

**Maine State Housing Authority
Section 1602 Tax Credit Exchange Program**

PLEASE NOTE: THIS PROGRAM IS SUBJECT TO CHANGE BASED ON EXPECTED GUIDANCE FROM THE UNITED STATES DEPARTMENT OF TREASURY.

Maine State Housing Authority (“MaineHousing”) is pleased to announce the availability of funding for the acquisition and construction or rehabilitation of low-income housing tax credit projects pursuant to Section 1602 of the American Recovery and Reinvestment Act of 2009 (“ARRA”). The funding (referred to herein as “Section 1602 Exchange Funds”) is made possible by MaineHousing exchanging the State ceiling of low income housing tax credits for the State of Maine (referred to herein as the “State housing credit ceiling”) available in 2009 for funding from the United States Department of Treasury (the “US Treasury”), so the availability and amount of Section 1602 Exchange Funds depends on the amount of the State housing credit ceiling exchanged by MaineHousing.

MaineHousing can request funding from the US Treasury in an amount up to 85% of the following:

- (1) 10 times 100% of (a) the unused State housing credit ceiling for the calendar year 2008 and (b) the amount of State housing credit ceiling returned in 2009; plus
- (2) 10 times 40% of (c) the State housing credit ceiling for 2009 and (d) unused housing credit carryover allocated to Maine from the 2009 National Pool.

In addition to the requirements set forth in this program guide, the following rules and guidelines, which can be found on MaineHousing’s website at <http://www.mainehousing.org>, apply: MaineHousing’s Rental Loan Program Guide (to the extent not addressed in or in conflict with this program), Chapter 16 of MaineHousing’s Rules, Allocation of State Ceiling for Low-Income Housing Tax Credit, and Chapter 29 of MaineHousing’s Rules, Multifamily Development and Supportive Housing Loans and Grants.

MaineHousing reserves the right to reject any and all applications, and to award all, a portion, or none of the available funding, depending on the quality and merits of the applications received.

Eligible Projects

To be eligible for Section 1602 Exchange Funds, a project must be residential rental housing that:

- is expected to be completed by December 31, 2010;
- is located in the State of Maine; and
- has an award of federal low-income housing tax credits (“LIHTC”) or will be awarded LIHTC by September 30, 2009, including competitive LIHTC or so-called 4% automatic LIHTC.

For purposes of this program, an award is a Notice to Proceed.

Eligible Applicants

An applicant must be the owner of an eligible project to qualify for Section 1602 Exchange Funds.

The applicant must demonstrate, to MaineHousing's satisfaction, a good faith effort to obtain an investment commitment for LIHTC at a price equal to \$0.85 or more per \$1.00 of tax credit. An applicant must, at a minimum, submit a certification of one of the following:

- (1) There is no investor interest in the project at any price; or
- (2) An investor has offered equity in an amount less than \$0.85 per LIHTC, which makes the project infeasible. A project that is feasible with an equity commitment of less than \$0.85 per LIHTC is not eligible for Section 1602 Exchange Funds.

The certification must include a detailed description of the efforts made by the applicant, including without limitation, the investors contacted and the dates of contact and investor response, and a copy of any letters of interest and commitments should be attached to the certification.

If an applicant has an award of LIHTC from the State housing credit ceiling, and has not returned the LIHTC award to MaineHousing under MaineHousing's 2009 Tax Credit Assistance Program Selection Process and Criteria, the applicant must return the LIHTC award to MaineHousing for rescission.

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

Owners, developers, management agents, contractors, subcontractors and material suppliers must not be presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any federal or state housing programs and may not have had a professional license to provide the nature of services they will provided for a project suspended or revoked.

Eligible Use of Funds

Section 1602 Exchange Funds may only be used to pay costs that are included in the "eligible basis" of a low-income housing tax credit project determined in accordance with MaineHousing's 2009 Qualified Allocation Plan ("QAP") and Section 42 of the Internal Revenue Code of 1986, as amended (the "Code").

MaineHousing intends to use Section 1602 Exchange Funds and other resources available to MaineHousing to fund gaps in eligible projects created by the loss of LIHTC equity available to complete the project. Section 1602 Exchange Funds and other resources available to MaineHousing will not be used to fund any gaps created by the loss of federal or state historic tax credit equity or

other sources of non-MaineHousing funding for a project, including for example, RD 515 funding or rental assistance, HUD 202 funding or rental assistance, NAHASDA funding, or AHP funding.

Application Process and Award of Section 1602 Exchange Funds

MaineHousing will accept applications until MaineHousing announces Section 1602 Exchange Funds are no longer available.

An application for Section 1602 Exchange Funds must be complete, as determined by MaineHousing, and must include the following.

1. A letter requesting consideration for Section 1602 Exchange Funds.
2. A revised development budget and construction or rehabilitation analysis, which must reflect the Section 1602 Exchange Funds requested in the application and be based on the underwriting criteria set forth in MaineHousing's Rental Loan Program and related subsidy offering to which the applicant applied for financing.
3. A letter returning all or a portion of an award of LIHTC from the State housing credit ceiling, as applicable, to MaineHousing for rescission so MaineHousing can exchange the LIHTC for Section 1602 Exchange Funds.
4. A letter(s) by all lenders providing financing for the project, any LIHTC investor and any historic tax credit investor acknowledging the return of the LIHTC and confirming the commitments of funding and equity for the project are still in effect.
5. The above-described certification that the applicant has made a good faith effort to obtain an investment commitment for LIHTC at a price equal to \$0.85 or more per \$1.00 of tax credit.

MaineHousing will use the information in the Section 1602 Exchange Funds application and the original application for the project submitted to the Rental Loan Program and related subsidy offering for financing and the QAP pursuant to which the project received an award of LIHTC, together with any subsequent submissions thereto, to determine eligibility for Section 1602 Exchange Funds. MaineHousing will perform a gap analysis in accordance with Section 42(m) of the Code and MaineHousing's underwriting criteria set forth in the Rental Loan Program and related subsidy offering and determine the amount of Section 1602 Exchange Funds the applicant is eligible to receive.

For projects with an award of LIHTC from the State housing credit ceiling, MaineHousing will also determine if the project has any excess LIHTC based on \$0.85 per LIHTC, regardless of the amount of LIHTC returned by the applicant in its application for Section 1602 Exchange Funds. In order to be eligible for Section 1602 Exchange Funds, the applicant must return any excess LIHTC to MaineHousing, and the excess LIHTC returned will not be considered in calculating the amount of Section 1602 Exchange Funds the project is eligible to receive.

MaineHousing reserves the right to award 1602 Exchange Funds in an amount that is less than requested by an applicant. In no event will an applicant receive an award of LIHTC and/or Section 1602 Exchange Funds for more than is necessary for the financial feasibility and long-term viability of the project as determined by MaineHousing in accordance with Section 42(m) of the Code and MaineHousing's underwriting criteria set forth in the Rental Loan Program and related subsidy offering to which the applicant applied for financing and LIHTC. MaineHousing further reserves

the right to refuse to award any excess LIHTC returned to MaineHousing, or any Section 1602 Exchange Funds generated by an exchange of such excess LIHTC, to an applicant.

Eligible applicants returning an award of LIHTC from the State housing credit ceiling will be awarded Section 1602 Exchange Funds generated by exchanging the LIHTC returned by the applicant, subject to the limitations set forth above. All other Section 1602 Exchange Funds, including without limitation any excess Section 1602 Exchange Funds generated by exchanging LIHTC returned by applicants applying for Section 1602 Exchange Funds, will be awarded to eligible projects based on the readiness of projects as determined by MaineHousing in its sole discretion.

Successful applicants will receive a Notice to Proceed. The Notice to Proceed will identify the maximum amount of Section 1602 Exchange Funds the applicant is eligible to receive and the conditions for receiving a funding commitment.

Terms of Section 1602 Exchange Funds

MaineHousing must disburse all Section 1602 Exchange Funds on or before December 31, 2010. The applicant will be required to meet a specific schedule for expenditure of the Section 1602 Exchange Funds awarded to the project to ensure this deadline is met. Failure to meet the schedule may result in a recapture of the Section 1602 Exchange Funds.

No Section 1602 Exchange Funds will be disbursed until the Section 1602 Funding Agreement and the extended low income housing commitment agreement, both described below, have been fully executed and delivered to MaineHousing.

Section 1602 Exchange Funds may be made available during the construction of the project. However, Section 1602 Exchange Funds cannot be held in escrow by MaineHousing or a construction lender and may only be disbursed to pay for eligible costs incurred by the applicant. For projects with a construction lender, MaineHousing will disburse an amount up to 90% of the total Section 1602 Exchange Funds awarded to the project during the construction of the project pursuant to a schedule established by MaineHousing to pay down the outstanding balance of the construction loan. Promptly upon completion of construction or rehabilitation of the project, the owner shall submit a cost certification prepared by a qualified accountant in form and substance acceptable to MaineHousing supporting the amount of LIHTC and/or Section 1602 Exchange Funds awarded to the project. If, based on the cost certification, the eligible basis of the project supports the total amount of LIHTC and/or Section 1602 Exchange Funds awarded to the project, MaineHousing will disburse the remaining portion of the Section 1602 Exchange Funds to the owner of the project to pay for eligible costs incurred by the owner. If the eligible basis of the project does not support the total amount of Section 1602 Exchange Funds awarded to the project, MaineHousing will disburse only so much of the remaining portion of Section 1602 Exchange Funds as is supported by the eligible basis of the project according to the cost certification. If the project was awarded LIHTC and Section 1602 Exchange Funds, MaineHousing may, in its sole discretion, reduce the amount of LIHTC allocated to the project and/or disburse only so much of the remaining portion of Section 1602 Exchange Funds as is supported by the eligible basis of the project according to the cost certification.

Section 1602 Exchange Funds will be made in the form of a grant, which shall be subject to recapture in the event of a default of the funding requirements. In the event of a recapture, any

amount subject to recapture becomes a debt owed to the United States payable to the General Fund of the Treasury and is enforceable by all available means against any assets of the project owner. PLEASE NOTE MAINEHOUSING RESERVES THE RIGHT TO CHANGE THE FORM OF SECTION 1602 EXCHANGE FUNDS IF THE US TREASURY GUIDANCE ALLOWS STATE HOUSING CREDIT AGENCIES TO MAKE SECTION 1602 EXCHANGE FUNDS AVAILABLE TO SUBAWARDEES IN THE FORM OF A LOAN RATHER THAN A GRANT. IF MAINEHOUSING IS ALLOWED TO MAKE SECTION 1602 EXCHANGE FUNDS AVAILABLE IN THE FORM OF A LOAN, THE SECTION 1602 EXCHANGE FUNDS PROVIDED UNDER THIS PROGRAM WILL BE MADE IN THE FORM OF A ZERO PERCENT (0%), 30-YEAR, DEFERRED PAYMENT LOAN.

The applicant agrees to pay directly to the Secretary of the Treasury the recapture amount and any other amounts required to be paid by the applicant to with respect to the Tax Credit Exchange Program and applicant's acknowledgment that the Secretary of the Treasury shall be a third party beneficiary with full rights to enforce payment of the recapture amount.

The requirements of the Section 1602 Exchange Funds, including without limitation recapture in the event of default of the funding requirements, will be secured by a mortgage and security interest in the land and improvements, a general assignment of leases, rents and contracts, a UCC security interest in all fixtures and personal property associated with the project, a collateral assignment of capital contributions (if any), a security interest in all accounts, reserves and escrows established in connection with the project, indemnifications and any other collateral as may be required by MaineHousing. If the project will be located on leased land, MaineHousing will require a leasehold mortgage and security interest and a subordination of the owner's fee interest in the land. If MaineHousing is providing amortizing debt or is not the primary mortgage lender, MaineHousing may agree to a junior security interest with respect to the Section 1602 Exchange Funds. MaineHousing will require an intercreditor agreement on terms and conditions acceptable to MaineHousing with any other lenders providing funding for the project. PLEASE NOTE THE MECHANISMS FOR ENFORCING RECAPTURE OF SECTION 1602 EXCHANGE FUNDS IN THIS PROGRAM ARE SUBJECT TO CHANGE BASED ON EXPECTED GUIDANCE FROM THE US TREASURY.

Section 1602 Exchange Funds Requirements

The applicant must comply with Section 1602 of ARRA, Section 42 of the Code and all requirements of the QAP, the Rental Loan Program and any related subsidy offering pursuant to which the applicant originally applied for financing.

The applicant must enter into a legally binding written agreement with MaineHousing obligating the applicant to comply with the above requirements, the established schedule for expenditure of Section 1602 Exchange Funds, the recapture obligation, the affordability and use restrictions pledged in the project's application to the applicable MaineHousing QAP, Rental Loan Program or related subsidy offering to which the applicant applied for financing for a period of 90 years, the reporting requirements of ARRA and any other requirements specified by MaineHousing and the US Treasury.

In addition, the applicant must enter into an extended low income housing commitment agreement (commonly referred to as "extended use agreement"). The extended use agreement will be recorded

in the appropriate registry of deeds, will be enforceable by MaineHousing and the residents of the project and will obligate the project owner, its successors and assigns, to perform the commitments made in the project's application to the applicable MaineHousing QAP, the Rental Loan Program and the related subsidy offering, including without limitation, greater affordability and certain commitments for which the project was awarded points during the selection process and offering resident service coordination for the residents of the project in accordance with the QAP.

Monitoring and Compliance

The applicant will be subject to the same monitoring requirements under the applicable QAP and the Rental Loan Program. The applicant shall pay the tax credit allocation and monitoring fees otherwise due under the QAP.

The applicant shall provide all information required by MaineHousing to perform the compliance monitoring and asset management functions required under ARRA and related guidance from the US Treasury, including without limitation, an annual certification from the applicant and the applicant's accountant concerning project compliance with Section 42 of the Code and ARRA and the amount of any recapture due, all filings made by the application with the US Treasury in connection with the Section 1602 Exchange Funds and any LIHTC allocated to the project and all other information and documentation required by MaineHousing.

Accountability, Transparency and Reporting

Applicants must submit all information required by MaineHousing to comply with the accountability, transparency and reporting requirements of the American Recovery and Reinvestment Act of 2009, including without limitation information about the project, the status of completion, the use of Section 1602 Exchange Funds, and the number of construction and non-construction jobs created or retained by the project. Recipients of Section 1602 Exchange Funds must have a Data Universal Numbering System (DUNS) number from Dun and Bradstreet. Entities can obtain a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1-866-705-5711. Recipients must also be registered with the Central Contractor Registration (CCR) system. To register, go to www.ccr.gov/startregistration.aspx

Program Contact Information

If you have any questions about this program, please contact:

Daniel Brennan, Development Department Director
Maine State Housing Authority
353 Water Street
Augusta, Maine, 04330-4633
E-mail: dbrennan@mainehousing.org
Telephone at (207) 626-4600 or 1-800-452-4668 (voice) or 1-800-452-4603 (TTY)

MaineHousing Non-Discrimination Policy

MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, age, physical or mental disability, familial status or source of income in the admission or access to, or treatment or employment in, its programs, and activities. MaineHousing will provide appropriate communication auxiliary aids and services upon sufficient notice.

MaineHousing will also provide this document in alternative formats upon sufficient notice.

MaineHousing has designated the following person responsible for coordinating compliance with applicable federal and state nondiscrimination requirements and addressing grievances: Mary Darling, Maine State Housing Authority, 353 Water Street, Augusta, Maine 04330-4633, Telephone Number (207) 626-4600 or 1-800-452-4668 (voice) or 1-800-452-4603 (TTY).