

## Federal Housing Finance Board

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income housing and community lending activity of the Bank by which it is appointed.

(g) *Expenses.* The Bank shall pay Advisory Council members' travel expenses, including transportation and subsistence, for each day devoted to attending meetings with representatives of the board of directors of the Bank and meetings requested by the Finance Board.

(The Office of Management and Budget has approved the information collection contained in this section and assigned control number 3069-0006 with an expiration date of June 30, 2004)

[62 FR 41828, Aug. 4, 1997, as amended at 63 FR 27672, May 20, 1998; 65 FR 5419, Feb. 4, 2000; 66 FR 50302, Oct. 3, 2001; 67 FR 12852, Mar. 20, 2002; 67 FR 15011, Mar. 28, 2002]

### § 951.5 Minimum eligibility standards for AHP projects.

(a) *Homeownership set-aside programs.* A Bank's homeownership set-aside programs must meet the following requirements:

(1) Homeownership set-aside funds must be provided to members pursuant to allocation criteria established by the Bank;

(2) Members must provide homeownership set-aside funds only to households that:

(i) Are low-or moderate-income households, as defined in § 951.1;

(ii) Complete a homebuyer or homeowner counseling program provided by, or based on one provided by, an organization recognized as experienced in homebuyer or homeowner counseling, respectively; and

(iii) Meet the first-time homebuyer requirement, in the case of households receiving funds pursuant to a first-time homebuyer set-aside program established pursuant to § 951.3(a)(1)(ii), and meet such other eligibility criteria that may be established by the Bank, such as a matching funds requirement or criteria that give priority for the purchase or rehabilitation of housing in particular areas or as part of a disaster relief effort, in the case of households receiving funds pursuant to homeownership set-aside programs established pursuant to § 951.3(a)(1)(i) or (ii);

(3) Members must provide homeownership set-aside funds to households as a grant, in an amount up to a maximum of \$15,000 per household, as established by the Bank, which limit shall apply to all households;

(4) Households must use homeownership set-aside funds to pay for down-payment, closing cost, counseling, or rehabilitation assistance in connection with the household's purchase or rehabilitation of an owner-occupied housing unit, including a condominium or cooperative housing unit, to be used as the household's primary residence;

(5) A housing unit purchased or rehabilitated using homeownership set-aside funds must be subject to a retention agreement described in § 951.13(d)(1);

(6) If a member is providing mortgage financing to a participating household, the member must provide financial or other incentives in connection with such mortgage financing, and the rate of interest, points, fees, and any other charges by the member must not exceed a reasonable market rate of interest, points, fees, and other charges for a loan of similar maturity, terms, and risk;

(7) Homeownership set-aside funds may be used to pay for counseling costs only where:

(i) Such costs are incurred in connection with counseling of homebuyers who actually purchase an AHP-assisted unit;

(ii) The cost of the counseling has not been covered by another funding source, including the member; and

(8) Homeownership set-aside funds must be drawn down and used by eligible households within the period of time specified by the Bank in its AHP implementation plan.

(b) *Competitive application program.* Projects receiving AHP subsidies pursuant to a Bank's competitive application program must meet the eligibility requirements of this paragraph (b).

(1) *Owner-occupied or rental housing.* A project must be either an owner-occupied project or a rental project, as defined, respectively, in § 951.1.

(2) *Project feasibility and need for subsidy—(i) Sources and uses of funds.* The project's estimated uses of funds must equal its estimated sources of funds, as

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reflected in the project's development budget. A project's sources of funds must include:

(A) Estimates of funds the project sponsor intends to obtain from other sources, but which have not yet been committed to the project; and

(B) Estimates of the market value of in-kind donations and volunteer professional labor or services committed to the project, but not the value of sweat-equity.

(ii) *Project costs*—(A) *In general.* Project costs, as reflected in the project's development budget, must be reasonable and customary, in accordance with the Bank's project feasibility guidelines, in light of:

(1) Industry standards for the location of the project; and

(2) The long-term financial needs of the project.

(B) *Cost of property and services provided by a member.* The purchase price of property or services, as reflected in the project's development budget, sold to the project by a member providing AHP subsidy to the project, or, in the case of property, upon which such member holds a mortgage or lien, may not exceed the market value of such property or services as of the date the purchase price for the property or services was agreed upon. In the case of real estate owned property sold to a project by a member providing AHP subsidy to a project, or property sold to the project upon which the member holds a mortgage or lien, the market value of such property is deemed to be the "as-is" or "as-rehabilitated" value of the property, whichever is appropriate, as reflected in an independent appraisal of the property performed by a State certified or licensed appraiser, as defined in 12 CFR 564.2(j) and (k), within six months prior to the date the Bank disburses AHP subsidy to the project.

(iii) *Operational feasibility and need for subsidy.* The project must be operationally feasible, in accordance with the Bank's project feasibility guidelines, based on relevant factors including, but not limited to, applicable financial ratios, geographic location of the project, needs of tenants, and other non-financial project characteristics. The requested AHP subsidy must be

necessary for the financial feasibility of the project, as currently structured, and the rate of interest, points, fees, and any other charges for all loans financing the project must not exceed a market rate of interest, points, fees, and other charges for loans of similar maturity, terms, and risk.

(3) *Timing of subsidy use.* The AHP subsidy must be likely to be drawn down by the project or used by the project to procure other financing commitments within 12 months of the date of approval of the application for subsidy funding the project.

(4) *Prepayment, cancellation, and processing fees.* The project must not use AHP subsidies to pay for:

(i) Prepayment fees imposed by a Bank on a member for a subsidized advance that is prepaid, unless, subsequent to such prepayment, the project will continue to comply with the terms of the application for the subsidy, as approved by the Bank, and the requirements of this part for the duration of the original retention period, and any unused subsidy is returned to the Bank and made available for other AHP projects;

(ii) Cancellation fees and penalties imposed by a Bank on a member for a subsidized advance commitment that is canceled; or

(iii) Processing fees charged by members for providing direct subsidies to a project.

(5) *Counseling costs.* AHP subsidies may be used to pay for counseling costs only where:

(i) Such costs are incurred in connection with counseling of homebuyers who actually purchase an AHP-assisted unit; and

(ii) The cost of the counseling has not been covered by another funding source, including the member.

(6) *Refinancing.* If the project uses AHP subsidies to refinance an existing single-family or multifamily mortgage loan, the equity proceeds of the refinancing must be used only for the purchase, construction, or rehabilitation of housing units meeting the eligibility requirements of this paragraph (b).

(7) *Retention*—(i) *Owner-occupied projects.* The project's AHP-assisted

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units are or are committed to be subject to a retention agreement described in § 951.3(c)(4) or (d)(1).

(ii) *Rental projects.* AHP-assisted rental projects are or are committed to be subject to a retention agreement described in § 951.3(c)(5) or (d)(2).

(8) *Project sponsor qualifications.* A project's sponsor must be qualified and able to perform its responsibilities as committed to in the application for subsidy funding the project.

(9) *Fair housing.* The project, as proposed, must comply with applicable Federal and State laws on fair housing and housing accessibility, including, but not limited to, the Fair Housing Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Architectural Barriers Act of 1969, and must demonstrate how the project will be affirmatively marketed.

(10) *District eligibility requirements.* (i) A project receiving AHP subsidies may be required by a Bank to meet one or more of the following additional eligibility requirements adopted by a Bank's board of directors, after consultation with its Advisory Council:

(A) A requirement that the amount of subsidy requested for the project does not exceed limits established by the Bank as to the maximum amount of AHP subsidy available per member each year; or per member, per project, or per project unit in a single funding period;

(B) A requirement that the project is located in the Bank's District; or

(C) A requirement that the member submitting the application has made use of a minimum amount of a credit product offered by the Bank, other than AHP or CIP credit products, within the previous 12 months, provided that such a minimum threshold for credit product usage established by a Bank shall not exceed 1.5 percent of a member's total assets, and all members shall have access to some amount of AHP subsidy, as determined by the Bank, regardless of whether they meet the Bank's minimum threshold for credit product usage.

(ii) Any limit on the amount of AHP subsidy available per member must result in equal amounts of AHP subsidy

available to all members receiving subsidy pursuant to such limit.

[62 FR 41828, Aug. 4, 1997, as amended at 63 FR 27672, May 20, 1998; 64 FR 23015, Apr. 29, 1999; 64 FR 24027, May 5, 1999; 65 FR 8263, Feb. 18, 2000; 66 FR 50302, Oct. 3, 2001; 67 FR 12852, Mar. 20, 2002; 67 FR 58982, Sept. 19, 2002]

### § 951.6 Procedure for approval of applications for funding.

(a) *Homeownership set-aside programs.* A Bank shall accept applications for homeownership set-aside funds from members and may, in its discretion, accept applications from institutions with pending applications for membership in the Bank. The Bank shall approve applications in accordance with the Bank's criteria governing the allocation of funds.

(b) *Competitive application program—*  
(1) *Funding periods; amounts available.* A Bank shall accept applications for funding under its competitive application program from members and may, in its discretion, accept applications from institutions with pending applications for membership in the Bank. A Bank may accept applications for funding during a specified number of funding periods each year, as determined by the Bank.

(2) *Submission of applications.* A Bank shall require applicants for AHP subsidies to submit information sufficient for the Bank to:

(i) Determine that the proposed AHP project meets the eligibility requirements of § 951.5(b); and

(ii) Evaluate the application pursuant to the scoring criteria in paragraph (b)(4) of this section.

(3) *Review of applications for project eligibility.* A Bank shall review applications to determine that the proposed AHP project meets the eligibility requirements of § 951.5(b).

(4) *Scoring of applications—*(i) *In general.* A Bank shall not adopt additional scoring criteria or point allocations, except as specifically authorized under this paragraph (b)(4). A Bank shall adopt written guidelines implementing the scoring requirements of this paragraph (b)(4).

(ii) *Point allocations.* A Bank shall allocate 100 points among the nine scoring criteria identified in paragraph (b)(4)(iv) of this section. The scoring