



To: All Owners and Managers
From: Bob Conroy, Director of Asset Management

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I. Contract Administration Loan Program

MaineHousing has created a new program called the **Contract Administration Loan Program** which is designed to allow for the preservation of affordability of Section 8 properties that have a project-based Housing Assistance Payment (HAP) Contract funded by the U.S. Housing and Urban Development (HUD) and administered by MaineHousing but no current MaineHousing financing.

Under the Program, eligible owners can borrow funds for capital improvements, rehab work, energy efficiency improvements, creation of new units, ownership transfers, other loan repayments, and equity takeout. The Program has been designed to offer flexible terms with no points, application or commitment fees. Because MaineHousing already administers the HAP Contract and has the preservation of decent, safe, affordable housing as part of its core mission, we believe we can offer Owners much more than the typical banking relationship.

See the attached Program Guide for full program requirements, and contact your Asset Manager with any questions.

Reminder to Owners of MaineHousing Financed Properties:

MaineHousing also has a similar **Subsequent Loan Program** and companion **Loan Modification Program** available to eligible Owners of current MaineHousing financed properties. These Programs can be used independently or in combination to extend loan terms, reducing annual debt service, for capital improvements, and/or equity takeout. Program Guides are available on MaineHousing's website, or contact your Asset Manager for details.

II. 2014 Fair Market Rents Published for Housing Choice Voucher and Mod Rehab

In the October 3, 2013 Federal Register, HUD published the attached notice of its final 2014 fair market rents for the housing choice voucher and mod rehab SRO programs. The FMRs are effective as of October 1, 2013.

III. HUD Notice 2013-21: Implementation and Approval of Owner-Adopted Admissions Preferences for Individuals or Families Experiencing Homelessness

On July 25, 2013, HUD issued the above Notice which provides guidance on the circumstances under which owners of assisted properties may adopt admissions preferences. See the attached Notice for further information. Please contact your Asset Manager if you have questions or would like assistance in implementing the preferences.

Attachments:

- **Contract Administration Loan Program Summary**
- **Federal Register – October 3, 2013**
- **HUD Notice 2013-21**

Please note that MaineHousing provides notices as a service to our partners. Notices are not intended to replace ongoing training and do not encompass all compliance and regulatory changes that may occur on the wide arrange of housing programs in which we work. MaineHousing recommends partners establish an ongoing training program for their staff.

Maine State Housing Authority (“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.

2013 MaineHousing Contract Administration Loan Program

The purpose of the **MaineHousing Contract Administration Loan Program** (the “Program”) is to ensure preservation of affordability by permitting eligible owners of Section 8 properties with a project-based Housing Assistance Payments (HAP) contract funded by the U.S. Department of Housing and Urban Development (HUD) and administered by MaineHousing. Eligible properties are those projects in the MaineHousing Contract Administration portfolio that have no current MaineHousing financing. Eligible uses of loan proceeds include funds for capital improvements, rehab work, energy efficiency improvements, the creation of new units, ownership transfers, and equity takeout.

Applicants must comply with all of the requirements of the Rental Loan Program not specifically addressed in this document. The Rental Loan Program dated July, 2013 can be found at MaineHousing’s website www.mainehousing.org.

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

Applications are available on MaineHousing’s website at:

<http://www.mainehousing.org/subsequentloan>

Program Requirements

Applications will be processed on a first-come, first- served basis.

Program Eligibility

In order to be eligible for a Contract Administration loan under the Program, a borrower must have an existing Section 8 HAP Contract administered by MaineHousing in good standing and not currently have MaineHousing financing on the property.

Borrowers must be able to obtain an approved Previous Participation Certification (HUD Form 2530) from HUD.

MaineHousing in its sole discretion may direct applicants to other financing programs, as it deems appropriate. MaineHousing will make the final determination regarding whether or not each borrower is eligible for the Program.

Contract Administration Loan Terms

- a. **Interest Rate.** The interest rate for a Contract Administration Loan will be six percent (6%) fixed, unless another rate is established by MaineHousing.
- b. **Loan Term.** Borrower may select one (1) of the following four (4) options:
1. An amortizing loan term of five to fifteen years. The loan may not be prepaid at any time during the owner-elected term of the loan.
 2. A fifteen year or greater loan term, calculated on a thirty year amortization schedule, with a balloon payment at the end of the loan term. The loan may not be prepaid in the first ten years. Prepayment is allowed at any time throughout the remaining loan term with a prepayment penalty calculated at 3% of the original loan amount.
 3. A thirty year loan term with an election by the owner of either a thirty year amortization schedule or forty year amortization schedule, with a balloon payment in year thirty.

The loan may not be prepaid for the first 15 years. A prepayment penalty calculated at 3% of the original loan amount is applied in years sixteen through twenty.

The loan may be prepaid without penalty after year 20.

4. A thirty year loan term with an election by the owner of (i) a thirty year amortization schedule, (ii) a forty year amortization schedule with a balloon in year thirty; or (iii) interest-only for thirty years with a balloon in year thirty.

A .25 basis point reduction will be applied to the applicable mortgage interest rate.

The loan may not be prepaid for the first twenty years. No prepayment penalty will apply after the end of the prepayment blackout period.

MaineHousing may waive the prepayment prohibition to allow a borrower to participate in a refinancing under another MaineHousing program for which the project is eligible.

Affordability

- a. **Housing Assistance Payments Contracts.** The projects under this Program are subject to Section 8 HAP Contract. The borrower shall comply with the affordability restrictions in the HAP Contract until expiration of the HAP Contract, including any renewals thereof. The borrower shall seek and accept any extensions and renewals of the Section 8 HAP Contract and any comparable replacement assistance of subsidy program offered by HUD.

Upon the expiration of the Section 8 HAP Contract, any extensions or renewals thereof and any comparable replacement assistance of subsidy program, the borrower shall comply with the affordability

requirements contained in a financial assistance agreement or declaration of covenants, conditions and restrictions to be executed in connection with each project securing the loan.

In any event, MaineHousing shall require a financial assistance agreement or declaration of covenants, conditions and restrictions, in a form as approved by MaineHousing, which obligates the borrower to comply with one of the minimum affordability restrictions adjusted for family size as follows:

20% of the project units at 50% of Area Median Income; or
40% of the project units at 60% of Area Median Income.

Any low income units required under the financial assistance agreement, or declaration of covenants conditions and restrictions, must be rent restricted. Maximum rents will be based on 30% of the HUD eligibility income limits, adjusted by the number of bedrooms in the low income units. Income limits for each geographic area are published annually by HUD.

The financial assistance agreement or declaration of covenants, conditions and restrictions shall be recorded in the appropriate registry of deeds, and its covenants and restrictions shall be considered covenants that run with the real estate, and shall bind subsequent owners for the full term of the agreement.

The borrower will comply with the above affordability requirements for the term of the loan.

The following terms apply:

Fees	No application fee or commitment fee applied.
Environmental Review	MaineHousing typically will not require an environmental review.
Market Studies	None required.
Appraisals	In most instances, MaineHousing will require an appraisal. Borrower pays in advance for appraisal.
Capital Needs Assessment	MaineHousing, in its sole discretion, may require an assessment of project capital needs. Borrower pays in advance for the Capital Needs Assessment.
Debt Service Coverage	The minimum debt service coverage is 1.15 for the shorter of 15 years or the term of the loan.
Developer Fee	None
Inducement Form	Needed only if MaineHousing will be financing with tax exempt bonds

Submission Requirements

Applications for Contract Administration Loan Program loans will be reviewed on an on-going, walk-in basis.

Applications shall include the following:

- Cover letter requesting the loan.
- Borrowing resolution from the ownership entity, if applicable.
- Proposed use of loan proceeds including a Sources and Uses schedule of loan proceeds.
- Scope of work, if any, with related budget.
- Current vacancy rates.
- Current operating expense data.
- 5 to 15 year cash-flow projection depending on loan term requested.
- Rent structure and post-rehab operating budget, if any.
- Project audited financial statements for the past three (3) fiscal years.
- Proposed sources of funds, i.e., MaineHousing loan, use of project operating or reserve funds via drawdown or loan, owner contribution, grants, or any combination thereof.

Please contact your Asset Manager for more information.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Special Attention of:

Multifamily Hub Directors
Multifamily Program Center Directors
Rural Housing Services (RHS) Directors
Supervisory Housing Project Managers
Housing Project Managers
Contract Administrators
Multifamily Owners and Management Agents

NOTICE: H 2013-21

Issued: July 25, 2013

Expires: This notice remains in effect
until amended, revoked, or
superseded.

Subject: Implementation and approval of owner-adopted admissions preferences for individuals or families experiencing homelessness

- I. **Purpose:** This Notice provides guidance to HUD field offices, contract administrators, and property owners on the circumstances under which owners of assisted properties may adopt admissions preferences. This notice clarifies 24 CFR §5.655(c)(1) - (c)(5) to allow for owners to adopt, with HUD approval, admissions preferences not specified there, in particular, preferences to house homeless families.
- II. **Background:** The Office of Multifamily Housing Programs (Multifamily Housing) had strictly interpreted 24 CFR §5.655(c)(1) - (c)(5) *Section 8 project-based assistance programs: Owner preferences in selection for a project or unit*, to mean that owners were limited in adopting preferences in the selection of residents to those preferences specifically cited in the regulation. That interpretation did not allow for an owner to adopt a preference for homeless families, as owners could not adopt preferences outside of 5.655(c)(1) – (c)(5). However, in consultation with the Office of General Counsel, Multifamily Housing has revisited this issue and has broadened its interpretation to allow that silence within the provision does not preclude owners from adopting preferences outside of those cited.
- III. **Applicability:** All Multifamily rental assistance programs.
- IV. **Definition of Homeless:** The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) revised the definition of homeless for HUD's

homeless assistance programs, and on December 5, 2011, HUD published its final rule implementing this definition. HUD will use this definition to track the number of homeless persons served in its programs starting in September 2013, after changes to the HUD form 50059 have been completed.

The definition of homeless under the HEARTH Act, however, does not prohibit an owner from establishing an alternative definition of homeless for the purpose of a waiting list preference based on local need. Owners may elect to adopt a more narrow definition specific to the homeless needs in their community or a broader version that would serve more of the population. Because of the specificity of this definition, owners must go to the HUD field office for approval. Owners are reminded that any preference must comply with civil rights requirements.

- V. **Implementing a Homeless Preference:** Multifamily Housing owners can significantly increase program access for individuals and families experiencing homelessness by establishing an owner-adopted preference in admissions policies. Owners must consider the following when adopting an admissions preference.
- a. **Eligibility and Requirements.** Preferences affect only the order in which applicants are selected from the waiting list. They do not make anyone eligible who was not otherwise eligible, and they do not change an owner's right to adopt and enforce tenant screening criteria. In addition, owners must inform all applicants about available preferences and give all applicants an opportunity to show that they qualify for available preferences including all applicants currently on a waiting list.
 - b. **Tenant Selection Plan and Affirmative Fair Housing Marketing Plan.** All owner adopted preferences must be included in the Tenant Selection Plan (TSP) and, if required, the Affirmative Fair Housing Marketing Plan for the associated property including any referral policy in the preference, if applicable. In addition, for preferences other than those specifically cited at 24 CFR §5.655(c), owner-adopted preferences must be approved by the local HUD office to confirm conformance with applicable regulatory and statutory requirements. Owners may remove their owner-adopted preference at any time without HUD approval. Any changes in preferences, however, must be updated in the owner's TSP.
 - c. **Using a Homelessness Definition.** Owners may create a preference for homeless families using the HUD definition of homelessness or a definition that better suits the property in question. The definition cannot exclude any protected classes, e.g., the definition cannot exclude families with children.
 - d. **Limiting preferences to people referred by a partnering organization.** Owners may create a preference or limited preference specifically for individuals or families who are referred by a partnering homeless service organization or consortium of organizations (for example, an organization that refers people

transitioning out of a shelter or temporary housing program). When partnering with a referring agency, an owner may elect to place the preference on the entire property or accept a referral for a defined percentage of units. No units may be set-aside or held off-line, but owners can fill vacancies by alternating selections from the existing project waiting lists with referrals from their partnering organization of eligible applicants who meet the preference criteria. For instance, in filling the next four vacancies, an owner may select three applicants for occupancy from the property waiting list followed by one applicant referred by the partnering organization. To allow for maximum flexibility, HUD is not prescribing the ratio of admissions. **Note:** Although a partnering organization may refer applicants, owners must screen those applicants in the required manner as they would for any other applicants on the waiting list. In addition, the source of referrals cannot be limited to an agency, organization, or consortia that exclusively provide services restricted to people with specific disabilities or diagnoses. Referrals also cannot be limited to an agency, organization, or consortia that deny services to members of any Federally protected class under fair housing laws, *i.e.*, race, color, religion, national origin, sex, disability, or familial status.

- e. **Use of Alternating Selection.** Even if not partnering with a referral agency, owners may fill vacancies in the property by alternating their selections of non-homeless applicants on the waiting list with applicants who meet the criteria for the preference. This method of selection of residents must be clearly defined in the Tenant Selection Plan.
- f. **Identifying preference-qualified applicants currently on the project's waiting list.** When adopting a new preference, owners must notify all applicants on the current waiting list to determine if any are eligible under the preference (24 CFR §5.655(c)). The owner must specify on any public notice of a waiting list opening that current waiting list applicants may qualify for the preference. The notice must also include any other information new applicants and current applicants on the waiting list will need to know about how to successfully apply and establish their preference status, including any partnering agencies with whom the owner may be working to receive referrals or determine preference eligibility.
- g. **Verifying preference eligibility.** If an owner adopts a preference or limited preference for individuals or families experiencing homelessness, the owner may require the individual or family to provide documentation to prove that they qualify for the preference, or may rely on a partnering homeless service organization to verify that the individual or family qualifies for the preference. When an owner establishes a partnership for referrals from a homeless service organization, he/she may allow the partnering organization to verify the individual's or family's preference qualification before the individual or family is referred to the owner.

- h. **Property Designations.** If the owner has a property designation of elderly or disabled on all or some of HUD assisted units, this designation remains in effect despite the adoption of the new preference. For example, if the property is 100 percent elderly, then the homeless preference would not supersede this designation. Any qualified applicants benefiting from the homeless preference would need to meet both criteria, i.e. homeless and elderly. If the property has 10 units properly designated for individuals with disabilities, then an owner could not fill any of the 10 units with persons who met the criteria for the homeless preference unless they also met the eligibility requirements of the units.
- i. **Ensuring Fair Housing compliance.** When adopting a preference or limited preference for people experiencing homelessness, an owner must ensure that the preference would not have the purpose or effect of excluding other eligible families from the program on the basis of race, color, national origin, religion, sex, disability, or familial status, or would create or perpetuate segregation. An owner must comply with all fair housing and civil rights law in the adoption of a homeless preference and the opening of the waiting list to homeless families that qualify for the preference. For example, an owner adopting a homeless preference cannot deny access to families with children. The owner must also ensure that programs or activities are administered in the most integrated setting appropriate to the needs of qualified individuals with disabilities. The owner should analyze demographic data of the waiting list population and of the population in the community and compare this to the demographic characteristics of those who would qualify for the preference to ensure that the preference does not create a disparate impact on a particular protected class from accessing the program. In addition, the owner must fully document his/her marketing practices in the Affirmative Fair Housing Marketing Plan if the owner chooses to market the preference. This HUD-approved plan can include referrals from shelters and other organizations that serve the homeless, but should be designed specifically for the community in which the property is located.

For more guidance on the Affirmative Fair Housing Marketing Plan, please reference the HUD Handbook 4350.3 REV-1, Chapter 4.

- VI. Submission and Approval of Preference Requests:** Owners must receive HUD approval in order to adopt an admissions preference not specified under 24 CFR §5.655(c)(1) - (c)(5). Owners must submit a written request to their local HUD Field Office specifying the type of preference with a full description of the preference and how it will be implemented. Criteria set forth in this Notice including a description of the notification process for those on the waiting list, tenant selection process and any changes to the AFHMP must also be included. HUD will approve an owner-adopted preference if it does not result in discrimination, violate civil rights or equal opportunity requirements, or conflict with statutory, regulatory, or program requirements. Subsequent occupancy reviews will ensure that the property has updated its Tenant Selection Plan and, if required, the Affirmative Fair Housing Marketing

Plan. Please see Chapter 4 of HUD Handbook 4350.3 for more details about the submission and approval of preference requests.

VII. Admissions Policies Regarding Criminal Activity and Substance Use/Abuse: Under federal laws and HUD regulations, there are certain policies for admission to a housing program which are mandatory for all Multifamily property owners, and others which the owners have authority/discretion to adopt, but are not required.

Owners must establish standards that prohibit admission of:

1. Any household containing a member(s) who was evicted in the last three years from federally assisted housing for drug-related criminal activity. The owner may, but is not required to, consider two exceptions to this provision:
 - a. The evicted household member has successfully completed an approved, supervised drug rehabilitation program; or
 - b. The circumstances leading to the eviction no longer exist (e.g., the household member no longer resides with the applicant household)
2. A household in which any member is currently engaged in illegal use of drugs or for which the owner has reasonable cause to believe that a member's illegal use or pattern of illegal use of a drug may interfere with the health, safety, and right to peaceful enjoyment of the property by other residents;
3. Any household member who is subject to a state sex offender lifetime registration requirement; and
4. Any household member if there is reasonable cause to believe that member's behavior from abuse or pattern of abuse of alcohol may interfere with the health, safety, and rights to peaceful enjoyment by other residents. The screening standards must be based on behavior, not the condition of alcoholism or alcohol abuse.

Owners may also establish additional screening criteria, as outlined in HUD Handbook 4350.3. However, owners should bear in mind the length of their waiting lists and the cost to applicants for screening when considering additional criteria. In addition, some of these criteria can be a barrier for vulnerable populations, including people who are homeless, to accessing the programs. For example, an owner may have strict policies related to criminal backgrounds, and previous rental housing history which can have the effect of screening out the most vulnerable people experiencing homelessness who are more likely to have past convictions, past evictions, or previous debts, due to a variety of reasons, including mental illness and substance use disorders.

An owner wishing to serve more people experiencing homelessness should consider reviewing his/her discretionary admission policies to determine if any changes can be made to remove barriers. It is important to note that all discretionary admission (and program termination) policies must be applied to all applicants uniformly. In other words, an owner cannot have a certain set of admission/termination policies that apply specifically to a certain

population, such as the homeless population, which are different from the admission/termination policies for all other applicants.

- VIII. Consideration of Circumstances Regarding Admissions and Terminations/Evictions:** An owner cannot establish separate admissions/termination policies for a certain population, such as the homeless population, which are different from the admissions/termination policies than for all other applicants.

In the event of receipt of unfavorable information about an applicant, consideration may be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). Consideration may also be given to factors which might indicate a reasonable probability of favorable future conduct, including: evidence of rehabilitation, and applicant's willingness to participate in social services.

- IX. Service Provider as a Resource in Continued Occupancy:** Service providers are important resources in ensuring that persons and families experiencing homelessness admitted to the property (and those in the property but at risk of homelessness) are provided the services necessary to remain stably housed and compliant with program requirements.

HUD field offices, contract administrators, and owners should establish working relationships or consider service agreements with the service providers to ensure that all parties stay committed to the family through their participation in the program.

- X. Information Contact:** Inquiries about this Notice should be directed to Yvette Viviani at Yvette.M.Viviani@hud.gov or Jonathan Kinsey at David.J.Kinsey@hud.gov.

Carol J. Galante
Assistant Secretary for Housing -
Federal Housing Commissioner

Information Collection

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0204. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection displays a currently valid OMB control number.