

Affordable Housing Program

Final Rule

Effective

December 28, 2018



This presentation is intended for informational purposes only . It reflects only select changes to the Affordable Housing Program regulations, effective December 28, 2018, and is not a complete analysis of the Final Rule.

Required Implementation Timeline:

The AHP Final Rule (AHP Rule) was published November 28, 2018.

The Final Rule was effective as of December 28, 2018 (30 days after publication)

FHLBanks have flexibility to “early adopt” some or all of the Final Rule amendments.

Implementation deadline is January 1, 2021, except for owner-occupied retention changes that need to be implemented by January 1, 2020.

AHP Allocation Overview

Competitive

- Must allocate at least 50% of its required annual AHP contribution for a General Fund (GF)
- May allocate, in the aggregate, up to 40% of its required annual AHP contribution to a maximum of 3 Targeted Funds (TF)
 - Subject to phase-in requirements
- May adopt a policy to approve alternates
 - If policy is adopted and sufficient previously committed AHP subsidies become available within one year of approval, alternates must be funded

Set Aside

- May allocate, in the aggregate, up to the greater of 35% of its required annual AHP contribution or \$4.5 million for Homeownership Set-Aside Program(s) (*No change*)
- Must have one-third of the aggregate allocation to the Set-Aside(s) allocated to assist first-time homebuyers and/or households for owner-occupied rehabilitation

Targeted Community Lending Plan (CLP)

FHLBanks are required to:

- Conduct market research and describe how it will address credit needs and market opportunities for targeted community lending
- Identify and assess significant affordable housing needs that will be addressed through AHP, as well as any specific needs it plans to address through Targeted Funds
- Consider, for a Targeted Fund(s), whether the need is unmet, has been difficult to address via the General Fund, and/or aligns with the objectives identified in the FHLBank strategic plan.
- If a FHLBank plans to establish Targeted Fund(s), publish its CLP on or before the date of publication of its annual Implementation Plan and, at least 90 days before the first day that applications are submitted to the Targeted Funds
 - Not required if Targeted Fund(s) used to respond to federal- or state-declared disaster.
- Consult with its Advisory Council and the Advisory Council must provide recommendations

AHP Implementation Plan

FHLBanks must include requirements for the General Fund, any Targeted Funds, and Set-Aside Program(s) that include, but are not limited to, the following:

- For each General Fund and any Targeted Funds, FHLBanks must establish scoring criteria, related definitions, and 100-point scale
- If a FHLBank awards points for in-district projects, it cannot do so in a way that excludes out-of-district projects from the General Fund.
- Targeted Funds must be designed to receive sufficient number of applications to facilitate a genuinely competitive scoring process
 - Minimum of 3 scoring criteria
 - No more than 50 points to any one scoring criterion
- Policy for how it will determine under which Fund to approve a project that applies to and is competitive under more than one Fund
- Standard for approving a relocation plan for current occupants of rental projects
- Proxy or proxies selected for determining subsequent purchasers' income pursuant to FHFA guidance

AHP General and Targeted Funds

Enhanced sponsor capacity evaluation at application and each disbursement

- Sponsor must certify to, and FHLBanks must evaluate, the qualifications of the Sponsor at application and prior to each disbursement
- Sponsor must certify that it has not engaged in covered misconduct at application and prior to each disbursement

Projects that are occupied at the time of AHP application

- Projects are allowed to satisfy AHP's income and rent restrictions at move-in, after the completion of the purchase or rehab, rather than at the time of application so long as the project has a relocation plan approved by one of its federal, state, or local funders or otherwise approved by the FHLBank according to standards in the IP

Maximum AHP subsidy limits

- FHLBanks may adopt a limit to the amount a sponsor may be awarded in an AHP funding round.
- The maximum subsidy per project and per unit may differ for the General Fund and each Targeted Fund.
- Applications submitted to more than one fund must be for the same amount of AHP subsidy

Scoring Methodology – General Fund

General

- Of a 100-point scale, FHLBanks must have a cumulative minimum points allocation of 50 points for statutory and regulatory priorities
- The remaining maximum 50 points may be allocated to affordable housing needs selected by the FHLBank

Statutory (Mandatory) Priorities – Increased from 2 to 3 (Each min. 5 points)

- Use of donated or conveyed government properties
- Projects sponsored by a nonprofit organization or government entity
- Purchase of homes by low- or moderate-income households must be adopted (with a 5 point minimum) if FHLBank does not allocate at least 10% of its total required annual AHP contribution to Homeownership Set-Aside Program(s) ; otherwise it is not considered an FHFA priority and is optional (min. 5 points isn't required)

Scoring Methodology – General Fund

Regulatory Priorities Overview

- Income Targeting (min. 20 points/no change)
- Three Regulatory Priorities (each min. of 5 points), each with examples of specified housing needs:
 - Underserved Communities and Populations
 - Creating Economic Opportunity
 - Community Stability, including affordable housing preservation
- FHLBanks must adopt at least one housing need as a scoring criterion under each of the three regulatory priorities
- The examples of specified housing needs are not exclusionary; a Bank may choose to adopt other housing needs under a regulatory priority that are similar in nature to those specified

Scoring Methodology – General Fund

Underserved Communities and Populations *may* be satisfied if:

- At least 20% of the units are for:
 - Homeless households
 - Special needs households
 - Definition of special needs expanded to include formerly incarcerated persons; victims of domestic violence; dating violence; sexual assault or stalking; and unaccompanied youth.
 - Other targeted households
 - Definition of other targeted households includes: agricultural workers; military veterans; Native Americans; kinship care households; households requiring larger units.
- Housing in rural areas defined according to each FHLBank
- Rental housing for households at or below 30% AMI
- FHFA may specify additional housing needs of underserved communities or populations under the regulatory priorities as new housing needs arise

Scoring Methodology – General Fund

Creating Economic Opportunity *may be satisfied by projects that provide:*

- Empowerment services
 - Definition of empowerment expanded to include child care; adult daycare; afterschool care; tutoring; health services; and workforce preparation and integration.
- Other Residential Economic Diversity
 - Financing of affordable housing in either a high opportunity area, or mixed-income housing in an area each designed by the FHLBank
- FHFA may specify the financing of other housing that facilitates economic opportunity under the regulatory priorities as new housing needs arise

Community Stability including Affordable Housing Preservation *may be satisfied by projects that provide, for example:*

- Affordable Homeownership Preservation (examples not included)
- Rehabilitating vacant or abandoned properties
- Integral part of a community revitalization or economic development strategy approved by a unit of state or local government or instrumentality thereof

Owner-Occupied Agreements & Monitoring

Retention Agreements for Owner-Occupied Housing

- Eliminates current requirement for owner-occupied retention agreements where households use the AHP subsidy solely for rehabilitation of a unit
- Retention Agreements remain for purchase or purchase with rehab
 - Notice of sale, transfer, assignment of title or deed or refinancing (functional equivalents of sales) must be given to the FHLBank *and*, in its discretion, any designee of the Bank
 - Subsidy repayment calculation is based on net proceeds and household's investment. Households pays the *lesser of*:
 - Pro rata subsidy amount *or*
 - Net proceeds minus the household's investment
- Update Exceptions to repayment include:
 - If the AHP-assisted unit is sold to a low- to moderate income household
 - In the absence of actual documentation, one or more proxies, as defined per FHFA guidance, must be used
 - Where the amount of AHP subsidy subject to repayment is \$2,500 or less

Rental Project Monitoring

LIHTC Projects

- Notice of sale, transfer or assignment of title or deed, or refinancing during the AHP 15-year retention period must be given to the FHLBank and, in its discretion, any designee of the Bank
- Member must include in its agreement with the project owner a requirement that the project owner must provide prompt written notice to the FHLBank if the project is in material and unresolved noncompliance with the LIHTC income-targeting or rent requirements during the AHP 15-year retention period; FHLBanks must review these notices.

Rental Project Monitoring

Initial Monitoring for Rental Projects

- Initial Monitoring requires that a Bank review a certification from the project sponsor or owner, the project rent roll and any other documentation to verify stated requirements. The Bank must also review project back-up documentation regarding household incomes and rents except for the following:
 - LIHTC projects
 - Projects that received funds from other federal, state or local government entities whose programs meet certain requirements of 1291.50(b)(1) and (2) as specified in separate FHFA guidance

Long-term monitoring for Rental Projects

- Outside of a Bank adopting reliance on other governmental monitoring for eligible projects, long-term monitoring for rental projects requires annual certifications and back up documentation, including rent rolls.
- Exceptions to reviewing back-up documentation, including rent rolls, may be made for:
 - LIHTC projects provided that the Bank review any notices for a LIHTC project that is in material and unresolved noncompliance with income targeting and rent requirements
 - Projects that received funds from other federal, state or local government entities whose programs meet certain requirements of 1291.50(b)(1) and (2) as specified in separate FHFA guidance

Enhanced long-term monitoring certifications

- Add requirement for annual sponsor certifications to include information about the on-going financial viability of the project, such as the status of its property tax and loan payments, vacancy rate, and whether it is in compliance with other funding sources.

Remedial Actions for Noncompliance

- Sets forth the sequencing to remedy noncompliance as cure, modify and repayment
- Sets forth criteria FHLBanks must use to consider when a demand is made for repayment

Set-Aside

- No change to maximum allocation of funds to the set-aside program, which is the greater of 35% of the annual required AHP contribution or \$4.5 million
- Increases the maximum grant amount for each household from \$15,000 to \$22,000 with an annual upward adjustment in accordance with the FHFA's Housing Price Index.
- Refer to Owner-occupied Agreements and Monitoring Slide for details about the FHFA's requirements regarding retention agreements for owner-occupied units.