



# MassHousing Commonwealth Builder (CWB) Program Guidelines

July 2023

Commonwealth Builder (“CWB”) is MassHousing’s moderate-income homeownership production program. Under CWB, MassHousing makes grants or forgivable subordinate construction loans to eligible projects that provide deed-restricted affordable homeownership units (“Restricted CWB Units”).

Table of Contents	
Eligibility Criteria	A. Geographic Eligibility B. Project Eligibility C. Unit Eligibility
Funding	D. Commonwealth Builder Funding Levels and Requirements E. Market Anticipation Contingency Funding Levels and Requirements F. Site Condition Assistance Funding Levels and Requirements
Affordability	G. Affordability Restrictions and Requirements for Restricted CWB Units
Application and Approval	H. Application Components I. Review and Approval Process J. Documentation

A. Geographic Eligibility	
Municipalities	a. Boston  b. Gateway Cities <ul style="list-style-type: none"> <li>• Attleboro, Barnstable, Brockton, Chelsea, Chicopee, Everett, Fall River, Fitchburg, Haverhill, Holyoke, Lawrence, Leominster, Lowell, Lynn, Malden, Methuen, New Bedford, Peabody, Pittsfield, Quincy, Revere, Salem, Springfield, Taunton, Westfield, Worcester</li> </ul> c. Disproportionately Impacted Communities <ul style="list-style-type: none"> <li>• Framingham, Randolph, <i>as well as municipalities listed in a. and b. above.</i></li> </ul>

<b>B. Project Eligibility</b>	
Project Type	<p>Production (New Construction or Adaptive Reuse)</p> <p><i>In addition to the Restricted CWB Units, eligible projects may include market homeownership units, restricted and/or market rental units, and/or ancillary commercial units.</i></p>
Site Type	Single-site; scattered-site projects are ineligible.
Development Type	Fee-simple single-family homes, or condominiums with professional management.
Unit Count	<p>In general, eligible projects will be expected to meet the following criteria:</p> <ul style="list-style-type: none"> <li>a. For condominium developments, projects must include a minimum of fifteen (15) total project units of which the greater of: (i) 25% of the total homeownership units or (ii) ten (10) homeownership units must be Restricted CWB Units, or</li> <li>b. For fee simple developments, projects must include a minimum of seven (7) Restricted CWB Units regardless of overall project size.</li> </ul>
Readiness to Proceed	<p>Sponsor must be able to submit all application materials (listed in Section H) including a term sheet from a construction lender.</p> <p>Applications will be accepted and reviewed on a rolling basis.</p>

C. Unit Eligibility	
Age Restriction	None permitted.
Inclusionary Units	Units required for inclusionary zoning purposes or under other local ordinances are not eligible for this subsidy.
Income Restriction	70-120% AMI; generally, no higher than the income level at which comparable market units are affordable (assuming 30% of income spent on housing).
Overlapping Restrictions	A Restricted CWB Unit may be subject to additional affordability restrictions imposed by other subsidy programs only with the approval of MassHousing.
Homebuyers Requirements	<p>Restricted CWB Units must be sold to first-time homebuyers as defined below.</p> <p><i>First-time homebuyer</i> means an individual or household, of which no household member has had an ownership interest in a principal residence at any time during the three (3)-year period prior to the date of qualification as an eligible purchaser, unless such ownership was by (i) any individual who is a displaced homemaker (as may be defined by the Massachusetts Executive Office of Housing and Livable Communities) (ii) any individual who is a single-parent who has only owned a house with a former spouse while married or (iii) any individual who has owned a dwelling unit whose structure is not permanently affixed to a permanent foundation in accordance with local or other applicable regulations or is not in compliance with applicable building codes, or other applicable codes, and cannot be brought into compliance with the codes for less than the cost of constructing a permanent structure.</p> <p>At the time eligibility is determined, homebuyers must have assets, excluding qualified retirement plans, of less than \$100,000.</p> <p>Additionally, homebuyers must (1) qualify for a FHA, VA or Fannie Mae or Freddie Mac-conforming fixed-rate mortgage loan, (2) provide a minimum 3% down payment or qualify for an approved Down Payment Assistance program, (3) pay closing costs, and (4) complete homeownership counseling by the time of purchase.</p>
Homebuyer Preference	<p>Preferences will be made for homebuyers <i>from Disproportionately Impacted Households</i> as defined in the U.S. Department of Treasury’s Final Rule, 31 CFR Part 35, implementing the Coronavirus State Fiscal Recovery Fund established under Section 9901 of The American Rescue Plan Act. <i>Disproportionately Impacted Households</i> include (i) households in Qualified Census Tracts, (ii) low-income<sup>1</sup> households, and (iii) households that otherwise qualify for any of the following programs: Temporary Assistance for Needy Families (TANF); Supplemental Nutrition Assistance Program (SNAP); Free and Reduced-Price Lunch (NSLP) and/or School Breakfast (SBP) programs; Medicare Part D Low-income Subsidies; Supplemental</p>

<sup>1</sup> The final rule defines a household as low income if it has (i) income at or below 185 percent of the Federal Poverty Guidelines (FPG) for the size of its household based on the most recently published poverty guidelines by the Department of Health and Human Services (HHS) or (ii) income at or below 40 percent of the Area Median Income (AMI) for its county and size of household based on the most recently published data by the Department of Housing and Urban Development (HUD).

	<p>Security Income (SSI); Head Start and/or Early Head Start; Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); Section 8 Vouchers; Low-Income Home Energy Assistance Program (LIHEAP); Pell Grants; and for services to address educational disparities (Treasury will recognize Title I eligible schools as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible). Title I eligible schools means schools eligible to receive services under section 1113 of Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6313), including schools served under section 1113(b)(1)(C) of that Act.</p>
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<b>D. Commonwealth Builder Funding Levels and Requirements</b>	
Developer Fee and Overhead	Developer fee/profit and overhead are each limited to 10% of TDC (excluding overhead and developer fee/profit).
State Subsidy	In general, Restricted CWB Units may not rely on any other state subsidies or resources, such as subordinate financing under the Affordable Housing Trust or other Massachusetts Executive Office of Housing and Livable Communities loan programs.
Local Subsidy	Commitment of a local subsidy and/or other development support in some form (including non-monetary) from the applicable municipality is required.
Per Unit Commonwealth Builder Resources	<p>CWB program funds (“CWB Funds”) for each CWB Restricted Unit at 70-100% of AMI shall be no more than the lesser of:</p> <ul style="list-style-type: none"> <li>a. \$250,000;</li> <li>b. The average per unit total development cost (“TDC”) of Restricted CWB Units (inclusive of permissible developer fee/profit and overhead, and marketing and brokerage costs) minus the average sales proceeds from the Restricted CWB Units at 70-100% of AMI.</li> </ul> <p>CWB Funds for each CWB Restricted Unit at 110-120% of AMI shall be no more than the lesser of:</p> <ul style="list-style-type: none"> <li>a. \$150,000;</li> <li>b. The average per unit TDC of Restricted CWB Units (inclusive of permissible developer fee/profit and overhead, and marketing and brokerage costs) minus the average sales proceeds from the Restricted CWB Units at 110-120% of AMI.</li> </ul> <p>For projects in the City of Boston that are undertaken pursuant to the joint initiative MassHousing has established with the Mayor’s Office of Housing (“MOH”), and other projects for which MassHousing and another project funder have agreed to coordinate on construction funding and administration, MassHousing will determine per unit CWB funding allocations in conjunction with MOH or such other project funder.</p>
Per Project Commonwealth Builder Resources	<p>Up to \$10,000,000 in Commonwealth Builder funds.</p> <p>For projects in the City of Boston that are undertaken pursuant to the joint initiative MassHousing has established with MOH, and other projects for which MassHousing and another project funder have agreed to coordinate on construction funding and administration, MassHousing will determine per project CWB funding allocations in conjunction with MOH or such other project funder.</p>

<p>Delivery of Commonwealth Builder Funds</p>	<p>CWB Funds will generally be provided as a grant or forgivable subordinate construction loan to the single-purpose, sole-asset entity undertaking the project (the “Developer”).</p> <p>MassHousing and the Developer will execute a grant or loan agreement at construction closing, which will describe the Developer’s obligations and provide forms of the affordability restriction (the “CWB Restriction”) and related documents that will be required for the Restricted CWB Units.</p> <p>Generally, up to 90% of the CWB Funds will be available for requisition by the Developer during the construction period. The remaining CWB Funds will be disbursed upon approval by MassHousing of a final development budget following project completion and the sale of all units.</p> <p>In certain instances, including projects in the City of Boston undertaken pursuant to the joint initiative with MOH, MassHousing may provide funding for projects through the local municipality or other project funder who has agreed to coordinate with MassHousing on construction funding and administration.</p> <p>The structure and terms of such funding will be determined by MassHousing at the time of CWB funding commitment.</p>
<p>Construction Monitoring</p>	<p>If required by MassHousing, MassHousing and the Developer shall engage a lender advisor acceptable to MassHousing to provide cost review and construction monitoring services. MassHousing shall be responsible for any fees payable as a result of its participation in a lender advisor arrangement.</p>
<p>Cost Savings</p>	<p>If (a) the actual costs of the project construction and/or rehabilitation set forth in the final development budget approved by MassHousing are less than the estimated costs in the development budget submitted to MassHousing for CWB funding commitment or (b) the actual sales proceeds realized are higher than projected, or both (a) and (b), MassHousing shall reduce (or the Developer shall repay) program funding for the project accordingly.</p>

E. Market Anticipation Contingency Funding Levels and Requirements	
Eligibility	<p>Projects receiving CWB Funds may also be eligible for Market Anticipation Contingency funds (“MAC Funds”).</p> <p>Application for MAC Funds shall be submitted via the CWB Sponsor Application.</p>
Per Unit Market Anticipation Contingency Funds	MAC Funds are calculated at the project level.
Per Project Market Anticipation Contingency Funds	Available MAC Funds are calculated by MassHousing based on project need and the potential increase in permitted sale prices for Restricted CWB Units between the time of CWB funding commitment and the commencement of marketing of Restricted CWB Units if HUD AMIs increase and/or homebuyer mortgage rates decline.
Delivery of Market Anticipation Contingency Funds	<p>MAC Funds will generally be provided as a grant or forgivable subordinate construction loan to the Developer pursuant to terms set forth in the CWB grant or loan agreement, including satisfaction of the CWB affordability requirements.</p> <p>The final amount of MAC Funds is subject to reduction based on actual unit sales prices and cost savings, as set forth below.</p> <p>MAC Funds will be disbursed in installments at the time of final unit sales and will not be available as a source during the construction period.</p> <p>The structure and terms of such funding will be determined by MassHousing at the time of MAC Funds commitment.</p>
Cost Savings and MAC Fund Reduction	<p>For projects receiving MAC Funds, any development cost savings and any increase in unit sale revenue above the amount projected in the development budget approved at CWB funding commitment that is not offset by an increase in development costs shall be applied as follows:</p> <ol style="list-style-type: none"> <li>a. First, to increasing the developer fee/profit up to 10% of TDC (excluding developer fee/profit and overhead) projected in the development budget approved for CWB funding commitment (in the instance that such fee/profit was set lower than 10%);</li> <li>b. Second, to reducing the amount of MAC Funds;</li> <li>c. Third, to increasing developer fee/profit to 10% of actual TDC (excluding developer fee/profit and overhead), as reflected in the final development budget, to the extent higher than TDC projected in the development budget approved for CWB funding commitment; and</li> <li>d. Fourth, to repaying or reducing the amount of CWB Funds.</li> </ol>



<b>F. Site Condition Assistance Grant Funding Levels and Requirements</b>	
Eligibility	<p>Projects receiving CWB Funds which require extensive soil remediation, demolition, or site preparation may also be eligible for Site Condition Assistance funds (“SCA Funds”).</p> <p>Application for SCA Funds shall be submitted via the CWB Sponsor Application.</p>
Per Unit Site Condition Assistance Funds	SCA Funds are calculated at the project level.
Per Project Site Condition Assistance Funds	MassHousing will provide SCA Funds in the amount of estimated extraordinary site work costs for a project, generally up to \$2,000,000 per project.
Delivery of Site Condition Assistance Resources	<p>SCA Funds will generally be provided as a grant or forgivable subordinate construction loan to the Developer in conjunction with the CWB Funds, pursuant to terms set forth in the CWB grant or loan agreement.</p> <p>Generally, up to 90% of the SCA Funds will be available for requisition by the Developer during the construction period. The remaining SCA Funds will be disbursed upon approval by MassHousing of a final development budget following project completion and the sale of all units.</p> <p>In certain instances, MassHousing may provide SCA Funds for projects through the local municipality or other project funder who has agreed to coordinate with MassHousing on construction funding and administration.</p> <p>The structure and terms of such funding will be determined by MassHousing at the time of MAC Funds commitment.</p>
Cost Savings	If (a) the actual costs of the project construction and/or rehabilitation set forth in the final development budget approved by MassHousing are less than the estimated costs in the development budget submitted to MassHousing or (b) the actual sales proceeds realized are higher than projected, or both (a) and (b), MassHousing shall reduce (or the Developer shall repay) SCA Funds for the project accordingly.



G. Affordability Restrictions and Requirements for Restricted CWB Units		
Documentation	<p>Except as provided below, restrictions on homeowners who purchase a Restricted CWB Unit will be set forth in one or more deed rider(s) and a non-monetary mortgage securing the restriction obligations or similar document(s) recorded at the closing of unit sale.</p> <p>For projects in the City of Boston that are undertaken pursuant to the joint initiative MassHousing has established with MOH, and other projects for which MassHousing and another project funder have agreed to coordinate on construction funding and administration, the restrictions on homeowners who purchase a Restricted CWB Unit will be set forth in the MOH's form of Master Covenant for Affordable Housing and related documents or such other funder's form of restriction, respectively.</p>	
Restriction Term	30 years from initial sale to an eligible homebuyer	
Appreciation Allowance	5% annually (applicable through year 15 of Restriction Term)	
Capital Improvement Credit	Cost of approved capital improvements, less depreciation. Maximum of 3% of initial purchase price per year of ownership. (Applicable through year 15 of Restriction Term.)	
Family Transfers	By-right transfers during Restriction Term to immediate family provided they are owner occupants. Restriction Term will remain in place.	
Initial Sale Price Restrictions	Sales prices will be set at the commencement of marketing at levels determined by MassHousing to be affordable to eligible homebuyers within the targeted affordability requirements.	
Resale Price Restrictions	<p>Through year 15 of Restriction Term, lesser of:</p> <ul style="list-style-type: none"> <li>a. Price agreed to by buyer;</li> <li>b. Initial purchase price + formula appreciation + capital improvement credit; or</li> <li>c. Price affordable to buyer at restricted AMI tier set at Initial Sale.</li> </ul>	<p>During years 16-30 of Restriction Term:</p> <p style="text-align: center;">Unrestricted (but subject to equity sharing; see below)</p>

<p>Buyer Restrictions</p>	<p>Through year 15 of Restriction Term:</p> <p>Income qualified first-time homeowner, subject to a right of first refusal (“ROFR”) held by municipality.</p> <p>Preferences will be made for homebuyers from Disproportionately Impacted Households.</p>	<p>Years 16-30 of Restriction Term:</p> <p>Unrestricted; subject to ROFR held by municipality.</p>
<p>Equity Sharing</p>	<p>Through year 15 of Restriction Term:</p> <p>None.</p>	<p>Years 16-30 of Restriction Term:</p> <p>50% of Resale Price minus Permissible Year 15 Sale Price is shared among public funders.</p>
<p>Restriction Term Reset</p>	<p>Through Year 15 of Restriction Term:</p> <p>Restriction Term only resets if municipality exercises ROFR and elects to do so.</p>	<p>Years 16-30 of Restriction Term:</p> <p>Restriction Term only resets if municipality exercises ROFR and elects to do so.</p>

<b>H. Application Components</b>	
1. Borrower Application Excel	Template available on MassHousing.com or from MassHousing staff.
2. Site Information	Site location, map.
3. Evidence of Zoning Approval	
4. Evidence of Site Control	
5. Affirmative Fair Housing Marketing Plan (AFHMP)	Technical assistance available upon request. A list of approved lottery agents is available on MassHousing.com.
6. Marketing Description	Narrative of process how the project will engage with and prepare qualified potential families and individuals who have faced and continue to face disproportionate obstacles for this homeownership opportunity as identified in the opening statement.
7. Evidence of Municipal / Local Support	Documentation of local subsidy and/or other development support in some form (including non-monetary).
8. Market Study	
9. Construction Lender Term Sheet	
10. Developer Background	
11. Evidence of Sponsor and Developer Financial Capacity	
12. Schematic Design-Level Drawings and Preliminary Specs	
13. Credit Release Form	
14. Project Notification Form	
15. Application Fee of \$7,500	

<b>I. Review and Approval Process</b>	
Application Submission	Applicants must submit a complete application (components listed in Section H, above) prior to commencement of review.
Review	<p>Application components are reviewed by financial and technical staff in the Multifamily and Planning and Programs divisions of MassHousing.</p> <p>A Project Advisory Committee, which includes MassHousing staff, will review project proposals, including the underwriting analysis and funding recommendations of Agency staff, and recommend the developments that will receive program funding.</p>
Approval	Final approval of all recipients shall be by the Executive Director or Vice President of Multifamily Programs. The Executive Director or Vice President of Multifamily Programs may waive certain CWB program guidelines for individual CWB projects due to extraordinary project-specific or market conditions, subject to the requirements of MassHousing’s source of funds.
Geographic Equity	Funds shall be distributed in a manner that promotes geographic equity.
Preferences	<p>The following types of projects shall receive preference:</p> <ul style="list-style-type: none"> <li>• Projects that include clean energy and sustainability features, such as electric heat pumps, net-zero developments, Passive House or equivalent energy efficiency certification and all-electric buildings</li> <li>• Projects with units targeted at 70% of AMI</li> </ul>

<b>J. Documentation</b>	
Commitment	<p>Commitment of CWB Funds, MAC Funds and SCA Funds shall be documented by MassHousing as follows:</p> <ol style="list-style-type: none"> <li>a. Where project funding will be provided as a grant or loan directly to the Developer, MassHousing will issue a commitment to the Developer following approval of funding and prior to execution of a grant or loan agreement.</li> <li>b. Where MassHousing and the local municipality or other project funder have agreed to coordinate on construction funding and administration (including the joint initiative with the MOH in the City of Boston), commitment will typically be evidenced in the term sheet among MassHousing, the municipality or other project funder, and the Developer. Said term sheet will be accompanied by MassHousing's approved grant proposal.</li> </ol>
Grant or Loan Agreement and Developer Obligations	<p>For grants or loans funded by MassHousing directly to the Developer, the Developer's obligations will be set forth in project documents as required by MassHousing, including a grant or loan agreement, regulatory agreement or mortgage, environmental indemnity agreement, and affordability monitoring services agreement.</p> <p>For grants or loans to projects for which MassHousing and the local municipality or other project funder have agreed to coordinate on construction funding and administration (including the joint initiative with the MOH in the City of Boston), the Developer's obligations will be set forth in the financing documents of such other funder.</p>