

## SUBCHAPTER E—AFFORDABLE HOUSING

### PART 960—AFFORDABLE HOUSING PROGRAM

Sec.

- 960.1 Definitions.
- 960.2 Required annual AHP contributions.
- 960.3 Operation of Program and adoption of AHP implementation plan.
- 960.4 Advisory Councils.
- 960.5 Minimum eligibility standards for AHP projects.
- 960.6 Procedure for approval of applications for funding.
- 960.7 Modifications of applications prior to project completion.
- 960.8 Procedure for funding.
- 960.9 Modifications of applications after project completion.
- 960.10 Initial monitoring requirements.
- 960.11 Long-term monitoring requirements.
- 960.12 Remedial actions for noncompliance.
- 960.13 Agreements.
- 960.14 Temporary suspension of AHP contributions.
- 960.15 Affordable Housing Reserve Fund.
- 960.16 Application to existing AHP projects.

AUTHORITY: 12 U.S.C. 1430(j).

SOURCE: 62 FR 41828, Aug. 4, 1997, unless otherwise noted.

#### §960.1 Definitions.

As used in this part:

*Act* means the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 *et seq.*).

*Advance* means a loan to a member from a Bank that is:

- (1) Provided pursuant to a written agreement; (2) Supported by a note or other written evidence of the member's obligation; and
- (3) Fully secured by collateral in accordance with the Act and part 935 of this chapter.

*Affordable* means that the rent charged for a unit which is to be reserved for occupancy by a household with an income at or below 80 percent of the median income for the area, does not exceed 30 percent of the income of a household of the maximum income and size expected, under the commitment made in the AHP application, to occupy the unit (assuming occupancy of 1.5 persons per bedroom or 1.0 person per unit without a separate bedroom).

*AHP* or *Program* means the Affordable Housing Program established pursuant to 12 U.S.C. 1430(j) and this part.

*Bank* means a Federal Home Loan Bank established under the authority of the Act.

*Board of Directors* means the Board of Directors of the Finance Board.

*CIP* means a Bank's Community Investment Program established under section 10(i) of the Act (12 U.S.C. 1430(i)).

*Cost of funds* means, for purposes of a subsidized advance, the estimated cost of issuing Bank System consolidated obligations with maturities comparable to that of the subsidized advance.

*Direct subsidy* means an AHP subsidy in the form of a direct cash payment, but does not include homeownership set-aside funds.

*Family member* means any individual related to a person by blood, marriage or adoption.

*Finance Board* means the agency established as the Federal Housing Finance Board.

*Habitable means* suitable for occupancy, taking into account local health, safety, and building codes.

*Homeless household* means a household made up of one or more individuals, other than individuals imprisoned or otherwise detained pursuant to state or federal law, who:

- (1) Lack a fixed, regular, and adequate nighttime residence; or
- (2) Have a primary nighttime residence that is:
  - (i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
  - (ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or
  - (iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

*Homeownership set-aside funds* means funds provided to a member by a Bank

pursuant to a Bank's homeownership set-aside program.

*HUD* means the Department of Housing and Urban Development.

*Low-or moderate-income household.* (1) *Owner-occupied projects.* For purposes of an owner-occupied project, *low-or moderate-income household* means a household which, at the time it is qualified by the sponsor for participation in the project, has an income of 80 percent or less of the median income for the area.

(2) *Rental projects.* (i) *In general.* For purposes of a rental project, *low-or moderate-income household* means a household which, upon initial occupancy of a rental unit, has an income at or below 80 percent of the median income for the area.

(ii) *Housing with current occupants.* In the case of projects involving the purchase or rehabilitation of rental housing with current occupants, *low-or moderate-income household* means an occupying household with an income at or below 80 percent of the median income for the area at the time an application for AHP subsidy is submitted to the Bank.

(3) *Family-size adjustment.* The income limit for *low-or moderate-income households* may be adjusted for family size in accordance with the methodology of the applicable median income standard.

*Low-or moderate-income neighborhood* means any neighborhood in which 51 percent or more of the households have incomes at or below 80 percent of the median income for the area.

*Median income for the area.* (1) *Owner-occupied projects.* A Bank shall identify in its AHP implementation plan one or more of the following median income standards from which all owner-occupied projects may choose for purposes of the AHP:

(i) The median income for the area, as published annually by HUD;

(ii) The applicable median family income, as determined under 26 U.S.C. 143(f) (Mortgage Revenue Bonds) and published by a State agency or instrumentality;

(iii) The median income for the area, as published by the United States Department of Agriculture; or

(iv) The median income for any definable geographic area, as published by a

federal, state, or local government entity for purposes of that entity's housing programs, and approved by the Board of Directors, at the request of a Bank, for use under the AHP.

(2) *Rental projects.* A Bank shall identify in its AHP implementation plan one or more of the following median income standards from which all rental projects may choose for purposes of the AHP:

(i) The median income for the area, as published annually by HUD; or

(ii) The median income for any definable geographic area, as published by a federal, state, or local government entity for purposes of that entity's housing programs, and approved by the Board of Directors, at the request of a Bank, for use under the AHP.

(3) *Procedure for approval.* Prior to requesting approval by the Board of Directors of a median income standard, a Bank shall amend its AHP implementation plan to permit the use of such standard, conditioned on Board of Directors approval. Requests for approval of median income standards shall receive prompt consideration by the Board of Directors.

*Member* means an institution that has been approved for membership in a Bank and has purchased capital stock in the Bank in accordance with §§ 933.20 and 933.24 of this chapter.

*Net earnings of a Bank* means the net earnings of a Bank for a calendar year after deducting the Bank's pro rata share of the annual contribution to the Resolution Funding Corporation required under sections 21A or 21B of the Act (12 U.S.C. 1441a, 1441b), and before declaring any dividend under section 16 of the Act (12 U.S.C. 1436).

*Owner-occupied project* means a project involving the purchase, construction, or rehabilitation of owner-occupied housing, including condominiums and cooperative housing, by or for very low-or low-or moderate-income households.

*Owner-occupied unit* means a unit in an owner-occupied project. Housing with two to four dwelling units consisting of one owner-occupied unit and one or more rental units shall be considered a single owner-occupied unit.

*Rental project* means a project involving the purchase, construction, or rehabilitation of rental housing, including overnight shelters and transitional housing for homeless households and mutual housing, where at least 20 percent of the units in the project are occupied by and affordable for very low-income households.

*Retention period* means:

- (1) 5 years from closing for an AHP-assisted owner-occupied unit; and
- (2) 15 years from the date of project completion for a rental project.

*Sponsor* means a not-for-profit or for-profit organization or public entity that:

- (1) Has an ownership interest (including any partnership interest) in a rental project; or
- (2) Is integrally involved in an owner-occupied project, such as by exercising control over the planning, development, or management of the project, or by qualifying borrowers and providing or arranging financing for the owners of the units.

*State* means a state of the United States, the District of Columbia, Guam, Puerto Rico, or the U.S. Virgin Islands.

*Subsidized advance* means an advance to a member at an interest rate reduced below the Bank's cost of funds, by use of a subsidy.

*Subsidy* means:

- (1) A direct subsidy, provided that if a direct subsidy is used to write down the interest rate on a loan extended by a member, sponsor, or other party to a project, the subsidy shall equal the net present value of the interest foregone from making the loan below the lender's market interest rate (calculated as of the date the AHP application is submitted to the Bank, and subject to adjustment under §960.8(c)(3));

- (2) The net present value of the interest revenue foregone from making a subsidized advance at a rate below the Bank's cost of funds, determined as of the earlier of the date of disbursement of the subsidized advance or the date prior to disbursement on which the Bank first manages the funding to support the subsidized advance through its asset/liability management system, or otherwise; or

- (3) Homeownership set-aside funds.

*Very low-income household*. (1) *Owner-occupied projects*. For purposes of an owner-occupied project, *very low-income household* means a household which, at the time it is qualified by the sponsor for participation in the project, has an income at or below 50 percent of the median income for the area.

(2) *Rental projects*. (i) *In general*. For purposes of a rental project, a very low-income household means a household which, upon initial occupancy of a rental unit, has an income at or below 50 percent of the median income for the area.

(ii) *Housing with current occupants*. In the case of projects involving the purchase or rehabilitation of rental housing with current occupants, *very low-income household* means an occupying household with an income at or below 50 percent of the median income for the area at the time an application for AHP subsidy is submitted to the Bank.

(3) *Family-size adjustment*. The income limit for *very low-income households* may be adjusted for family size in accordance with the methodology of the applicable median income standard.

[62 FR 41828, Aug. 4, 1997, as amended at 63 FR 27672, May 20, 1998]

#### **§ 960.2 Required annual AHP contributions.**

Each Bank shall contribute annually to its Program the greater of:

- (a) 10 percent of the Bank's net earnings for the previous year; or
- (b) That Bank's pro rata share of an aggregate of \$100 million to be contributed in total by the Banks, such proration being made on the basis of the net earnings of the Banks for the previous year.

#### **§ 960.3 Operation of Program and adoption of AHP implementation plan.**

- (a) *Allocation of AHP contributions*. (1) *Homeownership set-aside programs*. Each Bank, after consultation with its Advisory Council, may set aside annually, in the aggregate, up to the greater of \$1.5 million or 15 percent of its annual required AHP contribution to provide funds to members participating in the Bank's homeownership set-aside programs, pursuant to the requirements of this part. In cases where the amount of