2002

Supportive Housing Program
Native American Elderly Housing
Request for Proposals

The mission of the Maine State Housing Authority 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, the Maine State Housing Authority will provide leadership, maximize resources, and promote partnerships to develop and implement sound housing policy.

Maine State Housing Authority
353 Water Street, Augusta, Maine 04330
207/626-4600 VOICE 207/626-4678 FAX

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2002 Supportive Housing Program
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Request for Proposals
Funds Available: $300,000

General

The Maine State Housing Authority is pleased to announce the availability of $300,000 of State Home subsidy, to assist in the development of affordable housing for seniors on Tribal Lands. The subsidy is being made available through a competitive RFP process.

The purpose of this RFP is to create as many units as possible to meet the growing demand for affordable housing for seniors to remain on Tribal Lands.

In order to achieve our goals, we strongly encourage applicants to secure additional subsidy and/or equity from non-MSHA sources. Examples of eligible subsidy and equity include donated land and grants or below market financing. Additional subsidy and equity used to leverage MSHA subsidy can either be committed or applied for at the time of application under this RFP. However, applicants will receive points in the scoring process for subsidy and equity that is committed at the time of application.

Program Requirements

Services

Applicants are required to submit a resident services plan consistent with Residential Care/Adult Family Care Home services as described in the Department of Human Services (DHS) Regulations Governing the "Licensing and Functioning of Assisted Living Facilities" and or "Regulations Governing the Licensing and Functioning of Adult Family Care Homes." At a minimum, the applicant must provide the following services: 24-hour staff assistance, 3 meals per day, personal care assistance, housekeeping, laundry and medication administration.

Applicants are required to demonstrate that their proposed management team has sufficient experience and capacity in delivering services to frail elders. The project owner may manage the project and provide services to the residents directly or contract with an outside entity(ies) to provide these services. If an outside entity(ies) provides these services, the applicant must submit a copy of the contract or memorandum of understanding, in a form acceptable to MSHA and which outlines the terms for provision of such services to the project, with its application.

Eligible Projects

The maximum project size is 20 units. Projects must be located on tribal land or land owned by a Native American tribe.

Underwriting

There is a maximum of $25,000 of subsidy per unit, not to exceed $300,000 per project. This limit is an absolute maximum limit and is not indicative of the actual amount that will be awarded to successful applicants. MSHA reserves the right to award less subsidy than is requested by an applicant. Applicants must submit feasible pro forma budgets for the construction and operation of projects at the time of application.

MSHA reserves the right to underwrite and manage risk in the loan by using its own assumptions for expenses, reserves, rent levels and occupancy. MSHA shall use its own financial assumptions when determining project feasibility.

This RFP is subject to the following rules and guidelines: MSHA's 2002 Supportive Housing Program Guide (to the extent not in conflict with this announcement) and Chapter 29 of MSHA's Rules, *Multifamily Development and Supportive Housing Loans and Grants.*

MSHA will not accept or score an application if the applicant or any entity in which the applicant or any of its affiliates has a controlling interest (i) has within the previous six (6) months been more than sixty (60) days delinquent on a MSHA loan or has been issued a notice of default, or (ii) has ever been in default of a MSHA loan which resulted in foreclosure or transfer in lieu of foreclosure of the mortgage and security agreement securing the MSHA loan.

Affordability

Applicants must agree to keep the housing affordable for low income persons who are elderly for a period of at least 30 years.

Scoring Criteria

The Director of MSHA convenes a panel (Scoring Committee) of knowledgeable and interested parties to review the RFP subsidy applications, score each feasible application and recommend funding priorities. This recommendation for subsidy award is then forwarded to the MSHA Director who makes the final decision for subsidy awards. This panel only reviews subsidy requests and does not consider any debt underwriting in its process.

The Scoring Committee will rank applications in accordance with the following scoring system. The points identified reflect the maximum that can be awarded for each criteria. MSHA reserves the right to award fewer points. Before being scored, MSHA will review the applications for completeness, accuracy and feasibility. Those projects that are deemed feasible will subsequently be scored

Applications will be scored based on how well they respond to the following selection criteria. The points identified in connection with each criterion reflect the maximum that can be awarded. MSHA may award fewer points. Projects will be funded in order of scoring priority until the funds made available under this RFP are expended.

Need (Up to 10 points)

The scoring committee will consider the need of the target population group, weighted equally, as follows:

- The unmet need of the target population group (Up to 5 points)
- The responsiveness of the application in meeting that unmet need (Up to 5 points)

Organizational Capacity (Up to 20 points)

In assessing organizational capacity, the scoring committee will rate the applications as follows:

- General organizational capacity (Up to 5 points)
- Experience in senior housing development (Up to 5 points)
- Experience in property management (Up to 5 points)
- Experience in the provision of or linking elderly persons to supportive services (Up to 5 points)

Long-Term Viability and Service to Target Population (Up to 30 Points)

Success in this category is dependent on how well the applicant presents the project and its feasibility. The scoring committee will consider the description of the proposed project and will rate the project by reviewing the preliminary pro-forma demonstrating the long term viability of the project, a description of the development resources committed to the project, a description of the supportive services committed to the project, and overall budget reasonableness.

Projects will be reviewed and awarded a maximum of 30 points based on the following criteria;

- The services to be provided to the residents
- Accessing existing community services for the residents
- The affordability of those services to the residents
- The capacity of the project management team to provide the proposed services
- Demonstrating commitment to long-term affordability

Project Readiness (Up to 30 points)

Leveraged resources that are committed at the time of application will be eligible for up to the full 30 points awarded in this category. Eligible leveraged resources may include owner equity, cash, capital subsidy or value of real estate evidenced by ownership of asset or commitment to the project. To receive points for contributed real estate, applicants will need to submit evidence of ownership with the application.

Applicants will receive 1 point per $10,000 of committed leveraged resources

Physical Plant Criteria (Up to 10 points)

An essential feature of good architectural planning for an elderly facility is close consultation with the service provider. The location, size and attributes of spaces should be the product of careful analysis. Spaces should be primarily residential in scale and character. The architecture should define public, semi-public and private space.

Projects will be reviewed and awarded a maximum of 10 points based on the following criteria:

- Accessibility
- Apartment size and configuration
- Provision for common space
- Dining/food preparation
- Strength of design and construction team based on experience with Native American senior housing

MSHA's policy on conflicts of interest prohibits current and past employees or commissioners from working on certain transactions with applicants with whom they have a financial or personal relationship. To help ensure the implementation of this policy, applicants for loans under MSHA's programs must disclose current or recent financial, business, professional or family relationships or associations with any MSHA employee or commissioner. These relationships will be reviewed by MSHA. Potential or actual conflicts of interest will be reviewed by MSHA's Board of Commissioners for action on a case by case basis.

MSHA reserves the right to reject all proposals.

Submission Requirements

Section 1: General

One signed original and one copy of the application must be received by MSHA no later than 5:00 p.m. on Friday, November 14, 2002. Please mail or hand-deliver the application to Attn: Cindy Namer, Supportive Housing and Homeless Manager, Maine State Housing Authority, 353 Water Street, Augusta, Maine, 04330-4633. Any application received after that date and time will be returned to the applicant and will not be considered under this RFP. In any dispute or controversy involving timely submission, applicants have the burden to establish the date and time of MSHA's receipt.

Applications must follow the MSHA SHP program format. Applications are available on diskette, through email or in paper copy. Applications and program guides are available on MSHA's web site, www.mainehousing.org. Please call 626-4600 and ask for the Development Division for more information.

Applications will not be accepted for consideration under this RFP if they are incomplete, are financially or legally infeasible, failed to respond to the selection criteria or are inconsistent with the requirements of this RFP.

Applications will be scored based on how well they respond to the scoring criteria identified in the previous section. Please follow the format described below in responding to the scoring criteria. Note that each section has a maximum number of page(s). All pages in excess of the maximum will be returned to the applicant.

MSHA reserves the right to withdraw this RFP and to reject or cease processing all applications prior to the issuance of a notice of award under this RFP.

Section 2: Application Requirements

Applications will consist of the following components:

Executive Summary (1 page maximum)

Provide a one-page summary describing the project. The summary must include the population group, how it is to be served, where it is to be served, the number of beds or units, and a brief description of the project completion schedule.

Leveraged Funds (1 page maximum)

Documentation must be provided evidencing committed leveraged funds. Documentation may consist of a commitment letter, a letter of intent, or a memorandum of understanding. The documentation should indicate the source of funds, the availability of funds, the terms connected with the funds and the time frame for the funds being available.

For uncommitted leveraged funds, please describe the process and the time-frame for applying for the funds and receiving a commitment for the funds.

If non-cash assets are being contributed, describe the nature of the contribution and its value.

Long-Term Viability and Service to Target Population (2 pages maximum)

Provide details of how this project is to be developed and then managed once the project is completed. In conjunction with a narrative describing the components of the project, develop a preliminary development sources and uses statement and a preliminary operating budget. (Use the forms that are attached as Proforma 1, 2 and 3.) Identify all internal and external financial resources, noting how each relates to project development and subsequent operations. Include in resource identification a description of the supportive services committed to this project. MSHA will not consider providing debt financing where revenues are derived from Section 8 Certificates or Vouchers unless the assistance is project-based.

C) *Need (1 page maximum)*

i) Describe in detail the nature of the targeted population group's unmet need.

ii) Describe how this application will meet that need.

iii) Describe the level of low income targeting the application will achieve.

D) *Organizational Capacity (1 page maximum)*

Provide a general description of the organization and its mission. Describe the applicant's capacity to develop the project for the target population group. Describe experience in short and long term management of similar properties. Describe how supportive services will be provided and list relevant experience in providing Native American senior services.

F) *Project Readiness and Community Support (1 page maximum)*

In narrative form, describe the organization's readiness to complete the project. Describe the work already done that would lead to quick completion of the project once funds are awarded. Additionally, please describe how the local community has responded to this proposed project, and how it has demonstrated support (or opposition).

Attachments. Please enclose the following with your application:

- A Memorandum of Understanding (or acceptable substitute) between the applicant and the Tribal Council.
- A corporate resolution documenting the applicant's authority to respond to this RFP.
- Community support letters not to exceed three pages (optional).
- Commitment letters for leveraged funds.
- A preliminary development budget (see attached Proforma 1).
- A development sources of funds statement (see attached Proforma 2).
- A preliminary operating budget (see attached Proforma 3).
- Resident services plan for the project.
- Contract or memorandum of understanding with any property managers or service providers.

Maximum Application Length

Our intention is to provide the Selection Committee with only the essential information needed to render decisions concerning the applications. Towards that goal, we are limiting each application to a maximum of 15 TOTAL PAGES. This total is all-inclusive, to include the narrative sections, the attachments, the letters of support and commitment letters for leveraged funds, and the three MSHA pro-forma. Upon receipt, the applications will be reviewed for the number of pages enclosed. MSHA will return to the applicant all pages beyond the 15-page maximum regardless of content.

Time Frame and Procedure

MSHA intends to make award decisions for Native American projects under this RFP promptly. The review process is outlined below:

1. Applications will be reviewed for completeness, accuracy, feasibility and compliance with the 15-page maximum. Applications will be rejected prior to scoring if they do not respond to the submission requirements or are inconsistent with program eligibility requirements. All pages in excess of 15 pages will be returned to the applicant regardless of content.

2. Feasible applications will be scored in accordance with the criteria.

3. If selected, the applicant will receive an Invitation to Proceed letter and an assignment of a Program Officer. The Program Officer will work with the applicant to complete the requirements necessary to obtain a MSHA financing commitment. The requirements which apply will depend on the type of project and whether there will be any debt. The commitment letter will establish deadlines for securing site control and for the closing, as well as for other project-specific requirements.

4. MSHA will schedule a closing once all conditions are met.

Nondiscrimination Policy

MSHA does not discriminate on the basis of race, color, religion, sex, 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. MSHA will provide special communication assistance to persons with vision or hearing impairments. MSHA has designated the following person as responsible for coordinating compliance with state and federal nondiscrimination requirements:

Jodie Stevens
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)

Conflict of Interest Policy

MSHA's statute and policy on conflicts of interest prohibit current employees and commissioners from working on certain transactions with applicants with whom they have a financial or personal relationship and prohibit former employees and commissioners from working on or benefiting from certain transactions. To help ensure compliance with these requirements, applicants must (i) disclose current or recent financial, business, professional and family relationships or associations with any MSHA employee or commissioner; (ii) disclose how any former MSHA employee or commissioner who left MSHA within the last two (2) years will work on or benefit from the applicant's proposal; and (iii) comply with restrictions imposed by MSHA on account of conflict of interest concerns.

Attachments Follow:

Proforma # 1: Estimated Development Costs
Proforma # 2: Sources of Funds
Proforma # 3: Estimated Year 1 Annual Operating Income and Expenses
Appendix 1: Requirements for Selected Recipients
Appendix 2: Summary of Policy on Displacement/Relocation
Appendix 3: Summary of Policy on Bonding Guidelines

APPENDIX 1: Requirements for Selected Recipients

Introduction

This appendix provides further details of program requirements. The requirements may vary depending upon the type of dollars used to fund the supportive housing project. At the time an applicant receives approval, the commitment letter will identify the requirements and time frames.

Underwriting Terms

Section 1. Lien Position

Debt financing must be secured by a first lien mortgage on the land and improvements, a general assignment of the project's leases, rents, contracts, and a security interest in all fixtures and personal property of the project. MSHA may consider a shared first-lien position with another lender under certain circumstances, provided that the total debt secured by the first-lien mortgages may not exceed the loan-to-value limits set forth in Section 6 of Chapter 2. MSHA may require an inter-creditor agreement between the lender and MSHA, which describes their relationship and rights, on terms and conditions acceptable to MSHA.

MSHA may require that the parent corporation guarantee the MSHA loan if the applicant is a subsidiary corporation controlled by another corporation.

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

If the applicant receives subsidy only, MSHA may agree to subordinate to a lender providing debt to the project. MSHA will review requests for subordination on a case-by-case basis. If MSHA agrees to subordinate to another lender, MSHA may require that the lender enter into an agreement which gives MSHA written notice of and an opportunity to cure any default of the lender's financing.

Section 2. Secondary Debt

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

Section 3. Vacancy Rate

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 4. Debt Service Coverage

Debt Service Coverage (DSC) will be a minimum of 110%. The revenues that can be dedicated to real estate related expenses; i.e. not dedicated to the costs of services must support the DSC. Therefore, the DSC will be calculated by using gross rental income less vacancy and costs related to the operation of the real estate (management fee, administrative expenses, utilities, maintenance, taxes, insurance, reserves, etc.). The resulting net income is then divided by the debt service, the result of which must be a minimum of 110%.

Projects that are supported by State funding on a cost reimbursement basis are not subject to this requirement because the State does not recognize DSC as a budget item.

Section 5. Appraisals

If the amount of debt is equal to or less than $125,000, MSHA will not require an appraisal of the project. These projects are eligible for debt financing up to 100% of the total development cost.

If the amount of debt is greater than $125,000, MSHA will require an appraisal of the project. The appraisal must determine the project's after-rehab in-service and after-rehab out-of-service market values. These projects are eligible for debt financing up to the greater of 125% of the project's appraised after-rehab out-of-service value or 100% of the appraised after-rehab in-service value.

MSHA will commission the appraisals for all projects from a list of MSHA-approved appraisers after MSHA determines that the project is viable. Viability means a project is financially, legally and physically feasible. The developer will reimburse MSHA for the cost of the appraisal from loan closing proceeds, provided that the project is financed. Developers will not be required to repay the cost of the appraisal if the project is not financed. The cost of the appraisal is a mortgageable expense and should be included in the development budget. MSHA will notify the developer of the cost of the appraisal when it is commissioned.

Section 6. Replacement Reserve

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 a 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 MSHA. The developer and MSHA must be "either/or" signatories on the account; i.e. both the developer and MSHA will be able to authorize transactions. The signatory card for the account must be delivered to MSHA at or prior to the loan closing. MSHA will review on-going funding requirements through an annual review process. MSHA 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 1/12th 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. All MSHA-financed projects are subject to this replacement reserve account-funding schedule.

Section 7. 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 an abatement or an agreement for a payment in lieu of taxes (PILOT). MSHA 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.

MSHA 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 MSHA prior to the loan closing. The developer and MSHA must be "either/or" signatories on the account; i.e. both the developer and MSHA 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 MSHA 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 8. Title Insurance

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

Section 9. Construction Financing

For projects involving rehabilitation, MSHA will establish and administer a rehabilitation escrow account. For projects involving substantial rehabilitation or new construction, MSHA may require developers to secure construction financing from a construction lender. To ensure construction work is completed according to the approved plans and specs, MSHA may require a bond. A summary of bonding guidelines is attached as Appendix 3.

For projects with a MSHA-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. MSHA will hold and administer the account in accordance with the terms of a Rehabilitation Escrow Agreement to be executed by the developer and MSHA at the loan closing. MSHA will disburse funds from the escrow following inspection and approval by MSHA. MSHA 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.

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

The developer may elect to defer the payment of principal and interest on the SHP amortizing debt during the rehabilitation period. However, the interest on the amortizing debt will continue to accrue during the rehabilitation period. The developer will pay the accrued interest in a lump sum at the conclusion of the rehabilitation. The regular principal and interest payments will then be due on the first day of the month following the completion of the rehabilitation. Developers electing this option should, therefore, reflect the total accrued interest anticipated during the rehabilitation period in their development budget.

Example:

> The loan closes on January 1. The project has a 2-month rehabilitation period. The developer will not pay any principal and interest during January and February. On the first day of March, the developer will pay two months of accrued interest. On the first day of April, the developer will pay the normal principal and interest payment reflected in the amortization schedule for the SHP loan. In this example, the development budget should include funding sufficient to pay the two months of accrued interest.

For developers that do not elect to defer principal and interest during the rehabilitation period, an interest-only payment will be due on the first day of the month following the MSHA loan closing. The first principal and interest payment will be due on the first day of the following month. With this arrangement, developers do not need to include rehab period accrued interest in their development budget.

Site and Construction Standards

Section 1. Site Standards

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 operating of the supportive housing project. MSHA 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 it 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.

The project must comply with the requirements under 30-M.R.S.A. § 4349-A. Projects that involve new construction, the acquisition of newly-constructed buildings, or the development of multi-family residential rental property, must be located in a locally-designated growth area as identified in the applicable municipality's comprehensive plan. If a municipality has not designated growth areas in its comprehensive plan, the project must be located in an area that is served by a public sewer system with the existing capacity for the project, an area identified as a census-designated place in the latest Federal Decennial Census, or a compact area of an urban compact municipality as defined under 23 M.R.S.A. § 754. Projects that serve persons identified in 30-M.R.S.A. § 4349-A(1)(C)(7), including without limitation, persons with disabilities, persons who are homeless and persons who are wards of the State, are excluded from the requirements of M.R.S.A. § 4349-A.

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

Section 2. Survey

MSHA requires a certified mortgage inspection plan for all projects. MSHA reserves the right to require a standard boundary survey. MSHA may 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 MSHA 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 3. General Building Standards

MSHA 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.

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)

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.

MSHA 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's Office.

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

All projects with a private water must satisfy the State Department of Health Engineering water quality test requirement. The developer must submit evidence of satisfaction of this test with the application.

The State of Maine has Energy Efficiency Building Standards applicable to all buildings that are financed under this program. 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. Details are available by calling 624-7495. MSHA 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.

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

Section 4. Habitability Standards

Projects must meet all State and Federal environmental, labor, civil rights, relocation and other requirements. In particular, MSHA will require owners to notify the occupants of housing built before 1978 of the hazards of lead poisoning. MSHA will require that, where they exist, potential lead-based paint and asbestos hazards are addressed according to

Federal or State requirements. MSHA will require that for the purpose of protecting MSHA's security interest in the project, MSHA may impose additional requirements relative to the abatement or removal of lead-based paint surfaces and asbestos.

Section 5. Contractor Selection

Developers are responsible for securing a price from and engaging competent contractors to perform the work. MSHA will review all contractor(s) proposal(s) for cost reasonableness and completeness prior to issuing a funding commitment. MSHA reserves the right to require a competitive bidding process for a general contractor and/or sub-contractors and to require bonds. A summary of Bonding Guidelines is attached as Appendix 3.

MSHA 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 MSHA should represent the cost of goods acquired from a party related to the developer, either by a family, partnership or corporate relationship.

MSHA 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 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.

Project Management & Reporting Requirements

Section 1. Ongoing Reporting Requirements

The financial, physical and administrative management of projects financed through the RFP program will be regularly reviewed by MSHA for the duration of the financing and required low-income benefit period. MSHA's procedures, as well as the financing commitment and mortgage loan documents, permit MSHA 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 MSHA's debt is outstanding. MSHA will periodically inspect all units, annually review project financial reports (MSHA 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 MSHA 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. MSHA reserves the right to require a yearly budget at least 30 days prior to the beginning of Developer's fiscal year.

MSHA 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

MSHA strongly discourages the development of projects that will require displacement of tenants. All projects financed with MSHA funds must comply with MSHA's Displacement Relocation Policy. A summary of this policy is attached as Appendix 2. Developers should be aware that displacement costs can be very significant and can result in projects being financially infeasible.

APPENDIX 2: 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 MSHA financing. With the use of FedHome funds, Section 104 (d) requirements may be triggered by "demolition" or "conversion" of units.

Part II (**Temporary Tenant Relocation**) covers tenants not required to move permanently but who must relocate temporarily because of rehabilitation to a MSHA-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:

Notice	90 days.
Advisory Services	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.
Moving Expenses	Either a) actual and reasonable out-of-pocket moving and related 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 <u>either</u> the cost of the original unit <u>or</u> 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 MSHA-financed projects, with developers' need for guidance as to what will (and will not) expose them to liability, we arrive at the following formulation:

Time Frame	Rent Increase Allowed
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 documentable increases in operating costs
After 3 and 1/2 years	Rebuttable presumption that rent increases not a result of the acquisition/rehab financed by MSHA

Of course, "targeted" units are further restricted by the terms of MSHA's Financial Assistance Agreement with the developer.

Part IV (**Benefits and Procedures for Persons** (permanently) **Displaced From Projects Not Receiving Federal Funds**) is crafted by MSHA 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 MSHA tenant income targets: 90 days.
Advisory Services	For persons below 80% of median income, same as what's required 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.

Appendix 3: Summary of Bonding Guidelines

In the event MSHA provides financing for construction and rehabilitation activities, *Performance and Payment Bonds* ("bonds") may be required. Decisions will be made on a case by case basis using these 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 – MSHA may require bonds
- $200,000 plus – 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 – MSHA may require bonds
- $400,000 plus – bond required

For "Turn-Key" projects, if the construction lender does not require bonds, then MSHA may require a Maintenance Bond, in an amount equal to 10% of the construction amount.

For projects completed without MSHA construction financing, if no bonds are provided (e.g., the construction lender does not require bonds), MSHA may require a Maintenance Bond, in an amount equal to 10% of the construction costs.