

Chapter 26
MARIN HOUSING AUTHORITY
SECTION 8 PROJECT-BASED ASSISTANCE PROGRAM

A. BACKGROUND

The Section 8 Project-Based Assistance Program is a component of the Marin Housing Authority's (MHA) Section 8 Housing Choice Voucher Program. The U.S. Department of Housing and Urban Development (HUD) allows a public housing authority to set aside up to 20% of the vouchers under its Annual Contributions Contract (ACC) for project-based assistance. Unlike tenant-based assistance where the rental subsidy is attached to the tenant, the rental subsidy in a project-based assistance program is attached to the unit or building.

B. PURPOSE

The purpose of the Section 8 Project-Based Assistance Program is to: 1) expand the affordability of rental housing in Marin County for low and very low-income households; 2) maintain full utilization of allocated vouchers; 3) prevent the concentration of poverty; and 4) facilitate the affordability of housing.

C. ELIGIBLE PROJECTS

1. Type of Project

New Construction

A project is considered a new construction project if the foundation has not yet been poured.

Rehabilitation

A housing unit is considered a rehabilitation unit if it requires a minimum expenditure of \$1,000 per assisted unit (including the unit's prorated share of work to be accomplished on common areas or systems) to:

- Comply with HUD's Housing Quality Standards (HQS);
- Repair or replace major building systems or components in danger of failure within two years from the date of the initial MHA inspection;
- Convert or merge units to provide housing for large families; or
- For up to seven percent of the units to be assisted, make accessible improvements to the property necessary to meet the requirements of Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Amendments Act of 1988.

Prior to beginning construction or rehabilitation work, the project owner and MHA must enter into an Agreement to Enter into a Housing Assistance Payments Contract (AHAP).

Existing

A housing unit is considered an existing unit if, at the time of the MHA written notice of selection of the project for project-based assistance, the unit requires no rehabilitation or no more than a maximum expenditure of \$1,000 per assisted unit (including the unit's prorated share of work to be accomplished on common areas or systems) to comply with HQS.

2. Types of Properties/Dwellings

Eligible Types

- Single family homes (1-4 family dwellings);
- Multi-family structures, including SRO's;
- Cooperatives;
- PHA owned properties (must be eligible and in compliance with policies and procedures); and
- Group homes.

There must be a single Housing Assistance Payments (HAP) contract for units in group homes, with a separate lease for each household.

Ineligible Types

Ineligible types of properties/dwellings include:

- Housing with shared bedrooms;
- Nursing homes;
- Facilities providing continuous psychiatric care, medical care, nursing services, board and care, or intermediate care;
- Units occupied by the owner (except for cooperatives);
- Units located on the grounds of medical, penal, and mental institutions (private and public);
- College or other school dormitories;
- A manufactured home not tied to a permanent foundation;
- Units that are already being subsidized by any local or state rent subsidy;
- An FHA Section 236 project (insured or noninsured);
- A unit subsidized with FHA Section 236 or 521 rental assistance payments;
- A Rural Development Administration Section 515 project;
- An FHA Section 221 (d)(3) project;
- A project with a HUD Section 202 loan;
- A HUD Section 202 project for non-elderly persons with disabilities (Section 162 assistance) or supportive housing for the elderly;
- HUD Section 811 supportive housing for persons with disabilities;
- A Section 101 rent supplement project;
- A unit subsidized with tenant-based assistance under the HOME program;
- Any unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD, including tenant-based Section 8 assistance; and

- Other units in accordance with 24 CFR 983.7.

3. Eligible Unit Design

Dwelling units must have a living room, a kitchen area, and a bathroom, and must have at least one bedroom or living/sleeping area for each two persons.

4. Partially Assisted Buildings

MHA may not provide project-based assistance for more than 25 percent (25%) of the units in any one building, except for:

- Single-family dwellings (a building with 1-4 family dwellings);
- Projects participating under a Family Self-Sufficiency (FSS) program;
- Projects designated solely for elderly households; or
- Projects designated solely for disabled households.

HUD approval is required for units located in the above types of projects except for single-family dwellings.

5. Location in Impacted Areas

In an effort to promote mixed-income neighborhoods and prevent the concentration of low-income housing, projects assisted under the Section 8 Project-Based Assistance Program must be located in census tracts with poverty rates of less than 20%.

In MHA's discretion, and as approved by HUD after MHA submission of required documentation, the 20% limitation can be waived by HUD.

D. PROJECT SELECTION

1. Soliciting Proposals

MHA will advertise program availability and solicit proposals by advertising in the *Marin Independent Journal* once a week for three consecutive weeks. The solicitation will:

- Establish a proposal submission deadline;
- Specify an estimate of the number of units MHA will assist in the solicitation round;
- Indicate whether units are to be existing, rehabilitation, or new construction, or any combination of the three;
- Specify that only those responding to the solicitation will be considered; and
- Describe how a copy of the application package can be obtained.

Applications are due within 30 days of the date of the last (i.e., the third) newspaper notice.

2. Types of Competitions

There will be two types of competitions: one for existing projects where *less than 25%* of the units in a building will be assisted with project-based subsidies and another for new construction projects, rehabilitation projects and existing projects for the elderly or disabled where *more than 25%* of the units in a building will be assisted with project-based subsidies. MHA will determine which type of competition to conduct during any solicitation round--either one or both may be conducted.

Type 1 Competition: Existing Housing Where Less Than 25% of the Units in an Existing Building Will be Project-Based Section 8 Units

Projects located in single-family dwellings, defined as 1-4 family units (i.e., single family detached homes, duplexes, triplexes and fourplexes) compete under Type 1 Competition as HUD regulations exempt such projects from the 25% rule.

The process for selecting Type 1 projects is as follows:

- MHA will publish a notice in accordance with D.1. above.
- The notice will specify the due date for applications and the selection criteria that will be used to determine award of project-based assistance.
- HUD will not review the notice and selection criteria prior to publication.
- Proposals will be evaluated based only on the information submitted with the proposal and will be determined to be in conformance with the selection criteria or not in conformance.
- Any proposal that is in conformance with all the selection criteria can be funded; if the total number of requested eligible units from all proposals exceeds the number of vouchers available, a lottery will be held to award the units.
- Units not selected in the lottery will be placed on a waiting list in the order established by the lottery that is valid for six months from the lottery date.
- When the list expires, any project still not funded will lose its place on the list and must re-apply in subsequent solicitation rounds if it still desires project-based assistance.

Type 2 Competition: Substantial Rehabilitation, New Construction, and Existing Housing for the Elderly or Disabled Where More Than 25% of the Units in an Existing Building Will be Project-Based Section 8 Units

The process for selecting Type 2 projects is as follows:

- MHA will publish a notice in accordance with D.1. above.
- The notice will specify the due date for applications and the criteria that will be used to determine award of project-based assistance.
- HUD will review and approve the notice and criteria prior to publication.
- Proposals will be evaluated based only on the information submitted with the proposal. Proposals will be scored against weighted criteria and ranked from the highest to the lowest score. Proposals must score at least 70 points to be funded.
- Proposals will be funded in order of their rank. In the case of a tie, a lottery will be held to rank order the proposals.
- If the number of requested eligible units exceeds the number of vouchers available, a waiting list will be established. The list will be valid for six months from the date it is created.
- When the list expires, any project still not funded will lose its ranking and must re-apply in subsequent solicitation rounds if it still desires project-based assistance.

3. Selection Policy

Applicants must submit a completed application and all required attachments to be considered for an award. All projects must be located in Marin County.

Type 1 Competition: Selection Criteria

- The project must be located in a census tract with a poverty rate of less than 20%.
- The project must be an “existing” project—i.e., already built and occupied or with vacant units.
- The project must be owned by the applicant, or leased by the applicant under a master lease that permits the applicant to sub-lease to individual tenants, and has a term that would meet or exceed the term of the proposed Section 8 HAP contract.
- The project must provide one or more support services for its tenants.
- The project must have permanent financing and/or operating funding attributable at least in part to public funds (e.g., federal CDBG funds, HOME Program funds, low-income housing tax credits, California HCD or Cal HFA financing, etc.)
- At least 50% of the units in the project must be currently occupied by or reserved for occupancy by very low income tenants (based on the most current published HUD income limits for “Very Low Income”).
- The units to be contracted under the Project-Based Assistance Program must be occupied by persons or households eligible for the Section 8 program at the time of HAP contract execution or must be vacant.

Type 2 Competition: Scoring Criteria

	<i>Criteria</i>	<i>Possible</i>	<i>Awarded</i>
A.	Location		
1.	Project is located in a census tract with a poverty rate of less than 20%, a local redevelopment area, or a state or federally-designated revitalization area.	10	
2.	Project is in a census tract with a poverty rate of more than 20%. (note, project will require a HUD waiver)	0	
B.	Local Financial Support		
1.	The project has a demonstrated financing commitment from a local government or local foundation.	15	
C.	Financing Commitment		
1.	Applicant has obtained binding written commitments for at least 50% of the construction financing or 50% of the permanent financing, which may be contingent on the Section 8 subsidy.	10	
2.	Applicant has demonstrated the ability to obtain financing.	5	
3.	Proposed financing not supported with documentation.	0	
D.	Financial Feasibility		
1.	Project appears feasible within proposed timeline given proposed financing sources and underwriting standards.	15	
2.	Project does not appear feasible within proposed timeline.	0	
E.	Development Capacity		
1.	Applicant has completed at least one affordable housing project within the last 10 years.	10	
2.	Applicant has completed at least one affordable housing project.	5	
3.	Applicant has not completed an affordable housing project.	0	
F.	Management Capacity		
1.	Owner or management company has a minimum of 5 years experience managing affordable housing.	10	
2.	Owner or management company has no experience managing affordable housing.	0	
G.	Type of Construction		
	Project is new construction.	15	
	Project is rehabilitation: per unit cost of \$15,000+	10	
	Project is rehabilitation: per unit cost of \$5,000-\$14,999	5	
H.	Support Services		
1.	Project has commitment of funding for support services	15	
2.	Project commits to provide support services	10	
3.	No commitment for support services	0	

Total Possible Points	100	
------------------------------	------------	--

Review Process

The review, verification, and scoring of applications, which may include a site visit, will be conducted by MHA staff.

Applicants will receive written notification of the application outcome within 15 days of the submission deadline. If the application was denied an award, the written notification will state the reason(s) for the denial.

If MHA or an entity substantially controlled by MHA submits an application, MHA will submit the application to the HUD field office. The HUD field office will review such applications and make the final selections based on the criteria in MHA’s selection policy.

4. In-Place Households

Existing or to-be-rehabilitated occupied units must be occupied by households eligible for Section 8 who are not currently receiving Section 8 tenant-based assistance. MHA will not enter into a HAP contract for any unit that is occupied by a household that is ineligible for participation in the Section 8 program.

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by MHA is considered an “in-place family.” These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal selected, the in-place family must be placed on the MHA waiting list. Once the family’s continued eligibility is determined (MHA may deny assistance to an in-place family for grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and MHA must refer these families to the project owner for an appropriate sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

If existing tenants are displaced due to project-basing of existing or to-be-rehabilitated units, the owner must ensure that: 1) accommodations in accordance with 24 CFR 983.10 are made; and 2) relocation assistance is provided at the levels described in, and in accordance with, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4201-4655) and implementing regulations at 49 CFR part 24 and other regulations in accordance with 983.10 (c).

E. AGREEMENT BETWEEN OWNER AND MARIN HOUSING

Owners of new construction and rehabilitation projects must enter into an AHAP with MHA. The AHAP must be executed before the start of any new construction (defined as pouring the foundations) or rehabilitation. Prior to execution of the AHAP:

- HUD must approve the project site pursuant to the Site and Neighborhood Standards at 24CFR 983.6;
- MHA must retain a State-approved appraiser to conduct a rent survey and establish the initial project rents;
- HUD must approve the initial project rents; and
- If the project has low income housing tax credits HUD must conduct a subsidy-layering review to ensure the project is not over-subsidized. Note that the tax credit investor's commitment letter must be submitted to HUD as part of the subsidy-layering review.

Before executing an AHAP, the owner applicant must submit evidence that the new construction and/or rehabilitation project has been approved by the jurisdiction where the property is located. Evidence of building permits and, upon completion, certificates of occupancy must be provided to MHA.

When the project is completed and all conditions met, MHA and the owner will execute a Project-Based HAP.

Owners of existing projects must enter into a Project-Based HAP before rental subsidies can be paid.

MHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than fifteen years. MHA may extend the term of the contract for any additional period of time deemed appropriate (additional terms of up to fifteen years but not more than one fifteen year additional term at a time) if MHA deems an extension is appropriate to continue to providing affordable housing for low-income families. The Project-Based HAP between MHA and the owner may be for a term of up to 10 years, contingent upon the availability of federal appropriations and funding under MHA's ACC. MHA may approve an extension of the initial term for one year periods, contingent upon the availability of appropriations and funding under MHA's ACC.

The Project-Based AHAP or HAP will include, but not be limited to:

- Agreement that construction of the units will be in accordance with working drawings and specifications approved by the jurisdiction where the property is located;
- Establish initial contract rents;
- Agreement that initial rents will not change except for allowable reasons;
- Expected timeframe for the performance of work;
- Agreement that after the completion of the construction or rehabilitation, the owner will furnish MHA with evidence of completion;
- Establish that the owner must allow the tenant mobility and continued assistance of the voucher after one year;
- Establish that the owner must comply with HQS and annual inspections and maintenance;

- Agreement that MHA is not responsible for tenant portion of rent, security deposits, or damage claims;
- Agreement that MHA may terminate assistance if no eligible family rents a vacant unit within 120 days (commencing on the first day of the month when the vacancy occurs);
- Establish provisions for rent adjustments;
- Agreement that the owner must lease assisted units to eligible families;
- Agreement that families will be selected from the MHA Section 8 waiting list unless MHA requests and HUD approves a site-based waiting list;
- Agreement that the owner provide MHA with copies of any termination of tenancy notifications;
- Agreement that the owner will offer an accessible unit if one exists to households with one or more members with a disability requiring accessibility; and
- Agreement that the owner will comply with all applicable Fair Housing, Equal Opportunity and other Local, State, and Federal laws and regulations.

F. CONTRACT ADMINISTRATION AND SECTION 8 PROGRAM REQUIREMENTS

1. Admissions Procedures

MHA will determine eligibility for participation in the project-based assistance program in accordance with HUD requirements and MHA's Administrative Plan.

All assisted units must be leased to eligible households. Leasing of units to ineligible tenants is a violation of the HAP contract and will result in the loss of the rental subsidy.

At least 75% of the households admitted to MHA's Housing Choice Voucher Program, including project-based and tenant-based assistance programs, must be households whose annual income does not exceed 30% of area median income (AMI) adjusted for household size as determined by HUD.

2. Selection from the Waiting List

Applicants must be selected from the MHA waiting list. Owners may not select applicants from their own waiting lists.

The owner is responsible for notifying MHA of vacant units and the appropriate household size. Applicants pulled in order from the MHA waiting list, and who are of the appropriate household size and specifications for the unit, will be referred to the owner.

Owners are responsible for the screening and selection of referred applicants. The owner's procedures must be consistent with the purpose of improving housing opportunities for very low-income families, and reasonably related to program eligibility

and an applicant's ability to perform the lease obligations. Selection must be in accordance with fair housing and other applicable laws and regulations.

MHA will not penalize applicants who reject an offer of a project-based unit or who are rejected by the owner of the housing by removing them from the waiting list.

After an applicant has been selected to occupy a project-based unit, MHA must provide the applicant with information concerning the tenant rent and any applicable utility allowances and a copy of the lead hazard information pamphlet. The applicant will be given a project-based briefing, which will provide important information about the project-based assistance program.

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by MHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal selected, the in-place family must be placed on the MHA waiting list. Once the family's continued eligibility is determined (MHA may deny assistance to an in-place family for grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and MHA must refer these families to the project owner for an appropriate sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

3. Rent Determination

Gross rents will be determined in accordance with MHA's Administrative Plan.

Maximum gross rent exceptions apply to units allocated a low-income housing tax credit, but not located in a qualified census tract (QCT) under the Internal Revenue Code of 1986 at 26 U.S.C. 42. The rents on these units may be established at the *higher* of either the: 1) maximum payment standard; or 2) rent charged for other tax credit units that are located in the same development but which do not have rental subsidy assistance attached.

For units assisted under the HOME program, rents are subject to requirements of the HOME program (24 CFR §92.252).

In no case may rents exceed "rent reasonableness" standards or, initially, the rents established by the appraiser retained by MHA to establish the initial project rents.

4. Other Tenant Payments to Owner

The cost of meals or supportive services may not be included in the rent to the owner, and the value of meals or supportive services may not be included in the calculation of reasonable rent.

The lease may not require the tenant or family members to pay charges for meals or supportive services, although the requirement to pay for meal service may be included in an agreement other than the lease. Non-payment of such charges is not grounds for the termination of tenancy.

The owner may not charge extra payment from the tenant for items customarily included in the rent in the geographic area or provided at no additional cost to the unsubsidized tenants on the premises.

5. Household Choice to Move

The HAP contract must allow a household to move out of the project-based assisted unit after 12 months.

If a household moves out of a project-based unit at any time after the first 12 months of assisted occupancy, MHA must offer that household the first available tenant-based rental assistance voucher, either under the Housing Choice Voucher Program or other comparable tenant based assistance.

If no such assistance is available, MHA must give the household priority to receive the next available tenant-based assistance voucher.

6. Inspection and Maintenance

The same statutory inspection and maintenance requirements for units with tenant-based assistance apply to units with project-based assistance. Before and during the term of the assistance, units are inspected for and must be in compliance with housing quality standards (HQS) established by HUD.

One hundred percent of the project-based units will be inspected after the owner submits the Request for Tenant Approval (RFTA) but before entering into the HAP contract, and annually thereafter. MHA may not enter into a HAP contract for units that are not in full compliance with HQS.

G. COMPLIANCE WITH MHA POLICIES

Policies and procedures pertaining to HAP and Tenant Total Payment (TTP) calculations, verification procedures, Request for Tenant Approval (RFTA) and contract execution, termination of HAP, termination of tenancy, and other guidance not delineated herein will be in accordance with the Section 8 tenant-based assistance program of MHA's Administrative Plan.

H. FEDERAL REQUIREMENTS

Participation in this program requires compliance with the Equal Opportunity requirements specified in 24 CFR 982.53 [including Section 504 of the Rehabilitation Act of 1973 (24 CFR part 8) and the Fair Housing Amendments Act of 1988 (24 CFR part 100)] and is subject to HUD environmental regulations at 24 CFR part 58, and other Federal requirements delineated at CFR 983.11(c).