxes, abatement or other property tax relief arrangement (a) must provide for a minimum of 50% of the Project's annual incremental property tax revenue to be returned to the owner of the Project to pay the operating costs of the Project or foregone by the municipality to reduce the operating costs of the Project for a minimum period of 15 years from the completion of the Project, and (b) must be approved by the municipality in which the Project is located and all other applicable governing entities. Projects located in municipalities or areas of the State that do not assess or collect real estate taxes are not eligible for points under this subsection. Resources made available, either directly or indirectly, by MaineHousing are not eligible for consideration under this subsection. Funding made possible by an Affordable Housing TIF will not be eligible for consideration under this subsection if a complete application for the Affordable Housing TIF is submitted to MaineHousing less than 45 days prior to the deadline for Applications for the applicable Credit round.

C. Sponsor Characteristics (maximum of 6 points).

1. Development Experience. An Application will be awarded 2 points if the Applicant or any Principal or any affiliate thereof, (a) has prior experience developing multi-family rental housing with MaineHousing funding and has not been declared in default by MaineHousing in the last 5 years, or (b) has successfully developed Qualified Low-Income Housing Projects in other states.
2. Tax Credit Noncompliance. An Application will be awarded 2 points if the Applicant or any Principal or any affiliate thereof, has prior experience with Qualified Low Income Housing Projects and in the last 3 years (a) has not been issued an IRS Form 8823, or was issued an IRS Form 8823 but it was subsequently reported as “noncompliance corrected” within the specified time period for correction, and (b) has not had an IRS audit finding resulting in a recapture event.
3. Management Experience. An Application for a Project that will be managed by a MaineHousing-approved management company with staff that have low income housing tax credit training and experience successfully managing a Qualified Low-Income Housing Project(s) will be awarded one (1) point. If the MaineHousing-approved management company has at least 3 years of experience successfully managing a Qualified Low-Income Housing Project(s), the Application will be awarded one (1) additional point.

- D. Tie Breaker. In the event the total score of two or more Applications is the same and MaineHousing has, in its sole discretion, determined that there is not enough Credit to fund both or all of the Applications with the same score, the Application for the Project with the lowest Total Development Cost Per Unit will be selected. An Application that is not selected under this tie-breaker process will be placed on the waiting list in the order of the Application’s score as prioritized under this subsection.

Commitments made in an Application for which the Application was awarded points under the above scoring criteria will be included in the Extended Low-income Housing Commitment required to be executed in connection with the Project. MaineHousing will deem an Application withdrawn if after the Application is made there is any change in the commitments made in the Application which results in a net reduction in the total score of the Project.

### **Waiting List**

All Applications that are accepted and scored but not selected will be placed on a waiting list prioritized by score, from the highest to lowest scoring Application. Any subsidy that is returned or otherwise is allocated specifically to this program may be made available to the next Application(s) on the waiting list. The waiting list will automatically expire at the time MaineHousing offers the next 4% LIHTC with subsidy program.

## **SUBMISSION REQUIREMENTS**

The Application must be in the form prescribed by MaineHousing for this program. The Application must be completed and submitted, together with all supporting documentation, electronically to MaineHousing's ShareFile **no later than 5:00 PM on April 10, 2014**.

MaineHousing will review all applications for completeness, eligibility and feasibility. Applications that MaineHousing determines are complete, eligible and feasible will be processed pursuant to the selection criteria set forth above. Applications that are not complete or eligible or are not feasible will be rejected.

Please call Bill Glover, Manager of Lending of the Development Division, at (207) 626-4600 if you have any questions or need information on how to access MaineHousing's ShareFile or any other information.

## **MAINEHOUSING'S NONDISCRIMINATION POLICY**

*MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, physical or mental disability, age, familial status or receipt of public assistance in the admission or access to or treatment in its programs and activities. In employment, MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, age, physical or mental disability or genetic information. 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: Louise Patenaude, Maine State Housing Authority, 353 Water Street, Augusta, Maine 04330-4633, Telephone Number 1-800-452-4668 (voice in state only), (207) 626-4600 (voice) or Maine Relay 711.*