

# 2018 AFFORDABLE HOUSING PROGRAM IMPLEMENTATION PLAN AND POLICIES

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# **FEDERAL HOME LOAN BANK OF BOSTON**

## **2018 AFFORDABLE HOUSING PROGRAM IMPLEMENTATION PLAN AND POLICIES**

### **I. Purpose:**

The primary purpose of this document is to effect the timely and proper operation of the Affordable Housing Program (AHP) by the Federal Home Loan Bank of Boston (Bank), participating member financial institutions (members), development sponsors, and owners.

The second purpose is to ensure that AHP funds are used in projects that demonstrate need and are used in compliance with the enabling statute 12 U.S.C. 1430 (j), the Federal Housing Finance Agency's (FHFA) AHP Regulation 12 CFR Part 1291, et seq., as amended from time to time (AHP Regulation), related FHFA Advisory Bulletins and Regulatory Interpretations, and the Bank's Policies and Procedures.

The third purpose is to ensure the appropriate and effective advice and counsel of the Bank's Advisory Council and appropriate review and oversight of the AHP by the senior management and the board of directors of the Bank, particularly through and by the directors who are members of the board's Housing and Community Development Committee.

### **II. Scope:**

Section 1291.3(a) of the AHP Regulation requires that the Bank develop an implementation plan detailing the administration of the AHP. The Bank's board of directors, after consultation with its Advisory Council, is required to adopt a written implementation plan that addresses certain criteria as detailed in the regulation.

The AHP Implementation Plan and Policy covers the AHP and Equity Builder Program processes and management, including application, disbursement transactions, compliance, and affordability retention.

### **III. Policy Statement: Affordable Housing Program Overview**

#### **A. Plan Elements**

- (1) The applicable median income standards adopted by the Bank consistent with the definition of median income for the area.

Income eligibility for recipient households in both owner-occupied and rental projects shall be based on median income standards for the area, as published annually by HUD, adjusted for family size, in effect at the time the household is qualified.

For the applications submitted in each competitive AHP round, the Bank will use the HUD Income Limits in effect on the opening day of the round.

For initiatives funded with housing tax credits, the income eligibility for recipient households in those projects shall be based on Multifamily Tax Subsidy Program (MTSP) median income standards for the area, as published annually by HUD, adjusted for family size.

In addition, the median income for an area, as determined by the Federal Financial Institutions Examination Council, will also be used in determining eligibility for the Economic Diversity scoring category (see Attachment B).

- (2) The requirements for the competitive application program established by the Bank.

The Bank's requirements for the competitive application program are included in this section and in Attachment A and B.

- (3) The requirements for any homeownership set-aside programs adopted by the Bank.

The Bank's requirements for a homeownership set-aside program are included in this plan as Attachment D.

- (4) The requirements for funding revolving loan funds, adopted by the Bank, can be found in Attachment E.

The Bank has opened the Affordable Housing Program up to eligible revolving loan funds requesting initial AHP subsidy funds for a specific project. Please see Attachment E for more information.

- (5) The requirements for funding loan pools, if adopted by the Bank.

The Bank is not adopting the funding of loan pools at this time.

- (6) The Bank's requirements for monitoring under its competitive application program and any homeownership set-aside programs, pursuant to § 1291.7.

The Bank's policies for carrying out its initial and long-term monitoring obligations under the competitive application program are included in this plan as Attachment C. The policies for the homeownership set-aside monitoring can be found in Attachment D.

- (7) Requirements, including time limits, for re-use of repaid AHP direct subsidy, if adopted by the Bank.

At this time, the Bank does not allow for re-use of repaid AHP direct subsidy in a project, unless approved as a Revolving Loan Fund initiative under Attachment E, or in certain competitive application ownership initiatives

where the land is held by a land trust or similar mechanism and where the AHP subsidy funds were used in conjunction with construction or development of the housing.

- (8) The retention requirements for projects and households under the competitive application program and any Bank homeownership set-aside programs.

The competitive program retention requirements can be found in Attachment C and the homeownership set-aside retention requirements can be found in Attachment D.

Additional plan elements are included below with individual headings or as attachments to this document, and are used in conjunction with the AHP Regulation.

## **B. Funding Allocation and Schedule**

Funds available from the Bank's annual contribution, based on applicable net income from the prior year and other sources, to the Affordable Housing Program will be allocated as follows:

- Homeownership Set-Aside Program –Fifteen percent, with one-third of the 15 percent allocated to first-time homebuyers. In no case, will the contribution to the Set-Aside Program be greater than 35 percent of the total funds available.
- Competitive Application Program – The remaining amount, after the calculation for the Homeownership Set-Aside Program, will be allocated to the competitive program.

Any additional recaptured or deobligated funds will be placed in the AHP competitive fund pool.

The Bank will conduct one competitive application-funding round. The schedule for the Competitive Application Program will be:

Application Period Opens:	Monday, June 25, 2018
Applications Due:	Thursday, August 16, 2018
Member Application Review Complete:	Thursday, August 23, 2018

A committee of the Bank's board of directors will review and recommend, and the full board will approve the applications at the December meetings.

Applications will be approved in descending order, starting with the highest scoring application, until remaining AHP funds are insufficient to fund the next highest

scoring application. In the last round of each year, the next highest scoring application may be funded with partial funds from the following year to ensure compliance with AHP Regulation (1291.12).

In addition, at least four (4) and up to the next six (6) highest scoring applications may be approved as alternates and may be approved for funding prior to the application deadline for the next competitive offering, if previously committed AHP subsidy funds become available. Funding of any alternates is at the sole discretion of the Bank.

In years when no amendments are made to the Plan, the Bank's board of directors will approve the dates of any subsequent funding rounds.

### **C. Additional District Eligibility Requirements Adopted by the Bank**

The regulation allows a Bank to require that a project receiving AHP subsidies meet one or more additional eligibility requirements adopted by the Bank's board of directors and included in the AHP Implementation Plan after consultation with the Advisory Council. The optional requirements include AHP subsidy limits, i.e. limits on maximum amount of AHP subsidy available per member each year, or per member, per project, or per project unit in a single funding period, or home-buyer or home-owner education/counseling, i.e. a requirement that a household complete a homeownership education/counseling program.

The Bank has established the following additional eligibility requirements for access to AHP subsidy:

- (1) There is no limit on the number of applications that a member may submit in any one round. However, in an individual round of the Affordable Housing Program, a member may not be awarded more than the greater of 25 percent of the total available AHP subsidy (rounded to the nearest 100 dollars). Funds will be awarded only to those individual project applications in which the AHP subsidy requests will be fully funded within each member's limit. If a scored application falls in a position in the scoring ranking where the AHP subsidy request would only be partially funded due to the overall member award eligibility, that application and all other lower scoring applications for that member will be ineligible. Any application deemed ineligible as a result of the member application limit will have a limited opportunity, as determined by the Bank, to find and commit another member.
- (2) For any one project in the round no more than \$500,000 of *direct subsidy* and no more than a maximum of \$1,000,000 total subsidy combined (direct subsidy and subsidized advance interest-rate subsidy) can be requested.

- (3) Homeownership applicants may not request more than \$30,000 per unit in AHP subsidy funds for any homeownership unit. An exception to this limit is made for revolving loan fund applications for use in a revolving loan fund project or program.

In addition, under the homeownership set-aside program, and competitive application program for applications seeking the First-Time Homebuyer points, the Bank requires that each household receive homeownership education/counseling. Although a minimum is not required, the Bank recommends a minimum of eight hours of home buyer education with a counseling component.

#### **D. Project Cost, Feasibility, and Scoring Guidelines (Introduction)**

The Bank has established guidelines for the review of a project's cost, financial feasibility, and need for AHP subsidy. These guidelines will be applied at the time of application, prior to the disbursement of approved AHP subsidies, in the course of any requested project modifications, and upon project completion. Application of these guidelines will determine the actual amount of subsidy awarded, funded, and remaining in an approved project.

The Bank will consider appropriate exceptions to these guidelines on a case-by-case basis substantiated by information and documentation justifying need to the satisfaction of the Bank for such exception. Project cost and feasibility/need for subsidy guidelines are included in this plan as Attachment A.

The Bank's scoring guidelines adopted are consistent with the regulation and are included in this plan as Attachment B.

#### **E. Use and Restrictions on Use of AHP Subsidy Funds**

Program funds may be used only for the direct costs of purchasing, constructing, or rehabilitating affordable housing. Uses include acquisition, construction, rehabilitation costs, related soft costs, interest-rate buy-downs, downpayment and closing-cost assistance, and matched-savings programs. Only those units that are affordable, as defined by the AHP Regulation, are eligible for funding.

Qualifying affordable housing is defined as follows:

- Homeownership housing for households with incomes at or below 80 percent of the median income for the area. Examples of eligible uses include single-family homes, cooperatives, condominiums, down-payment and closing-cost assistance, and in certain cases, mobile-home parks and/or mobile-home units.



- Rental housing in which at least 20 percent of the units are for households with incomes that do not exceed 50 percent of the median income for the area. Examples of eligible uses include multifamily rental housing, single-room-occupancy (SRO) housing, mobile home parks, and mutual housing.
- Note that depending on the use of the AHP subsidy funds, a mobile home park may be considered either rental or homeownership. For more information, please contact a member of the HCI staff.

The development sponsor must pass the benefits of the AHP funding (subsidy and advance principal) through to the initiative and/or end user. The developer/sponsor cannot retain any portion of the AHP funds as profit or for the purpose of additional development (excluding approved developer fees) or for capitalized or other project reserves. AHP funds may not be used for nonresidential space and may only be “recycled” in initiatives approved under the loan fund parameters.

Supportive services and commercial space associated with a development are ineligible for AHP funding.

AHP subsidies shall not be used to pay prepayment fees imposed by the Bank on a member in connection with the prepayment of a subsidized advance, unless:

- (a) The project is in financial distress that cannot be remedied through a project modification pursuant to Section 1291.5(f) of the AHP Regulations,
- (b) The prepayment of the subsidized advance is necessary to retain the project’s affordability and income targeting requirements,
- (c) Subsequent to such prepayment, the project will continue to comply with the terms of the application for the AHP subsidy, as approved by the Bank, and the AHP Regulations for the duration of the original retention period,
- (d) Any unused AHP subsidy is returned to the Bank and made available for other AHP projects, and
- (e) The amount of AHP subsidy used for the prepayment fee may not exceed the amount of the member’s prepayment fee to the Bank.

AHP subsidy shall not be used to pay for cancellation fees and penalties imposed by the Bank on a member for a subsidized advance commitment that is cancelled. AHP subsidy also shall not be used to pay for processing fees charged by members for providing direct subsidies to a project.

AHP subsidy can be used to pay for homeownership education/counseling costs where such costs are incurred in connection with education/counseling of homebuyers who purchase and AHP-assisted unit and where the cost of education/counseling has not been covered by another funding source, including the member.

AHP funds cannot be used to pay predevelopment costs (defined as costs to determine whether a proposed initiative is feasible) prior to receipt of all funding commitments.

This section (Section E.) applies to AHP subsidized advance principal and subsidy as well as AHP direct subsidy.

#### **F. Financing Costs of Loans Made in Conjunction with AHP Subsidy**

The rate of interest, points, fees, and any other charges for all loans that are made for the project in conjunction with the AHP subsidy shall not exceed a reasonable market rate of interest, points, fees, and other charges for loans of similar maturity, terms, and risk.

#### **G. Refinancing**

Refinancing is any new financing (loan or grant), the proceeds of which are used to pay off all or part of an existing loan or loans.

A competitive application project may use AHP subsidies (AHP subsidized advance or direct subsidies/grant) to refinance an existing single-family or multifamily mortgage loan, provided that the refinancing produces equity proceeds equal to at least the amount of the AHP used for refinancing and such equity proceeds up to the amount of the AHP subsidy in the project shall be used only for the purchase, construction, or rehabilitation of housing units meeting the eligibility requirements of the AHP Regulation. The Bank cannot count the amount of AHP used to refinance the loan toward purchase, construction or rehabilitation costs if these costs are not being paid by the owner's equity taken out as a result of the refinancing.

The regulatory basis for allowing an AHP-assisted refinance is to free up the owner's equity to use as a source of funds for eligible costs, resulting in the purchase, construction, or rehabilitation of AHP-eligible housing, and not to allow the sponsor to liquidate equity or to reduce the sponsor's debt service.

#### **H. Additional Review at Application**

The Bank scores only those applications that meet the eligibility requirements of the AHP Regulation. The department requires that applicants submit information for the Bank to:

- (1) Determine that the proposed project meets the eligibility requirements,
- (2) Evaluate the application pursuant to the scoring criteria in Attachment B.

Applications that are missing required exhibits may be considered by the department as incomplete and will not be scored.

AHP applications may also be determined to be ineligible and not scored if submitted by members or sponsors that are involved in previously funded AHP applications that are on the Watch List, or are more than 60 days delinquent in submitting required Semiannual Progress Reports, Annual Compliance Certifications or Periodic Monitoring Reports. AHP sponsors with previously awarded AHP initiatives may be deemed ineligible if they cannot demonstrate the capacity to simultaneously complete the projects. Final determinations are at the sole discretion of the Bank.

Other application and review requirements are listed in Attachment A.

#### **I. Submitting Member Financial Institution**

The regulation requires applications can only be accepted from financial institutions that are members of the Bank at the time that the application is submitted to the Bank.

However, if the member were to be subject to a merger, receivership, or other similar circumstance prior to the application's approval, the Bank would allow the sponsor opportunity to find and commit another member.

#### **J. Application Approval Conditions and Additional Requirements**

Following the review of all applications, under certain circumstances, approvals may be conditionally granted or additional requirements imposed on the project, member, or sponsor. These circumstances have included completion of prior initiatives, verification of member funding of homeowner mortgages in an ownership initiative, and verification of member funding in Habitat for Humanity initiatives.

These conditions/requirements included in the AHP Award Letter and are reviewed and must be satisfied prior to disbursement of any AHP subsidy funds.

#### **K. Time Limits on Use of AHP Subsidies**

Some or all of the AHP subsidies must be likely to be drawn down 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.

Extensions to the above requirements may be granted on a case-by-case basis, at the Bank's sole discretion, if in the Bank's judgment, sufficient evidence is provided documenting progress toward project completion and funding.

Projects not meeting the above standards or approved extensions are subject to cancellation by the Bank of AHP subsidy commitments.

#### **L. Subsidy Disbursement**

The Bank will disburse subsidies only to institutions that are members of the Bank at the time a draw down request is received. If an institution with an approved application for AHP subsidy withdraws from membership for any reason, the Bank may disburse AHP subsidies to a member of the Bank to which the institution has transferred its obligations under the approved application, or the Bank may disburse AHP subsidies through another Federal Home Loan Bank to a member of that Bank that has assumed the institution's obligations under the approved AHP application.

AHP subsidies must be disbursed by members to project sponsors for approved purposes within 90 days of disbursement by the Bank. A period longer than 90 days may be approved in advance in writing by the Bank where it is deemed necessary to assure the successful completion of an approved project, subject to such terms and conditions as the Bank deems appropriate to assure full and proper use of AHP funds. When AHP funds will not be disbursed within the 90 days, it will be required that the member disburse the funds to an interest-bearing escrow account in the sponsor's name.

For additional information on AHP subsidy disbursement, please see Attachment C.

#### **M. Verification of Compliance at Disbursement**

Prior to funding initial disbursements of AHP subsidy to approved projects, the Bank will obtain information and pertinent facts and conduct a financial review to verify that the project/program meets and maintains compliance with the regulatory eligibility requirements and feasibility standards of the Implementation Plan and all scoring items identified as "Qualifying Characteristics" in the approved application. Applicant members or sponsors are required to provide the Bank with any and all information necessary for the Bank, in its sole judgment, to ensure compliance prior to funding.

For more information on the disbursement process, please see Attachment C.

#### **N. Project Completion Definitions**

For rental projects, project completion will be achieved at the issuance of a certificate of occupancy (CO) issued by the local jurisdiction or, if the local

jurisdiction does not issue such a CO, then the development will be deemed complete when the sponsor determines that the development has reached 80 percent occupancy by eligible tenants and all of the AHP funds have been disbursed by the Bank and passed through to the sponsor for the project.

In ownership projects, the project completion date will be the closing date of the loan of the last homebuyer on the sale of the last home in the project.

**O. Modifications of Approved Applications and Changes in Subsidy Amounts**

Prior to or after final disbursement of funds to a project from all funding sources, or after completion of the project, the Bank, in its discretion, may approve in writing a modification to the terms of an approved application for subsidy funding the project if there is or will be a change in the project that would change the score that the project application received in the funding period in which it was originally scored and approved, had the changed facts been operative at that time, provided that:

- (1) The project, incorporating any such changes, would meet the regulatory eligibility requirements;
- (2) The application, as reflective of such changes, continues to score high enough to have been approved in the funding period in which it was originally scored and approved by the Bank; and
- (3) There is good cause for the modification and the analysis and justification for the modification are documented by the Bank in writing.

For interest-rate write-downs: In cases where AHP direct subsidy has been approved prior to closing to reduce the principal amount or the interest rate on a loan to a project (and an interest rate assumption was made in determining the amount of subsidy needed at the time of approval), the final amount of subsidy awarded may be subject to change due to interest rate changes.

For subsidized advances: If the amount of subsidy required to maintain the debt service cost for the loan decreases from the amount of subsidy initially approved by the Bank due to a decrease in applicable market interest rates between the time of approval and the time the lender commits to the interest rate to finance the project, the Bank shall reduce the subsidy amount accordingly.

Modifications involving any other increase in AHP subsidy will be approved or disapproved by the Bank's board of directors. The authority to approve or disapprove such requests will not be delegated to Bank officers or other Bank employees.

**P. Increases in AHP Subsidies**

All increases in AHP project subsidies, unless they are due to interest rate adjustments as provided in the AHP regulation, must be submitted through the competitive round process. The application should be submitted requesting the higher subsidy amount, not to exceed the per unit subsidy limit (for ownership applications) or the application subsidy limits for all applications in effect in the round in which the new award is made. If the new application is recommended for funding during the AHP application review, an amount equal to the prior subsidy for any approved applications that are resubmissions for an increase in AHP subsidy will be included in the total available pool amount for that round. This ensures that all funds that have been allocated to the program for the year are fully awarded.

Once the new application is approved with the new subsidy amount, and the award acceptance letter is returned, the original award will be withdrawn. The new award will be the effective award in all respects including, but not limited to, the Qualifying Characteristics, file number, and reporting and all other aspects of the transaction, including AHP retention.

**Q. Advisory Council-Related Requirements and Policies**

(1) Solicitation and Appointment of Advisory Council Members

The Bank's Advisory Council (Council) will consist of up to 15 members, at least two of whom will be appointed from each of the six states within the Bank's District and at least two will be appointed on a rotating basis from key leadership positions in the six state housing finance agencies or the six state departments of housing and/or community development within the Bank's district. Key leadership positions are defined as executive directors, chief housing officers, chief operating officers, or chief financial officers.

Each year, nominations for open Council positions (if any) will be solicited from the Bank's board of directors, member institutions, past and present Council members, and community and not-for-profit organizations.

The membership of the Council will be appointed by the board of directors of the Bank. In making appointments to the Council consideration will be given to the size of the Bank's District and the community-lending needs and activities within the District. Council members will be appointed from persons who reside in the Bank's District and are drawn from community, for-profit, and not-for-profit organizations actively involved in providing or promoting low- or moderate-income housing or community lending in the District.

(2) Terms

Members of the Council will be appointed for staggered three-year terms to provide continuity in experience and service to the Advisory Council. Advisory Council members are initially appointed to serve for one 3-year term with one option to be reappointed for a second 3-year term. Reappointments will be at the sole discretion of the Board. No Advisory Council member may be appointed to serve more than two consecutive 3-year terms.

(3) Election of Officers

The members of the Advisory Council will annually elect from among their membership a chairperson and vice chairperson.

(4) Duties

Council members will meet once each quarter with representatives from the Bank's board of directors. Council members will advise the board on ways that the Bank can better carry out its housing finance and community-lending mission, but not limited to, advice on the low- and moderate-income housing and community-lending programs and needs in the Bank's District, and on the use of AHP subsidies, Bank advances, and other credit products for these purposes.

By May 1 of each year, the Council will report to the Finance Agency the Council's analysis of the community-lending activities of the Bank. Within 30 days after the date the Advisory Council's annual analysis is submitted to the Finance Agency, the Bank shall publish the analysis on its publicly available website.

Advisory Council members may receive a stipend for serving on the Council. Council members will be reimbursed for 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 Agency.

The Advisory Council's advice to the board of directors and the Bank shall include recommendations on:

- The amount of AHP subsidies to be allocated to the Bank's competitive application program and any Bank homeownership set-aside programs;
- The AHP Implementation Plan and any subsequent amendments thereto;

- The scoring criteria, related definitions, and any additional optional District eligibility requirements for the competitive application program;
- The eligibility requirements and any priority criteria for any Bank homeownership set-aside programs; and
- Appointments of independent directors to the Bank's board of directors; and
- The Bank's Community Lending Plan and any subsequent amendments thereto.

The Bank shall comply with requests from the Advisory Council for summary information regarding AHP applications from prior funding periods.

A Bank's board of directors shall not delegate to Bank officers or other Bank employees the responsibility to appoint persons as members of the Advisory Council, or the responsibility to meet with the Advisory Council at the quarterly meetings required by the Act (12 U.S.C. 1430(j)(11)).

#### **R. Board of Directors-Related Requirements and Policies**

The Bank's board of directors, after consultation with its Advisory Council, shall be responsible for:

- Adoption of the AHP Implementation Plan and related policies required pursuant to § 1291.3 of this part; and
- Approving or disapproving the applications for AHP subsidy pursuant to §1291.5(e) of this part.

Prior to adoption of the Bank's Implementation Plan, and any subsequent amendments thereto, the Bank will provide the Advisory Council an opportunity to review the plan and any subsequent amendments and the Advisory Council shall provide its recommendations to the Bank's board of directors.

**The Bank's board of directors shall not delegate to Bank officers or other Bank employees its responsibilities as set forth in the AHP Regulation** or the responsibility for adopting its homeownership set-aside program policies, which can be found in Attachment D.

Other duties include, but are not limited to:

- Appointment of the Advisory Council members.



- Quarterly meetings with the Advisory Council to solicit advice on ways in which the Bank can better carry out its housing finance and community-lending mission, as noted in the previous section.
- Approval, or disapproval, of modifications involving increases in subsidy. The authority to approve or disapprove of such requests shall not be delegated to Bank officers or other Bank employees.

#### **S. General**

The Bank will submit amendments of its AHP Implementation Plan to the Finance Agency within 30 days after the date the Bank's board of director's approves such amendments.

The Bank shall publish its current AHP Implementation Plan on its publicly available website, and shall publish any amendments to the AHP Implementation Plan on the website within 30 days after the date of their adoption by the Bank's board of directors.

The Bank will provide such reports and documentation concerning the AHP as the Finance Agency may request from time to time.

The Bank has developed (and will continue to develop) policies and procedures to both administer this plan and the remaining portions of Section 1291 of the Code of Federal Regulations, as amended. The policies and procedures are available upon request.

#### **T. Conflicts of Interest**

The Bank's board of directors has adopted a written policy regarding conflict of interest. The policy applies to Bank directors, employees, and Advisory Council members.

During the AHP application review, employees will recuse themselves from reviewing any member applications for which they have or appear to have a conflict of interests. The Community Development Advance Manager will maintain a record of such recusals and their respective reasons as part of the master file for each round.

#### **U. Fraud Reporting Requirements**

The Bank has established policies and is committed to implementing and maintaining processes and controls to discover fraud. Participating parties in the AHP and EBP programs are expected to support the Bank's efforts in addressing fraud by immediately providing written notification of any suspected fraudulent activity in relation to their dealings with the Bank. The Bank will require all

participating parties to commit in writing to (i) notify the Bank immediately if they discover or suspect an instance of fraud related to a Bank business transaction, which may include any material misstatement, misrepresentation, or omission, and (ii) to provide the Bank with all information, documentation and assistance reasonably requested by the Bank in response to the Bank's receipt of any such notice from such participating party.

#### **IV. Administration:**

##### **A. Roles and Responsibilities**

- (1) Owner. The First Vice President/Director of Housing and Community Investment shall be the Owner of this Policy, responsible for maintaining (including reviewing and updating) this Policy.
- (2) Authorized Approver. The Bank's Board of Directors shall be authorized to approve all changes to this Policy, following recommendation by the Advisory Council.

##### **B. Governance**

- (1) Re-Adoption Frequency. The Owner of this Policy will be responsible for presenting this Policy, as updated, for re-adoption by the Authorized Approver at least once every year. The Owner will also present this Policy for re-adoption by the Authorized Approver at any time that the Owner determines that a change is appropriate.
- (2) Review Frequency: The Owner of this Policy is expected to review and update this Policy on at least an annual basis, and to revise/update this policy (for re-adoption by the Authorized Approver) whenever the Owner deems such a revision/update to be necessary or appropriate.

##### **C. Exception Management/Policy Interpretations**

- (1) Approval of Exceptions. All exceptions under this Policy must be approved by the First Vice President/Director and/or Vice President/Deputy Director of Housing and Community Investment of the Bank and reported to the Authorized Approver.
- (2) Responsibility for Interpretations. First Vice President/Director and/or Vice President/Deputy Director of Housing and Community Investment of the Bank are responsible for all interpretations of this Policy.

**V. Compliance Monitoring:**

The First Vice President/Director and/or Vice President/Deputy Director of Housing and Community Investment shall be responsible for setting up and maintaining procedures designed to monitor compliance with this Policy.

**VI. Applicable Laws Regulations and Guidance:**

The following provisions of the Federal Home Loan Bank Act and FHFA regulations are applicable to this Policy:

- 12 USC 1430(j)
- 12 CFR Part 1291
- 12 CFR Part 1233

FHFA Advisory Bulletins and Regulatory Interpretations related to the AHP and EBP programs are also applicable to this Policy.

**VII. Related Policies; Procedures:**

The following Procedures have been adopted to implement this Policy:

- Affordable Housing Program Procedures
- Equity Builder Program Procedures

The following Bank policies cover subject matter that is related to this Policy:

- Products and Solutions Guide

**VIII. Glossary/Definitions:**

The following defined terms are used in this Policy:

***Builder's Overhead:*** Builder or general contractor's main office overhead. This is a builder's allowance for costs associated with a new construction or rehabilitation project that does not include the direct cost of wages or materials, (*i.e.*, office staff, rent, utilities, corporate legal, accounting, employee benefits and payroll taxes, job site supervision, tools and equipment, mileage, general liability insurance, etc.) Bond premium and building permits are not included in this category.

***Builder's Profit:*** Profit charged by builder or general contractor. Bond premium and building permits are not included in this category.

**Co-sponsor:** A not-for-profit or for-profit organization or public entity that is partnering or affiliated with the lead sponsor for the purpose of developing and/or operating a rental or homeownership housing initiative. Generally, in a rental initiative, the co-sponsor entity has site control or an ownership interest in the land, building, or property(ies) or other interest, such as exercising control over the planning, development, or management of the initiative. Generally in a homeownership housing initiative, the co-sponsor may have site control or an ownership interest in the land, building, or property(ies) or otherwise be integrally involved in the initiative, such as exercising control over the planning, development or management of the initiative, or by qualifying borrowers and/or providing or arranging financing for the homebuyers or owners of the units.

**First-time Homebuyers:** First-time homebuyers are defined as (from 42 U.S.C. § 12704(14)) “...an individual and his or her spouse who have not owned a home during the three-year period prior to purchase of a home, except that —

(a) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse;

(b) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse; and

(c) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such three-year period, a dwelling unit whose structure is—

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

(ii) not in compliance with state, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.”

**General Requirements:** Builder or general contractor’s on-site overhead. (*i.e.*, superintendent or project supervision, construction office and storage trailers, temporary utilities, equipment rental, clean up, dumpsters, closeout documentation, personnel, facilities, travel expenses, or safety, etc.). Bond premium and building permits are not included in this category.

***Initiative and Project:*** Are synonyms used interchangeably throughout the document to refer to the subject application or approved application.

***Owner-occupied unit:*** A dwelling unit occupied by the owner of the unit as the owner’s primary residence. Eligible units include a one -to four-family property, a condominium or cooperative housing unit, manufactured housing and/or mobile homes. For manufactured housing or mobile homes to be eligible they must meet HUD or Fannie Mae guidelines and be anchored to the ground on property owned by the borrower.

**IX. Policy History Log:**

<b>Date Approved</b>	<b>Purpose</b>	<b>Author</b>	<b>Approved by</b>
06/29/2012	<i>Synchronization of AHP and EBP Policies and AHP Implementation Plan into one document and removal of procedures into separate documents.</i>	M. E. Jutras	Board of Directors
07/20/12	Revised to remove Revolving Loan Fund application threshold which was not presented or approved by Board (Attachment E, Section B).	M.E. Jutras	n/a
12/21/12	Revised to incorporate changes for the 2013 Equity Builder and Affordable Housing Programs	M.E. Jutras	Board of Directors
03/22/13	Revised to incorporate final changes for the 2013 Equity Builder and Affordable Housing Programs	M.E. Jutras	Board of Directors
12/20/13	Revised to incorporate changes for the 2014 Equity Builder Program and partial changes for the 2014 Affordable Housing Program.	M.E. Jutras	Board of Directors
03/21/14	Revised to incorporate changes for the 2014 Affordable Housing Program.	M.E. Jutras	Board of Directors
06/27/14	Revised to incorporate implementation of the Advisory Bulletin (AB-2013-08).	M.E. Jutras	Board of Directors
12/19/14	Revised to incorporate changes for the 2015 Equity Builder Program and partial changes for the 2015 Affordable Housing Program	M.E. Jutras	Board of Directors
3/20/15	Revised to incorporate changes for the 2015 Affordable Housing Program	M.E. Jutras and T. Noell	Board of Directors

<b>Date Approved</b>	<b>Purpose</b>	<b>Author</b>	<b>Approved by</b>
12/18/15	Revised to incorporate changes for the 2016 Affordable Housing Program	M.E. Jutras/T. Noell	Board of Directors
03/18/2016	Revised to incorporate changes for the 2016 Affordable Housing Program	M.E. Jutras/T. Noell	Board of Directors
12/16/2016	Revised to incorporate changes for the 2017 Affordable Housing Program	M.E. Jutras/T. Noell	Board of Directors
12/15/2017	Revised to incorporate changes for the 2018 Affordable Housing Program	M.E. Jutras/T. Noell	Board of Directors

## **X. Attachment A —**

### **2018 Affordable Housing Program Project Cost and Feasibility Guidelines**

The Federal Home Loan Bank of Boston's (Bank) Housing and Community Investment department will evaluate the Affordable Housing Program (AHP) applications, modifications to any project or its approved qualifying characteristics, requests for the disbursement of AHP subsidy funds, and the Closeout Monitoring of a project at completion using the following guidelines. These guidelines are benchmarks and will be used as the basis for rejecting or disqualifying an application, or other request, or reducing the amount of subsidy requested.

Review of AHP applications includes, first, a scoring review, and second, a feasibility analysis in order to determine overall program eligibility, regulatory compliance, and to select applications for award and alternate status. Following a preliminary scoring run, the Bank reserves the right to review the applications that score high enough to be awarded funding or alternate status, plus the next five to ten highest ranked applications. At the discretion of the Bank, the remaining applications may not be reviewed for scoring or feasibility analysis.

The feasibility review will encompass the qualifying characteristics of the application, the financial information contained in the application, the relevant exhibits, and the information submitted to support a disbursement request or to answer a Bank inquiry. The application's initial and subsequent sources and uses information, development budget, detailed construction budget, operating pro forma, market analysis, and the need for the requested subsidy will be reviewed. Additionally, the Bank will review the readiness of the project to proceed, the completeness of the project's development program and its financing arrangements.

The experience of the sponsor and its development team to undertake, construct and operate the project will also be considered. As part of that consideration, the Bank will review the previous experience of the member and the sponsor in complying with the requirements of the Bank's AHP. Such experience will be an indication of the performance of the sponsor and member in complying with such requirements on any new application(s).

The Bank reserves the right to review all project costs, related expenses, and fees, whether or not the items are listed as part of these guidelines. An application or disbursement request may be rejected or disqualified for unexplained or excessive costs or fees. Projects that vary from the guidelines will be evaluated further to establish the reasonableness of the variation. The Bank expects all data and documentation provided with the AHP application to be generally consistent with the information provided to all other funders and proposed funders. The Bank reserves the right to discuss this AHP application with other funders and proposed funders. Substantive differences in information and documentation presented to the Bank and other funders may result in the disqualification of the application.

Furthermore, applications will be reviewed as submitted at the close of the application funding round. While clarifications may be accepted, any significant changes or revisions occurring during the funding round will not be considered and may result in disqualification.

As it relates to the guidelines that follow, all determinations made by the Bank with respect to any application or modification thereto, disbursement or other request, or monitoring of a project shall be in the Bank's sole discretion.

**Please note: Any application outside of any of the guidelines outlined in this section will require an explanation of the variance. Explanations must be quantifiable in relation to the amount by which the guideline is not met. The Bank will consider appropriate exceptions to these guidelines on a case-by-case basis substantiated by information and documentation justifying need to the satisfaction of the Bank for such exception. Acceptance of any variations will be accepted at the sole discretion of the Bank.**



**For all applications and disbursement requests:**

<b>Item</b>	<b>Range/Guideline</b>
<b>Consideration as a Project</b>	<p>The Bank determines, in its sole discretion, what constitutes a “project.” Factors the Bank may consider include the ownership structure of the project, how the final legally enforceable retention agreement is secured to the real property, how other funders are defining a project, the presence or absence of immediately contiguous “projects” with the same sponsor(s) or owner(s), and how costs are allocated and accounted for (e.g. one cost certification).</p> <p>For example, but not limited to these examples, any of the following may affect consideration of an initiative as an AHP project. If an initiative:</p> <ul style="list-style-type: none"><li>• Has more than one owning entity separately owning parts of the project;</li><li>• Is located in more than one state; or</li><li>• Is part of a larger project where both pieces are viewed and funded by other funders as one project?</li></ul> <p>Once approved, the project owner, the project sponsor, and the member financial institution must promptly report to the Bank's Housing and Community Investment department any material changes in the financial structure of the project, including but not limited to, any new sources of funds, failure to receive other project-related funds and compensated tax credit utilization, or any other material changes in the project's scope and terms. Any of these may affect the consideration as an AHP project, its approval, or maintenance of its approval.</p>
<b>Qualifying Affordable Housing</b>	<p>An initiative must be either an owner-occupied or a rental project as follows:</p> <ul style="list-style-type: none"><li>• <b>Homeownership housing</b> for households with incomes at or below 80 percent of the median income for the area.</li><li>• <b>Rental housing</b> in which at least 20 percent of the units are for households with incomes that do not exceed 50 percent of the median income for the area.</li></ul> <p>Note that depending on the use of the AHP subsidy funds, a mobile home park may be considered either rental or homeownership. For more information, please contact a member of the HCI staff.</p>

### **Qualification of Households**

Using the Bank's standard income calculation guidelines:

- **Homeownership:** A household must have income meeting the AHP income targeting commitments made in the AHP application at the time that it is qualified by the project sponsor for participation in the project.
- **Rental:**
  - A household must have an income meeting the income targeting commitments in the AHP application upon initial occupancy of the unit, or
  - For projects involving the purchase or rehabilitation of rental housing that already is occupied, a household must have an income meeting the income targeting commitments at the time of application to the Bank for AHP subsidy.

### **Sources and Uses of Funds**

The project's estimated uses of funds must equal its estimated sources of funds, as reflected in the development budget. An initiative's sources of funds must include:

- a. Any cash contribution by the sponsor, any cash from sources other than the sponsor, and estimates of funds the project sponsor has obtained, or intends to obtain, from other sources, including funds that have not yet been committed to the initiative (attach any commitment letters received as part of the application);
- b. Schedules for housing development and operating costs. The sources and uses budgets of an application are required to document the costs for the housing proposed. AHP funding cannot pay for ineligible costs, commercial space, social, or other non-housing services;
  1. Both a housing-only and a total development sources and uses budget are required of both homeownership or rental initiatives when the initiative includes commercial or other non-residential space, separate from the AHP-eligible residential space. For rental initiatives, a fifteen-year housing-only and total operating pro forma is also required. In the housing-only budget and operating pro forma, do not include income generated by social services provided, commercial income, or other revenue sources, unless they pay for housing development or operating costs, and if they do, include only the portion paying housing costs;
  2. The Bank expects all data and documentation provided with the AHP application to be generally consistent with the information provided to all other funders and

prospective funders. At the time of application, those applications which have received commitment for funding from a major funder are expected to submit the development sources and uses which are consistent with the information reviewed by the major funder.

- c. In the case of homeownership projects where the sponsor extends permanent financing to the homebuyer, the Bank reserves the discretion to include the estimated market value of in-kind donations and voluntary professional labor or services (excluding the value of sweat equity) in the total development budget sources and uses. However, the sponsor's cash contribution shall include the present value of any payments the sponsor is to receive from the buyer, which shall include any cash downpayment from the buyer, plus the present value of any purchase note the sponsor holds on the unit. If the note carries a market interest rate commensurate with the credit quality of the buyer, the present value of the note shall equal the face value of the note. If the note carries an interest rate below the market rate, the present value of the note shall be determined using the market rate to discount the cash flows. (See the section titled "For all ownership applications and disbursement requests.")

### **Initiative Costs**

In general, costs reflected in the development budget must be reasonable, in accordance with these feasibility guidelines.

### **Cost of Property and Services Provided by a Member**

The purchase price of property or services, as reflected in the development budget for the initiative, sold to the project by a member providing AHP subsidy to the project, or, in the case of property, upon which the 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 by a member that is sold to a sponsor for this initiative by the member providing AHP subsidy to an initiative, or property sold to the sponsor upon which the member holds a mortgage or lien, the market value of such property deemed to be the "as-is" value of the property or "as-rehabilitated" value of the property, whichever is appropriate. The value should be as reflected in an independent appraisal of the property performed by a state certified or licensed appraiser, within six months prior to the date the Bank disburses AHP subsidy to the project.

**Operational Feasibility  
and Need for Subsidy**

The initiative must be operationally feasible, in accordance with the feasibility guidelines, based on relevant factors including, but not limited to, applicable financial ratios, income and expense trending factors, geographic location, needs of residents, and other nonfinancial application characteristics.

The requested AHP subsidy must be necessary for the financial feasibility initiative, as currently structured, and the rate of interest, points, fees, and any other charges for all loans financing the application must not exceed a market rate of interest, points, fees, and other charges for loans of similar maturity, terms, and risk.

In general, the initiative should not show any annual operating deficits during the fifteen-year operating period; in such event, the operating proforma should show how sufficient cash flow or reserves make up any deficits.

**AHP Subsidized Advances  
and Corresponding Loans**

The rate of interest, points, fees, and any other charges for all loans financing the application, including AHP subsidized advances, must not exceed a market rate of interest, points, fees, and other charges for loans of similar maturity, terms, and risk.

In addition, instances in which the member lends the AHP Subsidized Advance to another financial intermediary that will be the permanent lender, the Bank will review each loan and at no point will the individual or combined loans exceed the standard market rate of interest, points, fees, spreads, and other charges for loans of similar maturity, terms, and risk.

All loans funded by the AHP Subsidized Advance – whether member or financial intermediary – must be match funded to the AHP Subsidized Advance.

For more information on AHP subsidized advances, please see **Subsidized Advance Subsidy Calculation** on page 12 of this Attachment A.

**Useful Life**

The project must be feasible for a useful life that is at least as long as the retention period. The initial development work along with repair and replacement reserves must support the physical asset through the appropriate period.

<b>Out of District Initiatives</b>	For any applications submitted for initiatives located outside of the First District (New England) the submitting member(s) may be requested to perform additional monitoring and/or certifications as required by the Bank to ensure compliance with Bank policies/procedures and the AHP Regulation.
<b>Projects Completed or In Construction at Time of Application</b>	If an application is received from an initiative that is complete with a funding gap or will be completed during the round or shortly after the round, additional documentation will be required to substantiate the current development cost. Documentation such as AIA Form G702 – Architect’s and Contractor’s Certificate of Payment or certified schedule of values, or other cost documents.
<b>Pass-through of AHP Subsidy</b>	<p>The member must pass the benefits of the AHP funding through to the initiative and the end users. The developer/sponsor may not retain any portion of the AHP funds as profit or for the purpose of additional development other than the approved developer fees. Evidence of the actual use of the subsidy will be required once the initiative has been completed.</p> <p>(i) Owner-occupied initiatives. The amount of AHP funding should pass directly through to the targeted end user. This benefit should be demonstrated in the application specifically by unit/house type.</p> <p>(ii) Rental initiatives. The amount of AHP funding and/or reduced interest should pass directly through to the rental development.</p>
<b>Market Data</b>	<p>Evidence of the need for the type of development and the units proposed. For rental projects this information should include market rental, occupancy, turnover, and absorption data for the geographic location. For homeownership projects this information should include comparable housing prices and occupancy data for the geographic location. For both types of projects this data must relate directly to the affordability targets, the needs of the tenants, and demonstrate feasibility.</p> <p>Existing and occupied rental properties may be exempt from the additional market data requirement when the application confirms that the subject property(ies) are occupied with residential tenants and that the property(ies) will continue to be operated in its current residential use. A current tenant income and rent roll at the time of AHP application will be required on the FHLB Boston</p>

AHP template. If as a result of this application, the residential purpose of the property(ies) is changing from the current use, evidence of the need for the type of development and the units is required, however.

Applications from owner-occupied initiatives will be exempt from the additional market data requirements when the sponsor can confirm that income-eligible households have been selected for all of the AHP-eligible units; in the case of owner-occupied rehabilitation initiatives, the sponsor must confirm that income-eligible homeowners have been selected for all of the AHP units.

**Fair Housing**

The initiative, 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 initiative will be affirmatively marketed and identify the responsible party (or parties).

**Readiness of Project  
Time Limits**

Must provide a development schedule that demonstrates the ability to be completed, including the use of all AHP funds, within twenty-four months of the award. Occupancy is expected within a reasonable time after completion. Exceptions will be considered at the Bank's sole discretion.

**Readiness of Project**  
**Site Control**

At the time of application, demonstrate site control of 100 percent of the location(s) through:

- Deed in the name of the Sponsor or ownership entity in which the Sponsor has an “ownership interest;”
- Executed purchase contract or current option to purchase;
- Executed lease or current option to lease for a term of at least 20 years;
- Resolution from the local government or other organization that is committing to transfer the property describing the terms of the commitment, the transfer price, and the location of the property; or
- In the case of acquisition of properties vacant due to foreclosure, the sponsor must provide an executed and notarized agreement with the owners of such properties that the sponsor will be allowed to acquire properties in the areas identified and at the acquisition costs identified in the application within six months after project approval.

Site Control is a mandatory threshold requirement. The Bank reserves the right to set aside any application which fails to fully demonstrate site control. The Site Control requirements do not apply to mortgage financing programs, downpayment/closing cost assistance programs, owner-occupied rehabilitation initiatives, or program-related Revolving Loan Fund applications.

**Readiness of Project**  
**Funding Commitments**

At the time of application, the project must demonstrate that all funds will be committed within 12 months of the award for all funding sources, including investors for tax credits and bonds. Acceptability of commitments is determined at the discretion of the Bank.

**Readiness of Project**  
Zoning

At the time of application, demonstrate that the project complies or will comply with current zoning within 12 months of the AHP award. Evidence at the time of compliance may consist of:

- A municipal or planning commission resolution,
- Letter from local municipal officials,
- A permit or a legal opinion from the municipality's or the developer's attorney indicating that the project complies with the zoning for the project area, or
- Other evidence of existing conforming use.

If the project is undergoing challenges to a grant of zoning relief, the Bank will secure the necessary documentation and make a determination whether the project meets this benchmark. This benchmark does not apply to owner-occupied rehabilitation projects.

**Capacity of the sponsor and development team**

Development and organizational capacity on the part of the sponsor and the related development team is vital for successful AHP development. For rental initiatives, this includes property management expertise. The Bank will review and make determinations at its sole discretion. Review includes but is not limited to: the staff's expertise, the record of successful similar developments on the part of the sponsor or its related development team, and the sponsor's current proposed development pipeline. This assessment will also include review of the sponsor's previous performance and all team members' participation in previous AHP developments and satisfaction that their AHP projects are in compliance with the regulation and that all required reports have been submitted.

If the sponsor/owner does not have affordable housing development experience, it is recommended that a development consultant be obtained and included on the development team.

If sponsor/owner is not experienced in property management, the Bank may require that an experienced property manager be engaged.

If a sponsor's most recent audit report is qualified by an opinion of "going concern" disclosure, the sponsor and application are not eligible for the AHP scoring for funding until the financial condition that resulted in the "going concern" disclosure is resolved.

In addition, the following will be required:



- Current (within two months of the opening of the AHP funding round) Certificate of Good Standing from its state of formation, or its equivalent (as determined in the Bank's sole discretion) for each sponsor. In Connecticut, this is the Certificate of Legal Existence issued by the Secretary of State. In Massachusetts, this is the Certificate of Good Standing issued by the Secretary of the Commonwealth. Maine, New Hampshire, Rhode Island, and Vermont each use a Certificate of Good Standing issued by the applicable Secretary of State's office.
- For each sponsor, submission of Bank-supplied statement on the sponsor's letterhead, signed by the sponsor's board chair, dated no more than two months before the opening of the AHP funding round. In the case of a for-profit sponsor that does not have a board of directors, the statement may be signed by the chief executive officer of the organization. Statement will include status of current obligations and verification of compliance with all major funders including loan and tax payments.

**Identity of Interest**

Organization documentation appropriate to the type of organization is required, including 501(c)(3) nonprofit certificate, articles of incorporation (housing authorities), or other as requested by the Bank.

In addition, financial statements, IRS tax returns, and other information may be requested by the Bank.

All members and sponsor developers/owners will disclose any relationships involved in the development of the initiative. The information will identify the relationship, if any, of all persons who will benefit financially from the proposed development. When an identity of interest exists, the Bank reserves the right to evaluate the cost reasonableness of that service and/or work to be performed and accept or reject the item or the application.

**Submission/calculation errors**

Calculations in the application, exhibits, and disbursement requests are to be free of errors and consistent throughout. Applications with submission errors, omissions, or inconsistencies that result in an incomplete feasibility analysis will not be scored at the department's discretion.

**Construction/  
Rehabilitation Cost**

Using industry construction cost data, typically RS Means, portfolio or round data, the reasonability of costs on a per square foot or per unit basis will be determined by the Bank. When using RS Means' data, a factor of 10 to 12 percent will be applied to account for the additional costs of building affordable housing.

If initiative involves rehabilitation and a capital needs analysis has been performed, it should be included with the application.

If using a square foot construction cost comparison for new construction or substantial rehabilitation initiatives, the per square foot construction cost is not to exceed the limits on a gross residential square footage basis, unless an acceptable explanation is provided. Square Footage is calculated using a building's first level footprint square footage, and adding the square footage of other levels (except basements and attics), to determine total square footage. Portions of basements, attics, and cantilevered sections used for living space shall be included (attic living areas are measured from knee wall to knee wall and gable end to gable end, where applicable). Square foot construction cost is determined by dividing the total hard costs by the project's square footage.

Additional information will be available from the Bank and posted on the web site on or before the opening date of the round.

### **Member Underwriting**

Member underwriting/analysis/evaluation is required whether a subsidized advance or a direct subsidy (grant) is being requested. It is expected that the member's senior management will review and approve the AHP application. Similarly, the member has the responsibility to evaluate and be satisfied with the sponsor's and/or borrower's:

- Credit standing,
- Development experience, and
- Performance track record.

The evaluation should include the above items as well as an analysis that the initiative is financially and physically feasible. In evaluating the project's financial feasibility and viability, the member should indicate its analysis relative to compliance or deviation with its underwriting standards of the project's:

- Debt service coverage ratio,
- Loan-to-value,
- Loan-to-cost ratios, and
- Operating income and expenses.

**A copy of the underwriting/analysis/evaluation should be included with the term letter or application.**

The Bank will neither perform nor be responsible for the underwriting of the application for the member or the evaluation of the credit record or track record of the sponsor or borrower for the member.

**Subsidized Advance  
Subsidy Calculation**

Amortizing subsidized advances (loans) with terms of 10 years or greater, up to a term of 20 years with an amortization of 30 years are available. AHP Advance Subsidy is used to write down the Federal Home Loan Bank of Boston's (Bank's) cost of funds on the loan to the member. Subsidy is not used to write down the member's cost of funds. AHP subsidized advances are lent to the member, who adds a spread and lends to the project.

At application, the Bank uses a calculated forward cost of funds to determine the amount of subsidy necessary to provide the interest rate as requested in the application. The rate on the loan from the Bank to the member cannot be less than zero percent. The rate used to calculate the subsidy is based on an anticipated draw down 18 months from AHP approval.

Following approval, two options are available: either a rate guarantee with a mandatory take down, or if a mandatory take down cannot be committed to, there will be no interest guarantee, but the amount of interest subsidy will remain available, provided progress is acceptable. Rate, principal, and term may be adjusted.

To estimate the approximate amount of subsidy funds that will be committed to a specific AHP advance, the following calculation may be done on a Hewlett Packard 12C, equivalent, or spreadsheet. These procedures apply only to an amortizing AHP advance, and they yield only an estimate of the subsidy associated with the advance. Please note that these instructions are provided for your information only. All actual calculations will be done automatically in the online AHP application.

**Example (this example is an approximation):** Assume an amortizing AHP advance of \$500,000 at 3.0 percent for 20 years (with a 20-year amortization period) is being requested by the member. Assume the 18-month (in the application we will use a 22-month rate to accommodate the application and review period) Community Development advance forward-calculated rate for a 20-year amortizing advance is 4.17 percent.

	Enter:	500,000 PV	(advance amount)
	Enter:	240n	(term in months)
Using HP- 12C Calculator	Enter:	.2500000i	(advance rate of 3.0 percent expressed as a monthly rate) [3.0÷12]
	Enter:	PMT	(= -2.722,987989)
	Enter:	.3475000i	(CDA rate of 4.17 percent expressed as a monthly rate) [4.17÷12]
	Enter:	PV	(present value = 450,910.2555)
	Enter:	500,000-	(advance amount)
	Enter:	CHS	(change sign)
	<b>Answer:</b>	<b>\$49,089</b>	<b>(rounded interest subsidy associated with requested AHP amortizing advance)</b>

*Current Federal Home Loan Bank of Boston rates are available at the Bank's web site, [www.fhlbboston.com](http://www.fhlbboston.com). Forward rate indications are available upon request. For assistance with the estimated calculation, contact Housing & Community Investment staff at 1-888-424-3863.*

**For all rental and co-operative ownership applications and disbursement requests:**

<b>Item</b>	<b>Range/Guideline</b>
<b>Acquisition Costs</b>	<p>Acquisition costs for all AHP initiatives must be clearly substantiated and cannot exceed the appraised value, as documented by an independent appraisal from a state licensed or certified appraiser. Such appraisal must be dated within six months prior to the date of closing/transfer.</p> <p>The Bank pays particular attention to acquisition costs as they relate to turnkey, acquisition-only, non-arm's-length/related-party, tax credit recapitalization, high-cost or other initiatives.</p> <p>In initiatives where the sponsor is using LIHTC to recapitalize and rehabilitate the property, the Bank will review the transaction and the proceeds from the sale to determine what is appropriate for distribution and what is available for reinvestment in the initiative to be eligible for any AHP subsidy.</p> <p>Other documentation, such as AIA Form G702 – Architect's and Contractor's Final Certificate of Payment, Certified Public Accountant's Final Cost Certification, contractor's final and certified schedule of values, or other final cost documentation, may be considered at the sole discretion of the Bank.</p> <p>The Bank reserves sole discretion to review acquisition costs at application and during AHP monitoring, and to request additional documentation as needed, to determine the acceptability of costs and fees, and whether or not the project qualifies to receive any AHP subsidy notwithstanding the proposed use of AHP subsidy.</p>
<b>Soft construction cost</b>	Typically, 15 to 30 percent of total development cost.
<b>Hard cost contingency</b>	Typically, 5 to 10 percent of hard construction cost for new construction.  7.5 to 15 percent of hard construction cost for rehabilitation.

<b>Item</b>	<b>Range/Guideline</b>
<b>Developer fee</b>	<p>Typically, the developer's fee includes any developer overhead, fee and development consultant costs, the total of which shall not exceed 12.5 percent of total development cost, net of fee. However, if a primary funding source (such as the Low Income Housing Tax Credit program or HUD) allows a higher fee or requires a lower fee amount, the allowed amount of the developer fee of the AHP shall be the same, net of fee. In such case, any allowed developer fee in excess of 12.5 percent, net of fee, must be loaned back into the development, treated as equity or paid out of surplus cash flow in reasonably even installments, as available, over the 15 year retention period, at a market rate of interest. In any other case, whenever the amount of developer fee proposed is in excess of 12.5 percent, net of fee, the developer fee and the requested subsidy amount will be proportionately reduced.</p> <p>On acquisition-only initiatives, the developer fee is limited to five percent of the total development cost, net of fee.</p>
<b>Builder's overhead, profit and general requirements</b>	<p>Typically, maximum of 16 percent of hard construction costs, net of builder's overhead, profit, and general requirements and net of hard cost contingency. See <a href="#">Section VIII. Glossary/Definitions</a> for definitions of builder's overhead, builder's profit, and general requirements.</p>
<b>Tax credit sale (LIHTC)</b>	<p>The Low Income Housing Tax Credit (LIHTC) yield should reflect the current market conditions and the credit of the project. Required: 1) yield; 2) whether the yield provided is based on the tax credit application or the syndicator's letter of intent/partnership agreement; 3) name of syndicator; and 4) date the letter of intent or partnership agreement was signed.</p>
<b>Income and Expense Trending</b>	<p>Income should trend between 1 to 3 percent annually; expenses should trend between 2 to 4 percent annually; expenses should trend at least 1 percent greater than income, annually. All deviations should be explained and acceptability of explained deviations will be at the sole discretion of the Bank.</p>
<b>Vacancy rate (residential)</b>	<p>Typically, 5 percent (with Section 8), up to 10 percent depending on the market.</p>

<b>Item</b>	<b>Range/Guideline</b>
<b>Housing operating cost</b>	Typically, \$4,000 to \$8,000 per unit per year, excluding resident services and management fees.
<b>Replacement reserve</b>	Typically, \$250 to \$650 per unit per year.
<b>Operating reserve</b>	Typically, no more than six months of operating expenses including debt service and replacement reserves. Also required: 1) Source(s) utilized to fund the reserves, 2) the purpose of the reserve, 3) if the reserve is required, and if so, by whom, 4) anticipated draws on the reserve, and 5) reserve balance at Year 15.
<b>Management fee</b>	Typically, 5 to 8 percent of rents, net of vacancy reserves, for 50 plus unit projects.
<b>Debt service coverage ratio</b>	Typically, \$30 to \$75 per unit/per month for 1 to 50 unit projects.  Typically, 1.0:1 up to 1.30:1 with the replacement reserves being treated as an expense, and the funding of operating reserves being treated as income (but identified separately on the proformas). The funding of operating reserves should not be reflected in the Net Operating Income (NOI) or in the calculation of the debt service coverage ratio and be set-aside from the cash flow.
<b>Net Cash Flow as a percent of Effective Gross Income</b>	The 1.0:1 up to 1.30:1 range is for hard debt only. Soft debt will not be considered in the calculation. Hard debt is defined as any debt requiring repayment, regardless of the payment terms.
<b>Net Cash Flow as a percent of Effective Gross Income</b>	Typically, up to 13 percent. This test provides an alternative measure for projects where the debt service coverage ratio is skewed, where the loan to value ratio is less than 50 percent.
<b>Cash flow</b>	Project shows positive cash flow over the retention period.
<b>Distribution of net cash flow to sponsor/owner</b>	Explanation of cash flow in excess of 15 percent net operating income.



<b>Item</b>	<b>Range/Guideline</b>
<b>Treatment of Operating Reserves</b>	The determination of project financial feasibility will be calculated without the benefit of including an operating reserve as either a source of revenue or expense to the project. In the event, during the retention period, a project has a negative cash flow, a separately established operating reserve may be used to cover the deficit.
<b>Initiative Ownership Structure</b>	For initiatives other than those with a fee simple ownership structure, an organizational/deal chart outlining the ownership structure is required. This chart should include the sponsor organization and the owner of the property at a minimum.
<b>Total Development Cost Per Unit</b>	Reviewed for the overall cost per unit and in comparison to similar projects and other projects in the round.
<b>Excess Cash Flow Per Unit</b>	Reviewed in conjunction with the number of units in the project as compared to overall excess cash.

**For all ownership housing applications and disbursement requests:**

<b>Item</b>	<b>Range/Guideline</b>
<b>Mortgage term</b>	A reasonable term to ensure household affordability, typically, not less than a 15-year term with an interest rate which is demonstrated to be affordable.
<b>Developer fee</b>	Typically, the developer's fee includes any developer overhead, fee and development consultant costs, the total of which shall not exceed 12.5 percent of total development cost, net of fee. The sponsor of a mortgage financing program may not receive a developer fee, including overhead, fee and development consultant costs in excess of one percent of the proposed total amount of mortgages to be issued in the initiative, net of fee. Whenever the amount of developer fee proposed is in excess hereof, the fee and the requested subsidy amount will be proportionately reduced.
<b>Builder's overhead, profit and general requirements</b>	Typically, maximum of 16 percent of hard construction costs, net of builder's overhead, profit, and general requirements and net of hard cost contingency. See <a href="#">Section VIII. Glossary/Definitions</a> for definitions of builder's overhead, builder's profit, and general requirements.
<b>Sales Price and Mortgage Amount</b>	The sales price cannot exceed the total development cost less the AHP contribution to construction or rehabilitation or any other grants or the value of in-kind donations or volunteer professional labor or services contributed the construction/rehabilitation. The mortgage amount cannot exceed the sales price less the homebuyer's contribution and any AHP subsidy or other grants contributed to downpayment or closing-cost assistance.
<b>Total Development Cost Per Unit</b>	Reviewed for the overall cost per unit and in comparison to similar projects and other projects in the round.

**Low or zero interest rate first mortgages, with in-kind donations (Habitat)**

In the case of homeownership projects where the sponsor extends permanent financing to the homebuyer, the sponsor's cash contribution shall include the present value of any payments the sponsor is to receive from the buyer, which shall include any cash down payment from the buyer, plus the present value of any purchase note the sponsor holds on the unit. If the note carries a market interest rate commensurate with the credit quality of the buyer, the present value of the note equals the face value of the note. If the note carries an interest rate below the market rate, the present value of the note shall be determined using the market rate to discount the cash flows, as defined below.

The sources and uses of funds must equal, excluding donated materials and labor, and in the case of a zero percent mortgage after the discounted value of the mortgage is added in as a source of funds.

The rate used for the calculated discounted value of these mortgages will be determined based upon a standard Federal Home Loan Bank of Boston 10-year regular advance rate as of open date of the round application period, with a spread of 350 basis points to reflect the characteristics of this type of loan.

## **XI. Attachment B —**

### **2018 Affordable Housing Program Scoring Guidelines**

The Federal Home Loan Bank of Boston (Bank) will score only those applications that in its judgment meet the AHP eligibility requirements. Points awarded in the various criteria will be either fixed or variable. Variable-point criteria have been determined to have varying degrees to which an application can satisfy the criterion. The application(s) that, in the judgment of the Bank, best achieve(s) each variable-point criterion shall receive the maximum point score available for that criterion. An application meeting a fixed-point criterion shall be awarded the total number of points allocated to that criterion. Points awarded become the application's "Qualifying Characteristics."

As it relates to the guidelines that follow, all determinations made by the Bank with respect to any application or modification thereto, disbursement or other request, or monitoring of a project shall be in the Bank's sole discretion.

#### **Tie-Breaker Policy**

The Federal Housing Finance Agency Advisory Bulletin 2013-06 provides guidelines for Federal Home Loan Banks (FHLBs) to establish a standardized protocol to determine award eligibility in the event of a tie between AHP applications with insufficient funding available for all tied applications.

In the event that two or more AHP applications have identical scores in the same funding round with insufficient subsidy to approve the tied applications, the following tie breaking protocol will be applied:

Step 1: The application with the most combined points in the following First District Priority scoring categories will receive the AHP award funds:

- First District Priority:
  - First-time Homebuyer
  - Member Financial Participation
  - Rural Eligibility
  - Economic Diversity

If two or more applications are still tied after Step 1, continue to the criteria outlined in Step 2.

Step 2: The application with the most combined points under "Second District Priority" scoring will receive the AHP award funds.

If two or more applications are still tied after Step 2, continue to the criteria outline in Step 3.

Step 3: The application with the most combined points under “Community Stability” scoring will receive the AHP award funds.

## Scoring Criteria

### A. Use of Donated Government Property or Other Properties

The creation of housing opportunities using a significant proportion (at least 20 percent) of:

Land or units conveyed at market value by the Federal government or any agency or instrumentality thereof; or

Land or units donated or conveyed by the Federal government or any other party for an amount significantly below the fair market value of the property.

*Note: “Federal government or any agency or instrumentality thereof” refers to the United States government and does not include state, county, or other local governments or their related agencies or instrumentalities.*

#### **5 points Variable**

Any combination of the following up to a maximum of five points total:

**One point** for land or units conveyed at market value by the Federal government or any agency or instrumentality thereof; or

**Up to five points** for land or units donated or conveyed by the Federal government or any other party for an amount as defined below.

- (1) Standard donation for at zero or nominal cost. Nominal is defined as generally meaning insignificantly small, in relation to the value of the property. If donated, an appraisal is not required.
- (2) Conveyed or purchased at an “amount significantly below fair market value” is defined as the property was or will be transferred for 50 percent or less of the fair market value, as documented by an independent appraisal from a state licensed or certified appraiser and may be accompanied by modest expenses. The appraisal must be no older than six months prior to the date of closing/transfer, is required, and must be included.

*If the property was purchased within five years prior to the opening of the AHP funding round and an appraisal was not required to be obtained, the market value may be based on the tax assessment value at the time of purchase. Documentation of tax assessment value at the time of purchase must*

*be provided with the executed settlement statement, Closing and Seller Disclosures, or other evidence of the purchase.*

*If the property is not transferred at the time of the AHP Application due date and an appraisal has not been ordered, the market value may be based on the tax assessment value at the time of the purchase agreement, option to purchase, or other purchase agreement or extension of the purchase agreement. Documentation of tax assessment value at the time of the purchase agreement must be provided with the purchase agreement, Price and value at the time of the sale will be reviewed if the purchase price differs from the original purchase agreement.*

- (3) Long-term, nominal-cost leases may qualify for the points. Nominal is defined as generally meaning insignificantly small, in relation to the value of the property or the lease, at the sole determination by the Federal Home Loan Bank of Boston.
- (4) Transactions ineligible for points in this category include the following:
  - a. Transactions which have occurred more than five years before the opening of the AHP round;
  - b. Donated properties from which, prior to the AHP application, the sponsor has generated income or derived other benefit; and
  - c. Non-arm's length transactions as determined at the sole discretion of the Federal Home Loan Bank of Boston.

Points awarded are based on the percent of total units, square footage of the land, or square footage of the building--pre-construction--in the project/program meeting the above criteria. Points will be allocated by using the greater of the ratio of donated or conveyed units, land square footage, or building square footage prior to construction to the comparable total units, square footage of the land, or square footage of the building prior to construction. In order for the points to be awarded, at least 20 percent of the units, square footage of the land, or square footage of the building must be donated or conveyed.

The agency or other party involved and the specific properties owned by that agency or party that are being donated or conveyed must be identified. The application must state if the member or sponsor has or had any ownership interest in the property. Donations or conveyances are considered for points only for arm's length transactions, defined as transactions between parties that are not affiliated through co-sponsorship of the AHP Application, ownership, or control.

*Supporting evidence of the transaction must be submitted in order for points to be awarded. Evidence includes executed and recorded deed(s); or letter from donating*

*party committing to the donation or sale at a reduced price, with dollar amount if applicable; or other official documentation from donating entity.*

**B. Sponsorship By a Not-for-profit Organization or Government Entity**

**5 points** Variable

Points will be awarded based on the following criteria:

Rental applications

**One point** for rental applications sponsored by a not-for-profit organization, a state or political subdivision of a state, a state housing agency, a local housing authority, a Native American tribe, an Alaskan Native Village, or the government entity for Native Hawaiian Home Lands, where the sponsoring organization has an ownership interest (including any partnership interest or a controlling interest) in a rental project;

**An additional four points** for those rental applications in which the qualifying sponsor organization, or wholly-owned or substantially-controlled subsidiary, or substantially-controlled affiliate, evidences a controlling ownership interest through the entire AHP retention period of fifteen years from the completion of the initiative.

Homeownership applications

**Five points** for ownership applications sponsored by a not-for-profit organization, a state or political subdivision of a state, a state housing agency, a local housing authority, a Native American tribe, an Alaskan Native Village, or the government entity for Native Hawaiian Home Lands, where the sponsoring organization is integrally involved in an owner-occupied project 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.

Revolving Loan Fund Applications

**Five points** for applications sponsored by a not-for-profit organization, a state or political subdivision of a state, a state housing agency, a local housing authority, a Native American tribe, an Alaskan Native Village, or the government entity for Native Hawaiian Home Lands, where the sponsoring organization is a revolving loan fund applying for AHP subsidy funds to be used in a revolving loan fund.

### C. Targeting

The extent to which a project creates or maintains housing for very low- and low- or moderate-income households. The number and percent of the total units of housing or mortgages that will be targeted to households with incomes at or below 80 percent of the area median income (AMI) must be specified. If units are targeted below 50 percent of AMI, the percentage of total units being targeted and the number of units must be specified.

*For purposes of this scoring criterion, applications for owner-occupied initiatives and rental developments will be scored separately. The Bank's web site provides the current HUD Income Guidelines for each of the six New England states. In other states, it is available at <http://www.huduser.org/datasets/il.html>.*

A household must have an income meeting the income targeting commitments in the AHP application upon initial occupancy of the unit, or for ownership units, at the time that it is qualified by the project sponsor for participation in the project.

For projects involving the purchase or rehabilitation of rental housing that already is occupied, a household must have an income meeting the income targeting commitments at the time of application to the Bank for AHP subsidy. For occupied initiatives, even in instances where relocation is planned, a current rent roll on the Bank's template is required showing household incomes for the occupied units. At its discretion, the Bank may request and review the income documentation for current residents to confirm the targeting commitments made at the time of application.

For projects involving the rehabilitation of owner-occupied housing in which the homeowners/households and locations have been identified and qualified by the project sponsor for participation, the participating household must have an income meeting the income targeting commitments at the time of application to the Bank for AHP subsidy. At its discretion, the Bank may request and review the income documentation for current homeowners to confirm the income targeting commitments made at the time of application.

For determination of eligibility and calculation of points, the Bank will not round the percentage of total units in the various applicable income categories.

**20 points**      Variable

#### **Homeownership Applications**

Applications for owner-occupied initiatives and mortgage programs will be awarded points as follows:

- (1) The maximum number of points available under this scoring criterion will be awarded if 60 percent or more of the total units in the development are reserved for occupancy by households with incomes at or below 60 percent of the area median



income (AMI).

(2) Homeownership applications with less than 60 percent of the total AHP units reserved for occupancy by households with incomes at or below 60 percent of AMI will be awarded points on a declining scale based on the percentage of total units reserved for households with incomes at or below 60 percent AMI, and on the percentage of the remaining units reserved for households with incomes at or below 80 percent AMI.

The remaining applications will be scored with the following scale:

- A. Percent of total units targeted to households earning less than or equal to 60 percent of the area median income multiplied by 20.
- B. Percent of total units targeted to households earning between 61-80 percent of the area median income multiplied by 16.

Total score is either 1 or the sum of 2A and 2B as applicable.

### **Rental Applications**

For a rental application to be eligible, a minimum of 20 percent of the units must be targeted to households at or below 50 percent of the area median income.

(1) The maximum number of points available under this scoring criterion will be awarded if 60 percent or more of the total units in the development are reserved for occupancy by households with incomes at or below 50 percent of the area median income (AMI).

(2) Rental applications with less than 60 percent of the total units reserved for occupancy by households with incomes at or below 50 percent AMI will be awarded points on a declining scale based on the percentage of total units reserved for households with incomes at or below 50 percent AMI, and on the percentage of the remaining units reserved for households with incomes at or below 80 percent AMI. These applications will be scored with the following scale:

- A. Percent of total units targeted to households earning less than or equal to 50 percent of the area median income multiplied by 20.
- B. Percent of total units targeted to households earning between 51-60 percent of the area median income, multiplied by 14.
- C. Percent of total units targeted to households earning between 61-80 percent of the area median income, multiplied by 8.

Total score is 1 or the sum of 2A, 2B, and 2C as applicable.

### **Examples:**

Disclaimer: the examples below are for illustration purposes only to show how the points are calculated and do not constitute a promise to award points based on income targeting percentages or subsidy per unit ranges as identified. Points are calculated and awarded during each round based on the applications received which satisfy the AHP eligibility requirements to the satisfaction of the Bank.

### ***Rental Example:***

The following table presents four hypothetical projects to illustrate how the income targeting points are calculated. We have used ten units in each example to illustrate the variations.

	<b>Project 1</b>	<b>Project 2</b>	<b>Project 3</b>	<b>Project 4</b>
<b>Total Units</b>	10	10	10	10
<b>&lt;=50 % AMI</b>	6	5	2	2
<b>51-60 % AMI</b>	0	5	8	0
<b>51-80 % AMI</b>	4	0	0	0
<b>&gt;80% AMI (Market)</b>	0	0	0	8
<b>Total points</b>	<b>20.0000</b>	<b>17.0000</b>	<b>15.2000</b>	<b>4.0000</b>
% VLI units (<=50%)	60%	50%	20%	20%
% 51-60 % AMI units	0%	50%	80%	0%
% 61-80 % AMI units	40%	0%	80%	0%
% Market units	0%	0%	0%	80%

*Ownership Example:*

The following table presents four hypothetical projects to illustrate how the income targeting points are calculated. We have used ten units in each example to illustrate the variations.

	<b>Project 1</b>	<b>Project 2</b>	<b>Project 3</b>	<b>Project 4</b>
<b>Total Units</b>	10	10	10	10
<b>&lt;=50 % AMI</b>	4	0	2	0
<b>51-60 % AMI</b>	2	5	0	0
<b>Subtotal: &lt;=60 % AMI</b>	6	5	2	0
<b>61-80 % AMI</b>	4	5	8	10
<b>Total points</b>	<b>20.0000</b>	<b>18.0000</b>	<b>16.8000</b>	<b>16.0000</b>
% 60% AMI units	60%	50%	20%	0%

There are two substantive differences between the income targeting examples for rental and homeownership projects presented above. First, targeting points for rental projects are based on the percentage of units for households earning at or below 50 percent of the area median income. For owner-occupied projects, the points are based on the percentage of units for households earning at or below 60 percent of the area median income.

Second, per the AHP regulation, unrestricted or market rate units are excluded from the calculation of percentages of total units for homeownership projects. Market-rate units are included in the unit percentages for rental projects.

**D. Housing for Homeless**

The creation of transitional housing for homeless households that permits a minimum of six-months occupancy, or the creation of rental or ownership units, excluding overnight shelters, reserving at least 20 percent of the total units for homeless households throughout the retention period. Points are awarded points as follows:

**5 points**      Variable

- (1) Scoring for applications in which at least half of the total units are new construction or are currently vacant: 5.0 points times the percentage of total units designated for the homeless in which the application presents a specific outreach plan for recruiting and serving the homeless, which includes any operating subsidy and supportive services, as applicable; or
- (2) Scoring for applications in which less than half of the total units are new construction or are currently vacant: 2.5 points times the percentage of total units designated for the homeless in which the application presents a specific outreach plan for recruiting and serving the homeless, which includes any operating subsidy and supportive services, as applicable.

**Points will be awarded to applications with such units that are set aside for and serve homeless households, who can be certified as such by a third-party agency or sponsor specializing in homeless services.**

Overnight shelters are eligible for AHP funding, but do not qualify as providing housing for the homeless, and therefore do not qualify for points in this category. The Bank's definition of homeless is based on the definition from the McKinney-Vento Homeless Assistance Act amended by the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (24 CFR Parts 91, 582, and 583, Final Rule dated December 5, 2011) and as amended with the definition of chronic homeless (12 CFR Parts 91 and 578, Final Rule dated December 4, 2015).

In General- For purposes of this Act, the terms 'homeless', 'homeless individual', and 'homeless person' means—

(1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- (i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

- (ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low income individuals); or
  - (iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- (2) An individual or family who will imminently lose their primary nighttime residence, provided that:
- (i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
  - (ii) No subsequent residence has been identified; and
  - (iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;
- (3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- (i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
  - (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
  - (iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
  - (iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or

childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

(4) Any individual or family who:

(i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

(ii) Has no other residence; and

(iii) Lacks the resources or support networks, e.g., family, friends, and faith based or other social networks, to obtain other permanent housing.

For purposes of this definition, the term "homeless" or "homeless individual" does not include any individual imprisoned pursuant to an Act of the Congress or a State law.

*Chronically homeless* means:

(1) A "homeless individual with a disability," as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who:

(i) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and

(ii) Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;

(2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital,

or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or

(3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

#### **E. Promotion of Empowerment**

Points will be awarded to projects providing housing in combination with a service program available to all residents (absent any other program eligibility requirements or criteria) offering workforce readiness, homeownership readiness, self-sufficiency services, health services which maintain independence, or resident leadership/decision making training. Services must lead to economic empowerment of the residents.

Documentation requirements:

To receive points in this category, the applicant must select the services to be offered to residents or homebuyers of this initiative from the list below.

- (1) If services are being provided by an organization other than the sponsor, the FHLB Boston **Agency** Letter of Commitment Template must be executed and attached to the application. The Letter of Commitment must be on the service provider's letterhead/stationery, dated within six months of the opening of the AHP funding round, list all services to be offered to all residents, and be signed by both the sponsor and the service provider each with handwritten signatures.
- (2) If services are being provided by the sponsor directly, either through the sponsor's own staff, or via independent contractors, the FHLB Boston **Sponsor** Letter of Commitment Template must be executed and attached to the application. The Letter of Commitment must be on the sponsor's letterhead/stationery, dated within six months of the opening of the AHP funding round, list all services to be offered to all residents, and be signed by the sponsor with a handwritten signature.

Only services listed in the following service groups qualify for points under this category. Services or programs must be of a regular ongoing nature and be available to all residents or homebuyers. **Basic referral services, including those provided by a resident service coordinator, will not be eligible for points. However, if utilizing a resident service coordinator to provide one or more of the services listed below, identify the service(s) and the coordinator as the provider and execute either the Agency or Sponsor Letter of Commitment, as appropriate. The Letter of Commitment must be on the service provider's letterhead/stationery, dated within six months of the opening of the AHP funding round,**

**list all services to be offered to all residents, and signed with handwritten signatures, as appropriate. Alternative documentation cannot be accepted for points in this category.**

Services or programs must be available beginning within six months of the project's completion date.

**10 points** Variable

Five points for each service group in which a minimum of two individual services are provided, up to a maximum of ten points. A maximum of two service groups can be selected. In order to receive the full 10 points, two service groups must be selected, with a minimum of two individual services provided from each of the service groups

Service Group: Workforce Readiness (Minimum of two services.)

Preparation of an individual for employment based upon possession of necessary work skills, social competence, job seeking and interview skills, etc.

- High school equivalency test (e.g. HiSet or TASC)
- ESL or other literacy programs
- Employment training (including but not limited to, home-employment training, training for daycare providers, job re-training or re-education programs)
- Micro-business lending program or incubator
- Job placement or employment opportunities
- Other (describe the service and how it relates to the description above, maximum of one proposed other service)

Service Group: Homeownership Readiness and Sustainability (Minimum of two services.)

Homeownership Readiness and Sustainability prepares a homebuyer, or prospective homebuyer for the purchase of a home, including the purchase process and the long-term ownership and maintenance, and/or, it assists a current homeowner in revisiting the long-term ownership and maintenance of the home.

- Homebuyer or homeownership education/counseling provided by a nonprofit or other organization recognized as experienced and approved by the Bank. The education/counseling should follow accepted industry standards regarding the purchase and ownership, including maintenance, of the home. Although a minimum is not required, the Bank recommends a minimum of eight hours of home buyer education with a counseling component.
- Financial planning and budgeting
- Credit counseling
- Sweat equity
- Landlord training for homebuyers of multifamily homes

- Other (describe the service and how it relates to the description above, maximum of one proposed other service)

Service Group: Self Sufficiency (Minimum of two services.)

Self Sufficiency is defined as able to maintain oneself without outside aid: capable of providing for one's own needs.

- Daycare services, allowing the resident to pursue economic opportunities
- After-school, weekend, and summer youth programs, allowing the resident to pursue economic opportunities
- Adult day health services (for adult dependents of the resident), allowing the resident to pursue economic opportunities
- Transportation services, when provided through the initiative by the sponsor or formal agreement with the service provider
- Formal family self-sufficiency program
- Welfare to work programs
- Training or education on fraud avoidance
- Meals, housekeeping, or other daily living activities, as appropriate for the residents
- Financial planning, budgeting, or credit counseling (must be separate and distinct from similar services itemized in Homeownership Readiness above)
- Other (describe the service and how it relates to the description above, maximum of one proposed other service)

Service Group: Healthcare Services (Minimum of two services.)

Healthcare services as part of a program offered to all residents that supports the resident's ability to find or sustain employment, be self-sufficient or maintain independent living.

- On-site primary health care services or maintenance programs, such as vaccination programs, foot clinics, blood pressure clinics, health screening programs
- Substance abuse programs
- Mental health counseling
- On-site medication management
- On-site nursing services (beyond health clinics above)
- Other (describe the service and how it relates to the description above, maximum of one proposed other service)

Service Group: Resident Leadership and Organizational Decision Making (Minimum of two services.)

Resident leadership and organizational decision making encourages tenants and homeowners to be actively involved in the operation of the initiative and prepares



and develops some residents as leaders, taking a more active role in their communities.

- Resident participation on resident council or house meetings, with demonstrated involvement in operational decision making (for rental initiatives only)
- Leadership role on a resident council, by a resident of this initiative (for rental initiatives only)
- Resident as a representative on committee(s) of the Sponsor's Board of Directors and/or as a representative on the Sponsor's Board of Directors: a resident from this initiative, when elected, selected, or appointed by this initiative's residents, to serve on the Sponsor's Board of Directors
- Participation in a homeowners' association
- Leadership role in a homeowners' association
- Participation in a mutual or cooperative form of housing, where the tenants have clear legal authority for operation of the development
- Other (describe the service and how it relates to the description above, maximum of one proposed other service)

#### **E. First District Priority**

The Bank's Advisory Council has recommended and the Board of Directors has approved the following criteria and allocation of points under the first district priority:

27.5 points total, allocated as follows:

<b><i>First-time Homebuyers</i></b>	<b>5 points</b>	Variable
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Please see the definition for **first-time homebuyers** in section VIII. Glossary Definitions.

Up to 5.0 points, based on the total AHP units that are newly constructed or rehabilitated, meeting the minimum threshold for rehabilitation costs of \$15,000 per unit, will be awarded for the construction or financing of ownership initiatives (interest-rate buy-downs, down-payment and closing-cost assistance, and matched-savings programs) that specifically designate AHP units for first-time homebuyers. The maximum award is \$30,000 in AHP subsidy for an ownership unit.

Points will be awarded under this category to projects that provide financing for first-time homebuyers that result in new construction or rehabilitation (meeting the minimum threshold for rehabilitation costs of \$15,000 per unit).

Homebuyer(s) will be required to complete a homebuyer or homeowner education/counseling program provided a nonprofit or other organization recognized as experienced by the Bank. The education/counseling should follow accepted industry standards regarding the purchase and ownership, including maintenance, of

the home. Although a minimum is not required, the Bank recommends a minimum of eight hours of home buyer education with a counseling component.

Applicants will be required to identify which homeownership education/counseling agency(ies) that they anticipate their borrower(s) will utilize. A list of education/counseling agencies approved by the Citizens Housing and Planning Association's Massachusetts Homeownership Collaborative (CHAPA), National Industry Standards for Homeownership Education and Counseling (NISHEC), or HUD-certified homeownership education/counseling agencies is included in the online application.

Homeownership education/counseling curricula/documentation will not be required unless the application is utilizing an education/counseling provider that is not listed. The applicant may enter a new agency with the appropriate homeownership education/counseling curriculum.

Points are awarded based on the percentage of total AHP units in the application that are new units or are units that meet the minimum rehabilitation threshold of \$15,000.

**Note:** Limited-equity cooperatives and lease-purchase initiatives are treated as rental applications for AHP scoring, feasibility review, and retention requirements and are not eligible for points under this category. However, cooperative initiatives that demonstrate the conveyance of ownership to residents within 24 months, and are scored as an owner application, are eligible for points under this category.

***Member Financial Participation***                      **12.5 points**    Variable

Points are awarded for member financial participation (excluding the pass-through of AHP direct subsidy grant funds) in the initiative, including loans, investments, supporting bond purchases, the provision of concessionary rates, fee waivers, or donations. To be considered for points, a minimum term of six months is required for all construction financing and/or lines of credit. Only funds provided by the listed member(s) submitting the AHP Application will be considered for points in this category. The member's financing must clearly flow through to the initiative, and the residential uses, to demonstrate the member's direct participation in the initiative. If there is prior, existing financing in place from the member for the same project in this application, it may be considered at the sole discretion of the Bank based on the remaining term of the loan(s).

The first 10.0 points will be awarded, multiplying the points times the ratio of member financial participation to the amount of AHP subsidy that is requested for the initiative. Member's funds must be explicit and well-documented in the AHP and Member Funding section of the online application. Up to a maximum of 10.0 points will be awarded to rental and owner-occupied applications that make use of member financial participation in this initiative, including Bank advances, AHP subsidized

advances, loans, investments, or grants in proportion to the amount of AHP subsidy requested.

Up to an additional 2.5 points will be awarded to initiatives making use of member-provided, long-term, fixed-rate financing (AHP and non-AHP) with a principal amount equal to or greater than the value of the AHP subsidy requested for the initiative, with the full 2.5 points going to initiatives using member financing with terms of 15 years or greater and 1.0 points going to initiatives using member financing with terms of five years or greater, with projects falling between these two benchmarks receiving a proportionate share of the points.

For those long-term loans with variable/adjustable interest rates, we will use the term for which the interest rate is fixed (prior to adjustment). The project's pro forma should clearly evidence the potential shock to the interest rate anticipated to occur during the appropriate adjustment year(s). In addition, the member will be required to provide supporting documentation for their decision to offer a variable rate of interest and conclude what impact this type of financing will have on the feasibility of the project.

*No points (of the 2.5 additional points) will be awarded for terms less than two years. For applications with multiple long-term loans, the principal and terms of the long-term financing will be aggregated for the comparison using a weighted average for both the principal and the term. In the event that the loan principal of the longest-term loan exceeds the direct subsidy plus the advance subsidy, the points will be awarded based only on the term of that loan. Grants from the member will have an implied term equal to the retention period for the initiative type (five years for ownership and fifteen years for rental).*

Letters or documentation of firm and/or conditional commitment must be included with the application. In lieu of a conditional commitment, letters of intent and term sheets may be accepted. The amount of the member's involvement and all costs associated with it must be clearly accounted for in the application's feasibility and sources and uses sections, as well as the detailed development budget. The costs must flow through, as appropriate, in a rental project into the Rental Subsidy Calculation or in an owner-occupied initiative into the Ownership Subsidy Calculation. (If a Habitat application, these costs must flow through, as appropriate, into the Habitat screens.)

**Required:** Member underwriting/analysis/evaluation is required whether a subsidized advance or a direct subsidy (grant) is being requested. It is expected that the member's senior management will review and approve the AHP application. Similarly, the member has the responsibility to evaluate and be satisfied with the sponsor's and/or borrower's credit standing, development experience, and performance track record.

It is expected that the evaluation will include those items as well as an analysis that the initiative is financially and physically feasible. In evaluating the project's financial feasibility and viability, the member should indicate its analysis of the project's debt service coverage ratio, loan-to-value, loan-to-cost ratios, and operating income and expenses relative to compliance or deviation with its underwriting standards. **A copy of the underwriting should be included with the term letter or application.** The Federal Home Loan Bank of Boston will neither perform nor be responsible for the underwriting of the application for the member or the evaluation of the credit record or track record of the sponsor or borrower for the member.

***Rural***     **5 points**     Fixed

Points will be awarded to initiatives financing housing located in rural areas.

Defined rural locations can be obtained from the following site:  
<http://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do>

In order to receive the points, all addresses in the initiative must be identified and must qualify as rural. However, for countywide initiatives where specific street addresses are not yet known, the entire county must qualify as rural. Statewide initiatives do not qualify.

***Economic Diversity***     **5 points**     Fixed

Projects will be awarded points for the creation of housing that is part of a strategy to end isolation of very low-income households by providing economic diversity through mixed-income housing in low- or moderate-income neighborhoods, or providing very low- or low- or moderate-income households with housing opportunities in neighborhoods or cities where the median household income equals or exceeds the median income for the larger surrounding area -- such as the city, county, or Primary Metropolitan Statistical Area — in which the neighborhood or city is located.

Points will be awarded for an initiative located in a census tract where the median income is no more than 80 percent of the Metropolitan Statistical Area/Metropolitan Division (MSA/MD) median income and in which at least 20 percent of the total units are market-rate units, or for an initiative located in a census tract where the median income is at least 100 percent of the Metropolitan Statistical Area/Metropolitan Division (MSA/MD) median income and in which at least 20 percent of the total units are reserved for very low-, low-, or moderate-income households.

For both options, the Bank will compare the median family incomes of the census tract in which the project is located (based upon the project address or addresses) to the median family income of the Metropolitan Statistical Area/Metropolitan Division (MSA/MD). The median family incomes will be obtained using the Federal

Financial Institutions Examination Council's Geocoding/Mapping and Census Report System, which can be found at [www.ffiec.gov](http://www.ffiec.gov). In order to receive the points, all addresses in the initiative must be identified and must qualify. County-wide initiatives and state-wide initiatives do not qualify.

Points will not be awarded for the "un-intended" unit diversity as a result of targeting changes for occupied units.

## **F. Second District Priority**

### **7.5 points** Variable/Fixed

The Bank has determined the following three housing needs in the District and will award up to 7.5 points for one of three options:

- (1) **Preservation of existing affordable units** - (Variable) Rehabilitation of units with existing affordability restrictions or covenants which through acquisition or redevelopment would otherwise be lost as affordable housing stock and/or converted to market-rate units. Evidence of the existing affordability restriction/covenant must be provided. Preservation is defined as affordable units with one of the following characteristics:
  - (a) With use restrictions expiring within 24 months before or after the opening of the AHP funding round. These units must not have any other use restrictions;
  - (b) Section 8 units where owners can terminate or opt out of contracts; or
  - (c) Units due to distress or foreclosure that may not continue to remain affordable without new capital or ownership.

The percentage of points is calculated based on the number of units preserved divided by the total number of original restricted units times 7.5 points. Evidence must be provided of existing affordability restrictions. Evidence of distress or foreclosure must be provided for option (c) in addition to evidence of existing affordability restrictions.

- (2) **Revolving Loan Fund**- (Fixed) Use of a revolving loan fund program-based initiative. Points will be awarded to AHP applications from a sponsor that is a revolving loan fund applying for AHP subsidy funds to be used in a program-based revolving loan funds. Applications for project-specific revolving loan funds are not eligible for the points. The Bank reserves the right to make final determination of program-based versus project-specific initiatives.
- (3) **Disaster Remediation** - (Fixed) Acquisition, construction, and/or rehabilitation to restore or replace rental or homeownership housing destroyed or damaged by

a federal-, state-, or other federal agency-declared disaster within the last 60 months from the opening of the AHP funding round. Relocation or replacement of destroyed or damaged housing from a location in a disaster area to another site (e.g. outside of a floodplain) to avoid a future disaster is also eligible. Homeownership or rental applications seeking to build new housing in a qualifying disaster area but unrelated to the disaster in any way are not eligible for points in this category. Evidence will be required.

- (a) **Qualifying Federal-, State-, or other Federal Agency-Declared Disaster Areas** – The declaration of the disaster and the affected areas must be within the last 60 months from the opening of the AHP funding round. Applicants must provide a copy of the declaration.
- (b) **Affected Housing** – Applicants must provide proof of ownership, or demonstrate the line of ownership, at the time of the disaster and that the housing is located in a census tract, Metropolitan Statistical Area, or County that has been declared a disaster. Applicants must provide proof that the specific disaster damaged or destroyed the housing. Additionally, if they had insurance, they must have filed an insurance claim, if applicable. Alternatively, this may include FEMA, or other Federal or state agency claims.
- (c) **Eligible Development Activities** – Acquisition of replacement property, construction, and/or rehabilitation to restore or replace housing destroyed or damaged in the declared disaster.

Acceptability of any of the above is at the sole discretion of the Bank.

#### **G. Subsidy Per Unit**

An application is scored on the extent to which it proposes to use the least amount of AHP subsidy funds (direct subsidy and/or interest-rate subsidy requested to support a subsidized advance) per AHP-targeted unit. In the case of an application for an initiative financed by a subsidized advance, the total amount of AHP subsidy used by the project will be estimated based on the amount of direct subsidy requested plus the advance subsidy determined by the Bank's calculated forward cost of funds at intake necessary to provide an initiative an 18-month guarantee of the rate requested in the application.

**5 points** Variable

*For purposes of this scoring criterion, applications for owner-occupied initiatives and rental initiatives will be scored separately.*

Five points will be awarded to the rental and ownership application(s) respectively that request less than or equal to the minimum subsidy per unit based on the rental

and owner-occupied subsidy per unit ranges. Applications in which the requested subsidy per unit falls within the rental and owner-occupied subsidy per unit ranges will receive a pro rata amount of the points. Applications in which the requested subsidy per unit equals or exceeds the maximum subsidy per unit based on the rental and owner-occupied subsidy per unit ranges will receive zero points. The range for owner-occupied applications is \$9,000 to \$30,000. The range for rental applications is \$5,000 to \$65,000.

Proposed formula:

$$\frac{(\text{MAX} - \text{REQUESTED})}{(\text{MAX} - \text{MIN})} \text{ times 5 points} = \text{Points (rounded to four decimals)}$$

Examples:

Disclaimer: the examples below are for illustration purposes only to show how the points are calculated and do not constitute a promise to award points based on income targeting percentages or subsidy per unit ranges as identified.

*Ownership Example:*

The following is a hypothetical example to illustrate how the points are awarded.

Homeownership Example with AHP of \$15,000 per unit:

$$\frac{(\$30,000 - \$15,000)}{(\$30,000 - \$9,000)} = \frac{\$15,000}{\$21,000} = .714286 \text{ times 5 points} = 3.5714$$

*Rental Example:*

The following is a hypothetical example to illustrate how the points are awarded:

Rental Example with AHP of \$40,000 per unit:

$$\frac{(\$65,000 - \$40,000)}{(\$65,000 - \$5,000)} = \frac{\$25,000}{\$60,000} = .416667 \text{ times 5 points} = 2.0833$$

## **H. Community Stability**

Points will be awarded to projects to the extent that they promote community stability. As a threshold issue, initiatives should make every attempt not to displace low- or moderate-income households, or if such displacement will occur, assure that such households will be assisted to minimize the impact of such displacement. In the event displacement of residents will occur, the sponsor must submit a plan for the

temporary or permanent relocation for affected residents, which meets applicable federal and/or state laws. Applications where displacement will occur are required to submit a relocation plan.

**15 points Total** Variable

**(1) Smart Growth (Up to 5 points)**

Up to five points will be awarded to housing initiatives that fulfill two of the following four categories. Each of the following categories is worth 2.5 points. Applications will only be permitted to select up to two of the four categories.

- (a) **Reuse of existing building(s).** Reuse is defined as reuse of an existing building(s) or is an adaptive reuse of an existing structure, where the existing building is attached and is at least fifty percent of the total development. Current copy, within six months of the opening of the AHP funding round, of tax assessor record(s) confirming the existence of the structure and its square footage must be included. No hand or electronic annotations will be accepted. Other documentation may be accepted at the sole discretion of the Bank.
- (b) **Transportation services.** The housing initiative must be accessible to transportation services within ½ mile of the development or has access to no- or low-cost transportation services available to all of the residents.
  - i. If provided through a public transportation service:
    1. Using a map as documentation:
      - *If the map is insufficient to identify both the exact housing location as listed in the application and the transportation location then applicants should consider the second form of documentation.*
      - The map should be via Google or MapQuest only and should confirm the distance from the housing address as provided in the application to the transportation service.
      - The map must be legible, display or calculate the distance from the housing to the transportation service location (e.g. bus or subway stop), and have a clear scale (if available). Driving or walking directions must be shown from the housing address to the transportation service location.
      - Maps cannot be annotated by hand, or electronically, to show the location of the housing, the transportation location or to measure the distance, copied into another application, or through any other means. If the



map is annotated in any way this will disqualify the applicant for points in this category. In addition to the map, sponsors may provide a copy of the transit authority route that shows the specific transit route and indicates where on the route the transit stop is located.

2. Using a letter as documentation:

- The letter should confirm the location and distance from the proposed housing to the transportation service (e.g. bus or subway stop, on-site para transit, or other). If the application includes multiple locations, the letter should address the location and distance of the transportation service to the multiple locations.
- The letter from the transportation service provider must be:
  - Signed with a handwritten signature and on letterhead/stationery from the signatory;
  - Reference this initiative by name; and
  - Dated within six months of the opening of the AHP funding round.

ii. No-cost or low-cost transportation services:

Provide an agreement/letter agreement from the transportation service provider to confirm the no- or low-cost transportation service. This transportation service must be provided onsite or to the doorstep.

The letter from the transportation service provider must be:

- Signed with a handwritten signature and on letterhead/stationery from the signatory; and
- Dated within six months of the opening of the AHP funding round.

(c) **Density.** Density refers to housing units per acre. Points will be awarded to those initiatives with the following densities:

- For rural communities-the housing is or is developed to a density of at least eight units per acre.
- For all other communities-the housing is or is developed to a density of at least 12 units per acre.

Density is calculated by dividing the total units into the parcel's total acreage or square footage. Land legally reserved or permanently restricted for conservation may be excluded from the total parcel size. Documentation of the legal restriction must be included and should clearly indicate the purpose and the acreage or square footage of the area to be excluded from the density calculation. If the initiative is a scattered site development, each lot must be densely developed. If any of the lots are contiguous, then the lots can be aggregated for the purpose of the density calculation. For determination of points in this category, the Bank will not round the calculation of units per acre or square feet.

Letter documentation from either the architect, municipal planning official, surveyor, or public engineer will only be accepted. The document type must be consistent for all addresses/properties in the initiative. Letters must be on letterhead/stationery, dated within six months of the opening of the AHP funding round, and signed with handwritten signatures. Supplemental documentation such as site plans may be submitted as an addendum to the letter documentation to fully substantiate eligibility for points in this category. Alternative documentation will not be accepted for points in this category.

Example: The 40-unit rural application includes a five-acre site with a documented conservation restriction of two (2) acres. The developable area is three (3) acres resulting in a housing density of 13.33 units per acre ( $40/3$ ). This is above the minimum density for rural locations (8), so the application earns the 2.5 points.

- (d) **Brownfield.** The housing initiative is being developed on a federal- or state-designated brownfield site. Documentation indicating the federal/state-brownfield designation must be provided.

(2) **Sustainable Development Building Practices (Up to 3 points)**

Up to three points will be awarded to housing initiatives that fulfill the activities/features below. One point will be awarded for each activity/feature fully documented. Applications will only be permitted to select up to three of the activities/features.

Please provide documentation regarding the development program to minimize the development's impact on the site and the use/reuse/recycling/reduction of building materials. The documentation should specify the individual features of the development program.

The following documentation is required: A letter from a design team member (e.g. the architect, engineer, green building consultant, the property manager,

or other design team member) detailing the development features from this category to be incorporated into the project. If possible, please identify the product(s) being used to meet the characteristics of the various development features in this category. The letter must contain enough information to verify that the features selected under this category will be met. The letter must be signed with a handwritten signature, on letterhead/stationery from the signatory, and dated within six months of the opening of the AHP funding round. Separate attachments and product specifications will not be considered. Documentation that is hard for the Bank to interpret or does not clearly demonstrate eligibility under this category may be rejected at the sole discretion of the Bank.

All activities awarded points will be monitored by the Bank at project completion in the AHP Closeout Monitoring Review.

- Construction waste recycling of at least 25 percent of total construction and demolition material from the project. (Please describe what percentage of recycling will be achieved during construction/development.)
- Use of recycled-content building materials that are composed of at least 25 percent post-consumer or post-industrial material. (Please describe what types of recycled building materials will be used and what percentage of the overall development will use recycled building materials.)
- Use of regional building materials that were extracted, processed, and manufactured within 500 miles of the project for a minimum of 25 percent, based on cost, of the building materials' value. (Please describe what types and how much of regional building materials will be used.)
- Surface storm water management techniques such as, but not limited to, reducing impervious surfaces, retaining or treating storm water for harvesting/use on site or recharging the groundwater, or improving site grading and drainage.
- Installation of roofing to reduce heat island effect. May include Energy Star compliant roofing (cool or green).
- Installation of paving to reduce heat island effect.
- Incorporate passive solar design, orientation, and shading that maximizes the energy efficiency and thermal performance of the project.
- Use of indigenous, non-invasive plants in lieu of grass to reduce water consumption and/or the preservation or planting of deciduous trees along the south side of buildings to provide shade.
- Disaster prevention and mitigation development activities to reduce the risk of damage or loss. (Please describe the activity, the potential disaster, and how this will reduce the initiative's risk.)
- Other feature (one activity only; please describe).

The Bank will not award points in this category for activities previously recognized by the Bank which are no longer described in the AHP Implementation Plan including: Low or no-VOC paints, primers, adhesives, and sealants; use of durable or renewable/rapidly renewable materials; provision of designated spaces for recycling containers or storage by residents; or other features described under Efficient Building Operations.

**(3) Efficient Building Operations (Up to 7 points)**

Up to seven points will be awarded to housing initiatives that fulfill the activities/features below. One point will be awarded for each activity/feature fully described and documented. Applications will only be permitted to select up to seven of the activities/features.

The following documentation is required: A letter from a design team member (e.g. the architect, engineer, green building consultant, the property manager, or other design team member) detailing the development features from this category to be incorporated into the project. If possible, please identify the product(s) being used to meet the characteristics of the various operational features (efficient operations in terms of energy and water use and indoor air quality) in this category. The letter must contain enough information to verify that the features selected under this category will be met. The letter must be signed with a handwritten signature, on letterhead/stationery from the signatory, and dated within six months of the opening of the AHP funding round. Separate attachments and product specifications will not be considered. Documentation that is hard for the Bank to interpret or does not clearly demonstrate eligibility under this category may be rejected at the sole discretion of the Bank.

All activities awarded points will be monitored by the Bank at project completion in the AHP Closeout Monitoring Review.

- Large R-value insulation (such as walls, roof, or foundation). (Please identify the insulation to be used and explain why these have been chosen e.g. expected energy savings and/or exceeds building codes.)
- Electricity-generating renewable energy features e.g. photovoltaic panels, co-generation, wind turbines, or other technology.
- Water-conserving fixtures or features not to exceed: toilets 1.28 gpf, showerheads 2.0 gpm, kitchen faucets 2.0 gpm, or bathroom faucets 1.5 gpm).
- On demand (tankless) water heaters or solar hot water heaters.
- High-efficiency heat pumps with efficiencies greater than or equal to 87 percent, furnaces with efficiencies greater than or equal to 90 percent, or boilers with efficiencies greater or equal to 95 percent, including but not limited to geo-thermal systems.

- Ventilation-installation of ventilation system adequate to provide fresh air. (Please describe the ventilation system capable of providing adequate fresh air. This may include continuous or whole house ventilation as well as Energy Star-labeled kitchen and bathroom fans.)
- Energy-efficient low-E argon windows or other energy-efficient or Energy Star-qualified windows.
- Energy Star-qualified appliances and Energy Star-qualified lighting or fixtures. Can be fulfilled with other equivalent high-performance appliances and lighting fixtures (may include interior, exterior, and/or common areas).
- Installation of individual or sub-metered electric meters and/or water meters for all dwelling units.
- Appropriately size HVAC equipment for project design and locate HVAC equipment and distribution system within the building envelope in order to reduce thermal distribution losses.
- Commissioning the building's energy-related systems to ensure successful installation, operation, and performance. Systems may include but are not limited to heating and air conditioning, ventilation, lighting, hot water, or any renewable energy system. (Please describe the commissioning plan and the party(ies) identified as the commissioning agent.)
- Operations or maintenance-building maintenance manual or other educational materials for residents, owners, or property management
- Other feature (one activity only; please describe).

The Bank will not award points in this category for activities previously recognized by the Bank which are no longer described in the AHP Implementation Plan including: Low or no-VOC paints, primers, adhesives, and sealants; use of durable or renewable/rapidly renewable materials; provision of designated spaces for recycling containers or storage by residents; or other features described under Sustainable Development Building Practices.

The Bank reserves the right to evaluate the responses above for reasonableness and overall consistency with the categories.

For additional references and resources, please see the following:

- Enterprise Foundation's Green Communities plan as well as LEED for Homes and Neighborhood Development. Enterprise Green Communities: <http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities/criteria>
- LEED for Homes: <http://www.usgbc.org/DisplayPage.aspx?CMSPageID=147>
- LEED for Neighborhood Development: <http://www.usgbc.org/DisplayPage.aspx?CMSPageID=148>

## **XII. Attachment C —**

### **2018 Affordable Housing Program Compliance Monitoring Policy**

The Federal Home Loan Bank of Boston's (Bank) Housing and Community Investment Department will monitor projects that receive funding under the Affordable Housing Program (AHP), in accordance with the Bank's compliance monitoring program. The compliance monitoring program will provide reasonable assurance that each funded project is in compliance with respect to the use of AHP funds, eligibility of beneficiaries, compliance with the approved AHP application and Qualifying Characteristics, compliance with the Federal Housing Finance Agency (FHFA) regulations, and subsequent amendments and interpretive rulings, and compliance with the Bank's AHP Policies and Procedures. Included in Attachment C:

#### **A. Program Timeline and Stages**

- (1) AHP Award Letters are mailed following approval by the Bank's board.
- (2) AHP Award Letter is signed by member and returned to the Bank within 45 days
- (3) AHP Agreement is executed and returned to the Bank within 12 months and prior to AHP disbursement.
- (4) Disbursement of AHP grant or subsidized advance funds (usually within 12 months).
- (5) Pass through of AHP Subsidy to the sponsor or owner within 90 days of disbursement.
- (6) Initial Monitoring. During development, the online Semiannual Progress Report (SAPR) is required (June/December).
- (7) Closeout Monitoring Review. Within 12 months of the last home sale of an ownership initiative or 16 months of construction completion of a rental initiative, the Bank will conduct a full review to ensure that the project has fulfilled its AHP application commitments.
- (8) Long-Term Monitoring. For rental projects only, this includes online Annual Compliance Certifications (ACC) and Periodic Monitoring Reports (PMR) based on the amount of AHP subsidy disbursed to the project. Not required for documented LIHTC initiatives.
- (9) AHP Subsidy and Affordability Retention Period. Five years for homeownership projects and 15 years for rental projects from the date of completion (as defined by the Bank).

## **B. Award Letters and Award Extensions**

Following approval by the Bank's board of directors, the AHP award notification is mailed along with a sample draft AHP Agreement to the Chief Executive Officer of the member and the project sponsor. To accept the award, the member must sign and return the letter to the Bank within 45 days.

Once signed, the award is valid for 12 months from the date of approval. Following the 12 months, the Bank may award extensions, at its sole discretion, on a case-by-case basis, if sufficient evidence is provided documenting progress toward project funding and completion.

### Extensions

The Housing and Community Investment department (HCI) typically reviews requests for extensions as a department monthly, or periodically, as needed. HCI reserves the right to make exceptions and extensions at its sole discretion.

The community investment manager or other HCI staff will conduct periodic due diligence, collect the needed documentation, and make the appropriate updates in the project's chronological file.

Members and/or sponsors are expected to request extensions formally through the Semiannual Progress Reports or the online system.

### Extension Information/Documentation

The staff and department review includes, but is not limited to, the project's Watch List rating and age, the percentage of funding committed, funding and application deadlines for other sources, the percentage of the project being funded by AHP, the status of site control, zoning, construction/development of the project, as well as the lease/sale of the units or other development conditions.

In addition to the information above, information will be requested on the funding, development, statuses, changes, and other items for both homeownership and rental initiatives. Please see the online extension request form for more information.

As part of this periodic review, undisbursed AHP projects under consideration for extensions will be evaluated to determine the extent to which they have full site control, zoning approval, funding commitments and/or funding closings, and construction status. Lease-up or sale of the units will also be considered.

### Extension Terms

In general, 90-day extensions are made based on the project's progress, rating, and age, but may be longer or shorter based on the individual circumstances of the project. Extensions beyond 90-days may be granted in order to accommodate a particular circumstance such as extended timeline to resolve a NIMBY ("not in my back yard")/zoning challenge or address a site control issue.

Projects not meeting these requirements are subject to deobligation of their AHP awards. Deobligated AHP funds are returned to the AHP pool and will be made available to other AHP-eligible projects.

**For AHP Projects Approved in the 2010 Round and All Subsequent Rounds**

Application readiness includes 100 percent site control at application and the expectation that all funding and zoning will be obtained within 12 months from AHP approval so that development can begin within 12 months and be completed within 24 months from approval. HCI reserves the right to make exceptions and extensions at its sole discretion.

- At the 12-month mark from application approval and as needed, the project's progress will be reviewed as described above.
- Explanation will be required to determine why the project is unable to obtain all of its development funding and/or zoning to start development at the 12-month mark from the original AHP award.
- Extensions will not be granted if there is a change in the project site resulting in the project's inability to acquire or lease the site within 12 months of the original AHP award or extending the development timeline.
- Excluding NIMBY challenges, if a project is unable to obtain its zoning approval within 24 months from application approval, the project may be deobligated.
- Projects unable to start construction or rehabilitation by the 24-month mark from application approval or reasonably thereafter, barring NIMBY, may be deobligated.

**C. Affordable Housing Program Agreement**

To ensure each party understands its responsibilities and those of the other parties taking part in the AHP, the Bank prepares an AHP Agreement to be signed by the member institution, project sponsor/owner, and the Bank. A draft of the AHP Agreement is included with the award letter. An executed AHP Agreement is expected within 12 months and is required prior to the first disbursement of AHP subsidy.

The executed AHP Agreement includes the terms and conditions that govern the approval and funding of the application, including all representations made in the application, and that bind the member and project sponsor/owner. This includes fulfillment of the AHP Qualifying Characteristics. The Qualifying Characteristics summarize the scoring elements of the application and project, upon which, in part, it was approved for subsidy. The AHP Qualifying Characteristics is an integral part of the AHP Agreement and is included as an attachment to the AHP Agreement.

Changes to the terms and conditions of the AHP Agreement are not allowed, other than proper identification of the member, sponsor, and owning entity as part of the final ownership structure. *A managing officer or authorized signatory of the member financial institution, as listed on its current Delegation of Authority for*



*the Blanket Resolution for Advances, Letters of Credit and Interest Rate Swaps on file with the Bank, and an authorized representative for the project sponsor/owner are required to sign the AHP Agreement.* The signature(s) represent full understanding, acceptance, and compliance with the terms and conditions in the AHP Agreement.

Once the Bank receives the AHP Agreement, a disbursement of AHP funds may be requested (see note regarding disbursements for mortgage-financing programs). Therefore, it is imperative that the member and sponsor review the AHP Agreement thoroughly to ensure their understanding of the document.

**B. Modifications (Changes) to Initiative and the Application Qualifying Characteristics**

The AHP Regulation requires that an application receiving AHP funds must be modified if there are changes that impact the original score in the AHP application. The Qualifying Characteristics (QC) form is incorporated into the award letter and AHP Agreement.

The AHP Regulation stipulates three criteria to approve any modification:

- (1) The project incorporating any such changes would meet the eligibility requirements;
- (2) The application, reflecting such changes, continues to score high enough to have been approved in the funding round in which it was original scored and approved; and
- (3) There is good cause for the modification.

Because applications are approved based on the score that the application received at the time of the award, the AHP policies require that the QC be maintained throughout the retention period. Thus, any changes to the QC that affect the score will result in a modification to the project application. The request for a modification should be submitted in writing to the Community Investment Manager who will work with the member and sponsor to ensure that a proper modification is completed and approved for the project. The process may take up to ten business days from the date of submission for approval. A modification requested in connection with a disbursement request and its approval might take longer than the ten business days.

The Bank will evaluate modifications to any project or its approved qualifying characteristics using the AHP Project Cost and Feasibility Guidelines found in Attachment A of this document. The guidelines will be used as benchmarks and may be used as the basis for rejecting or disqualifying a project or for reducing the amount of subsidy requested.

Modifications for remaining AHP subsidy (tailings) on AHP subsidized advances following commitment or disbursement will not be scored or reviewed for feasibility, but will be entered into the system as a formal modification.

**C. AHP Subsidy and Affordability Retention Mechanism (Mortgage and Note)**

The AHP Regulation requires that a mortgage, or other legally enforceable mechanism, such as a deed restriction, be used to secure the obligations contained in the AHP Agreement. This mechanism will secure the entire AHP Agreement including, but is not limited to, its affordability provisions. The Bank's standard mortgage documents for a variety of project types are available on the Bank's web site. If not using the standard documents, approval of the documents is required by the Bank in advance of funding. *Note that failure to use our standard documents will require additional time for review, which might delay funding approval. Please allow sufficient time for review and approval any non-standard AHP retention documents.*

The AHP Regulation permits sponsors to lend AHP subsidies to a project (as in the case of LIHTC projects or tax exempt bonds issuance), provided any principal or interest payments are paid to the Bank. For these situations, legal retention language for the notes and mortgages has been developed defining the term of loan to be the AHP retention period plus one day and permitting deferral of all principal and interest (P&I) payments. This legal language is available upon request.

Retention Documents for Owner-Occupied or Homeownership Initiatives

Homeownership projects must have an AHP mortgage and note that extend for five years from the date of closing. In the case of rehabilitation of a unit currently occupied by the owner where there is no closing, the AHP mortgage and note must be in place five years from the last paid invoice.

Owner-occupied or homeownership initiatives using AHP funds to pay for the construction or rehabilitation of homes are required to submit two mortgages or retention mechanisms:

- (1) *Interim AHP Mortgage and Note:* between the member and sponsor to secure the properties benefiting from AHP funds during the development phase;
- (2) *Subordinate AHP Mortgage and Note:* between the member and/or sponsor and the income-eligible homebuyers, securing the AHP funds to the particular property being purchased.

As the sponsor sells developed units, the first mortgage (1) may be released and replaced by the subsequent mortgage (2).

These provisions may also apply to the development of cooperatives and lease purchase programs. Because these initiatives pose unique issues concerning

retention, members and sponsors should discuss these issues with their Community Investment Manager well in advance of drawing AHP funds.

Retention Documents for Rental Initiatives

Rental projects must execute and record an AHP mortgage and note securing the AHP subsidy and ensuring compliance with the stated income targets for 15 years after project completion.

Retention Documents for AHP Subsidized Advances

For AHP Subsidized Advances, the Bank provides a mortgage rider to be used in conjunction with the member's standard note and mortgage. The standard rider can be found on the Bank's website as noted above.

Prepayment Fees on AHP and Community Development Advances (CDA)

The Bank will charge the member a prepayment fee to the extent the Bank suffers an economic loss from the prepayment of a subsidized advance. Members utilizing an AHP subsidized advance or a CDA to finance construction, warehousing, or permanent mortgage needs of a sponsor's development will be subject to the Bank's yield maintenance fee requirements in the event the advance is paid back to the Bank prior to its scheduled maturity.

In the event the sponsor (or borrower) prepays such an advance to the member, the member must pay the Bank back, notwithstanding the scheduled maturity of the advance. Therefore, the Bank recommends that the member pass through or insure in its mortgage document that the sponsor (or borrower) is responsible for any and all prepayment fees that may be due to the Bank as a result of the prepayment of the advance.

**D. Disbursement of Funds - Overview**

Prior to disbursement, the Bank verifies that the project meets the eligibility and feasibility requirements of the AHP Regulation through review of the project budgets, the need for AHP subsidy, and reviews any changes to the project characteristics, including the AHP Qualifying Characteristics and any award conditions.

AHP funds must be requested online. For a link to the system, please see the Bank's web site at <https://housing.fhlbboston.com>. Please submit the request for disbursement at least **15 business days** before the funds are needed. (Please note that disbursement requests submitted during the AHP application review period may take longer as staff resources are limited.)

The Bank reserves the right to accept or deny a disbursement request for a rental or homeownership initiative at its sole discretion. Factors to be considered include:

- Adequacy and/or completeness of the documentation submitted;
- Project status and development progress;
- The proposed use of AHP funds and/or the documentation of the use of AHP funds;
- Market conditions; or
- Other considerations.

In order to minimize the risk of over extending AHP funds relative to the development progress of a homeownership initiative, pro rata disbursements may be considered on a house-by-house basis based on market conditions, the member's recommendation, as well as the use of AHP funds, e.g. acquisition, hard construction costs, infrastructure costs, or downpayment assistance.

Upon our confirmation of eligibility to participate in the program, the AHP direct subsidy funds are disbursed to the member financial institution's IDEAL Way Account.

#### Project Cost, Feasibility, and Scoring Guidelines

The Bank has established guidelines for the review of a project's cost, financial feasibility, and need for AHP subsidy. These guidelines will be applied at the time of application, prior to funding of approved AHP subsidies, in the course of any requested project modifications, and upon project completion. The Bank will consider appropriate exceptions to these guidelines on a case-by-case basis substantiated by information and documentation justifying need to the satisfaction of the Bank for such exception. Project cost and feasibility/need for subsidy guidelines are in Attachment A of this document.

#### AHP Subsidized Advances

Once reviewed, the member will coordinate with the HCI Community Investment Manager to call the Money Desk at the Bank to draw down the advance, and it will be disbursed on the designated date.

#### **Documentation Required for All Rental and Homeownership Initiatives**

The following documentation is required with the member's first disbursement request of AHP funds. For subsequent disbursement requests, the information is required only if changes to the project have occurred since previously approved disbursements:

- If not already submitted, a signed copy of the AHP Agreement;
- The current sources and uses development budget, including commitment letters or other documentation to verify all permanent sources of funding;

- A written explanation of any changes to the project's development budget since the application resulting in an overall increase or decrease of five percent or greater;
- A written explanation of any changes to the project's Qualifying Characteristics, and a written request for a modification and approval of such changes;
- If available, please submit documentation confirming the use of the AHP funds. The Bank will request that the member institution provide documentation to evidence the transfer of AHP funds to the sponsor and the specific use of AHP funds by the sponsor following disbursement. The evidence may be in the form of an invoice with the copy of a check and letter stating the amount of payment that was received and certifying that the information is true.
- Copy of executed (and recorded, if available) Bank-provided standard mortgage and note securing the AHP funds throughout its retention period. This is required for both the direct subsidy and subsidized advance and recorded copies will be required at completion monitoring. *It is important that you allow additional time for approval of non-standard documents.*
- Information and/or documentation on the current status of the project as needed;
- Evidence of fulfillment or compliance with any specific award conditions; and,
- Any delinquent AHP reports, as they may delay the disbursement request.

**Additional Disbursement Documentation Required – Rental Only**

In addition for the items in the section above, the following is required at disbursement for all rental initiatives:

- The current 15-year operating pro forma;
- A written explanation of any changes to the project's operating pro forma since the application resulting in an increase or decrease of five percent or greater; and
- The proposed rent schedule, including number of units targeted at percentage of area median income, beds per unit, people per unit, maximum income level, and total rent and tenant paid portion per unit. These numbers must be consistent with the approved AHP application and tie to the 15-year operating pro forma and the rent charge for the unit should not exceed 30% of the median income for the targeted group.

**Additional Disbursement Documentation–Homeownership–Prior to Buyer Closing**

When funds are used for construction and disbursement is requested, the following is also required:

- *Interim AHP Mortgage and Note:* between the member and sponsor to secure the properties benefiting from AHP funds during the development phase (as the sponsor sells developed units, the interim mortgage may be released and replaced by the homebuyer AHP subordinate mortgage).

If any of the units have been sold at the time of disbursement, see the next section for additional required documentation.

**Additional Disbursement Documentation–Homeownership–After Buyer Closing**

If the AHP subsidy funds are used for downpayment and closing cost assistance, disbursement is provided on a reimbursement basis only. In addition, if the AHP subsidy funds are used for construction or development and any of the units have closed the following is required for each homebuyer assisted:

- The completed ownership subsidy calculation spreadsheet demonstrating the pass-through of the subsidy.
- The settlement statement or Closing and Seller Disclosures evidencing the AHP subsidy amount and homebuyer acknowledgement.
- Copy of the executed Bank-provided standard mortgage and note securing the AHP funds throughout the retention period. Recorded copies will be required at completion monitoring.
- Third-party income documentation as of the date of qualification supporting that the homebuyer's income is within the income targeting commitments made in the approved application.
- Schedule of the progress that the member and sponsor are making in complying with the Qualifying Characteristics of the approved application.
- Copy of homebuyer/homeowner education/counseling certificate.

Please note that the Bank requires that sponsors maintain copies of all documentation for the AHP-assisted transactions. Members are advised to retain the closing statement and a copy of the AHP mortgage for your records.

**Closing Instructions for Owner Development and Mortgage Financing Initiatives**

For ownership initiatives using AHP funds to assist homebuyers with a downpayment, closing costs, or permanent financing, the AHP Regulation requires

that the closing documentation clearly and specifically show the subsidy being used. To document the incorporation of the AHP grant/subsidy into a homeownership closing, please request the Bank's sample instruction letter to the closing agent).

#### **E. Disbursement Evidence**

Following disbursement, AHP direct subsidy and subsidized advance funds *must* be provided to the Sponsor/Owner within 90 days for approved purposes. The member is not permitted to make any arbitrage gain on the AHP subsidy. At a minimum, the member must transfer the funds to the sponsor by depositing the AHP funds into a separate account benefiting the sponsor within 90 days of disbursement from the Bank to the member.

Any arbitrage occurring resulting from a failure to transfer the funds to the sponsor within 90 days must be allocated to the sponsor. The member must document that it did not make any arbitrage gain on the AHP subsidy. Earnings from arbitrated AHP funds are calculated based on the Federal Funds rate for the period with which the funds were held beyond 90 days.

##### Separate Sponsor Account

Although not required, to facilitate accounting for the AHP funds, it is recommended that the member financial institution establish a separate account for the sponsor and this initiative before disbursing the funds to the sponsor. Further, it is recommended that AHP funds should not be co-mingled with other funds of the sponsor.

#### **F. Initial Reporting and Monitoring – All Approved AHP Projects**

**Prior to and During Construction, Rehabilitation or Implementation of a Financing Program.** The project sponsor or owner shall report to the member, and the member to the Bank, semiannually regarding project development status, generally in June and December.

The Bank uses the report to determine, at a minimum, whether the project is making reasonable progress toward completion and occupancy. Both ownership and rental projects are subject to this requirement. Semiannual Progress Reports (SAPR) will be required of all unfunded, partially funded and fully funded projects until project completion or occupancy occurs.

The SAPR includes, but is not limited to, the following:

- A description of the current status indicating any changes in the development time line, funding, site control, or construction status and estimated completion date.

- Revised development and operating budgets, funding commitment letters or other documentation, and explanations if changes have occurred from the original application.
- A description of any changes in the approved Qualifying Characteristics (QC) that have occurred since the application was approved including unit count, income targeting, populations served, property locations, and services to be provided to eligible households.
- If AHP funds have been drawn, evidence is needed of the funds transfer from the member financial institution to the sponsor (wire transfer record, Bank statements, settlement statements, or check copy) and evidence of how the sponsor used the funds (settlement statements or Closing and Seller Disclosures, invoices, and/or requisitions).
- If applicable, copies of the certificates of occupancy for completed housing units.
- For rental projects, provide a list of tenant income and rents, at move-in, of all occupied units.
- For homeownership projects, please provide a list of all units sold and loans closed using the spreadsheet template provided on the Bank's website. This spreadsheet should include the following information:
  - (a) Homebuyer's last name;
  - (b) Amount of grant/subsidy;
  - (c) Settlement statement or Closing and Seller Disclosures completed – indicate yes or no;
  - (d) Retention mechanism executed – indicate yes or no;
  - (e) Amount of payment to the buyer;
  - (f) Amount of homebuyer's verified income and household size;
  - (g) Targeted income level – very low income (VLI), low income (LI), moderate (Mod) and the number of units of each;
  - (h) Type of income documentation – pay stub, tax return, etc.
  - (i) Although not required photos and any marketing or publicity information about the project may be provided.

In the case of rental projects, project completion will be achieved at the issuance of a certificate of occupancy (CO) issued by the local jurisdiction or, if the local jurisdiction does not issue such a CO, then the development will be deemed complete when the sponsor determines that the development has reached 80 percent occupancy by eligible tenants and all of the AHP funds have been disbursed by the Bank and passed through to the sponsor for the project.



In ownership projects, the completion date for owner-occupied initiatives will be the closing date of the loan of the last homebuyer on the sale of the last home.

Where AHP funds are used to finance the purchase of owner-occupied units, the sponsor must maintain household income verification documentation available for review by the member or the Bank. The sponsor and the member must provide annual certification to the Bank until all approved AHP subsidies are disbursed to eligible households. For owner-occupied projects, within one year after disbursement and/or project completion, the member shall review project documentation and certify to the Bank that (1) the AHP subsidy has been used in accordance with the approved AHP application and (2) the AHP-assisted units are subject to a deed restriction or other legally enforceable affordability retention agreement or mechanism meeting the requirements of section 1291.9(a)(7) or (a)(8) of the AHP Regulation.

If, in the judgment of the Bank, there is lack of material progress in the timely completion of a project the Bank may, at its sole discretion, rescind approval of undisbursed AHP funds and/or require recapture of previously disbursed AHP funds. Any interest accrued on disbursements of AHP funds not used at the time of recapture shall also be recaptured by the Bank and deposited in the AHP pool. Similarly, extensions of funding commitments will be made solely at the discretion of the Bank.

**G. Closeout Monitoring Review - Compliance Verification (Reporting and Monitoring) at Project Completion**

**Owner-Occupied Projects (Including Mortgage-Financing Initiatives)**

Within one year after completion, the Bank shall complete a compliance Closeout Monitoring Review and obtain the member and sponsor certification that the AHP subsidy has been used in accordance with the approved AHP application and project completion. That review will determine that the project meets the following requirements, at a minimum:

- (1) The AHP subsidies were used for eligible purposes according to the commitments made in the approved AHP application,
- (2) The incomes of households that own AHP-assisted units did not exceed the levels committed to in the AHP application at the time the households were qualified by the sponsor to participate in the project,
- (3) The project's actual costs were reasonable in accordance with the Bank's project cost guidelines, and the AHP subsidies were necessary for the financial feasibility of the project as currently structured;
- (4) Each AHP-assisted unit is subject to AHP retention agreements that meet the requirements of Section 1291.9(a)(7) or (a)(8) of the AHP Regulation, as applicable, and

- (5) The services and activities committed to in the AHP application have been provided in connection with the project and all scoring commitments as listed in the Qualifying Characteristics were met.

An on-site review shall be performed whenever the project has \$500,000 or more in AHP subsidy (direct/grant plus interest-rate subsidy) or significant compliance issues appear to exist.

The review will include, but is not limited to, the following information:

- Incomes of households that own AHP-assisted units do not exceed limits committed to in the AHP application at the time the households were qualified. Please complete the spreadsheet template as discussed above under Reporting and Monitoring during Development and provide third-party income documentation for at least ten percent of the AHP-assisted units.
- The project's Qualifying Characteristics have been fulfilled and the Bank has approved any modification in writing. A written summary and back-up documentation confirming that each of the Qualifying Characteristics is fulfilled.
- A copy of the settlement statement or Closing and Seller Disclosures for each unit or buyer-assisted award.
- The AHP subsidies were used for eligible purposes, the project's actual costs were reasonable in accordance with the Bank's project feasibility guidelines, and subsidies were necessary for the financial feasibility of the project. This includes the following documentation:
  - (a) Final sources and uses development budget, typically the final cost certification, if applicable;
  - (b) Documentation of use of AHP funds; and/or
  - (c) Audited statements or cost certifications if available.
- The AHP-assisted units are subject to the Bank-provided standard mortgage and note.
- The evidence confirms that AHP funds were passed through from the member financial institution to the sponsor and subsidies pass through to the beneficiaries identified in the application is acceptable.
- The sponsor complied with affirmative marketing and Fair Housing requirements.
- Photos, if available.

### **Rental Projects**

Within one year and 120 days after project completion, the Bank shall complete a final compliance review in accordance with Section 1291.7(a)(1)(C) of the AHP Regulation that will include a review of documentation to determine that:

- (1) The AHP subsidies were used for eligible purposes in accordance with the commitments made in the approved AHP application,
- (2) The household incomes and rents at move-in comply with the income targeting and rent commitments made in the AHP application,
- (3) The project's actual costs were reasonable in accordance with the Bank's project cost guidelines, and the AHP subsidies were necessary for the financial feasibility of the project as currently structured,
- (4) Each AHP-assisted unit is subject to AHP retention agreements that meet the requirements of Section 1291.9(a)(7) or (a)(8) of the AHP Regulation, as applicable, and
- (5) The services and activities committed to in the approved AHP application have been provided in connection with the project and all scoring commitments as listed in the Qualifying Characteristics were met.

This review may be performed on-site, or by reviewing documentation submitted to the Bank by the member and sponsor. An on-site review shall be performed whenever the project has \$500,000 or more in AHP subsidy (direct/grant plus interest-rate subsidy) or significant compliance issues appear to exist. As part of the final compliance review, the project owner must:

- (1) Certify to the member and the Bank that the services and activities committed to in the AHP application have been provided in connection with the project,
- (2) Provide a list of actual tenant rents and incomes at move-in to the member and Bank and certify that they are accurate and in compliance with the rent and income targeting commitments made in the AHP application and that the project is habitable, and
- (3) Maintain documentation regarding tenant rents and incomes and project habitability available for review by the member or Bank to support such certifications.

In addition and also as part of the final compliance review, the member shall review project documentation and will certify to the Bank that:

- (1) The project is habitable,
- (2) The project meets its income-targeting commitments, and
- (3) The rents charged for AHP-assisted units do not exceed the maximum levels committed to in the AHP application.

The following information will be reviewed:

- Evidence that the services and activities committed to in the AHP application are being provided in connection with the project.
- Evidence that the elements of the Qualifying Characteristics (QC) have been fulfilled or the Bank has approved any modification in writing. A written summary and back-up documentation that each of the Qualifying Characteristics is fulfilled.
- The AHP subsidies were used for the eligible purposes stated in the approved application; the actual costs were reasonable in accordance with the Bank's development feasibility guidelines; the AHP subsidies were needed for the financial feasibility of the initiative. This including the final detailed sources and uses development budget; documentation of use of AHP funds; audited financial statements or cost certification if available; and the 15-year operating pro forma.
- Tenant rents and incomes at move-in for accuracy and compliant with the income targeting commitments made in the approved AHP application and the rents are no more than 30 percent of HUD Area Median Income Limit for the unit's targeted income.
- The rents charged for the AHP-assisted units do not exceed the maximum income limits committed to in the approved application.
- The AHP-assisted units are subject to the Bank-provided standard mortgage and note for the AHP direct subsidy and/or subsidized advance. Recorded copies are required.
- Evidence that confirms that AHP funds were passed through from the member financial institution to the sponsor.
- Sponsor complies with affirmative marketing and Fair Housing requirements.
- LIHTC Form 8609, if applicable.
- Photos, if available.

#### Property Management Participation in the AHP Closeout Monitoring Review

The Bank strongly encourages that the parties responsible for property management (e.g. the sponsor or project owner's occupancy staff and/or the property management company) participate in the closeout monitoring process because there are also operating requirements to fulfill the AHP Qualifying Characteristics and reporting obligations for rental initiatives for the 15-year AHP affordability period. It is the obligation of the project owner to ensure that the long-term monitoring and reporting obligations are fully understood by the responsible parties and fulfilled in a timely manner. The project owner is responsible for certifying to the accuracy of the long-term monitoring and reporting.

## **H. Long-Term Compliance Monitoring Requirements for Completed Projects**

### **Owner-Occupied Projects**

Long-term monitoring is not required of home ownership projects. However, resale or refinance during the term of the retention period shall be reported to the Bank. The Bank will determine if a pro rata share of the AHP subsidy must be repaid.

### **Rental Projects**

Long-term monitoring requirements will be determined by the extent of project monitoring performed by a federal, state or local government entity and the amount of AHP subsidy provided to the project.

Completed rental projects that have Low Income Housing Tax Credit (LIHTC) allocations, Tax Credit Assistance Program (TCAP), or Tax Credit Exchange Program (TCX) funds will be monitored by the state-designated housing credit agency in accordance with the requirements applicable under the tax credit program. To evidence LIHTC initiatives, a copy of the IRS Form 8609 must be on file with the Bank. Documentation of TCAP or TCX funds and monitoring will also be required. No additional reports will be requested, received, or reviewed, once a sponsor has provided evidence of the tax credits and as long as the initiative remains in compliance with the requirements of the LIHTC, TCAP, or TCX funds. The project owner or sponsor must notify the Bank if the initiative no longer qualifies as a LIHTC/TCAP, or TCX initiative or receives an IRS Form 8823. In this event, the long-term monitoring will restart for the rental initiative. Additional monitoring or other actions may be considered at the sole discretion of the Bank.

Long-term monitoring requirements to be performed by the Bank's, members and project owners in projects not monitored by an approved government entity are as follows:

*For projects receiving \$50,000 or less in AHP subsidy:*

- a) Beginning in the second year after project completion, annual compliance certification regarding habitability and rent and income targeting from owner during term of retention period. The owner must maintain supporting documentation that is available for Bank review.
- b) Beginning in the second year after project completion, certification from member based on exterior inspection annually during term of retention period that the project appears suitable for occupancy.
- c) Bank review of owner and member certifications on household incomes, rents and habitability annually.

*For projects receiving \$50,001 to \$250,000 in AHP subsidy:*

- a) Beginning in the second year after project completion, annual compliance certification regarding habitability and rent and income

targeting from owner during term of retention period. The owner must maintain supporting documentation that is available for Bank review.

- b) Beginning in the second year after project completion, certification from member based on exterior inspection annually during term of retention period that the project appears suitable for occupancy.
- c) Annual Bank review of owner and member certifications on household incomes, rents and habitability.
- d) Bank review of household income, housing payment and habitability documentation maintained by the owner at least once every six years. The sampling plan used includes 100 percent of the projects at this subsidy level once every six years and, based on the current supplied rent roll, supporting documentation, including third-party move-in/qualification income documentation and/or lease agreements, is reviewed based on the risk-based sampling plan determined by the Bank.

*For projects receiving \$250,001 to \$499,999 in AHP subsidy:*

- a) Beginning in the second year after project completion, annual compliance certification regarding habitability and rent and income targeting from owner during term of retention period. Supporting documentation, available for Bank review, must be maintained by the owner.
- b) Beginning in the second year after project completion, certification from member based on exterior inspection annually during term of retention period that the project appears suitable for occupancy.
- c) Annual Bank review of owner and member certifications on household incomes, rents and habitability.
- d) Bank review of household income, housing payment and habitability documentation maintained by the owner at least once every four years. The sampling plan used includes 100 percent of the projects at this subsidy level once every four years and, based on the current supplied rent roll, supporting documentation, including third-party move-in/qualification income documentation and/or lease agreements, is reviewed based on the risk-based sampling plan determined by the Bank.

*For projects receiving \$500,000 and more in AHP subsidy:*

- a) In the second year after project completion, annual compliance certification regarding habitability and rent and income targeting from owner during term of retention period. Supporting documentation, available for Bank review, must be maintained by the owner.
- b) Annual Bank review of owner certifications on household incomes, rents and habitability.

- c) Biennial, on-site Bank review of household income, housing payment and habitability documentation. The sampling plan used includes 100 percent of the projects at this subsidy level once every two years and, based on the current supplied rent roll, supporting documentation, including third-party move-in/qualification income documentation and/or lease agreements, is reviewed based on the risk-based sampling plan determined by the Bank.

*Additional Long-Term Compliance Monitoring:*

The Bank reserves the right to require further monitoring outside of the above schedule. The monitoring may be comprised of supplementary reporting periods or documentation for projects with a high percentage of AHP subsidy to total development costs, concerns with sponsor capacity, or other issues, as determined by the Bank.

**Monitoring by a Federal, State or Local Government Entity**

The Bank will rely on on-going monitoring performed by a federal, state or local government entity in projects that receive funds from, or an allocation of Low Income Housing Tax Credits by, such a government entity. No additional reports will be requested, received, or reviewed.

**Monitoring by a Contractor**

The Bank reserves the option to retain the services of a qualified contractor to perform the long-term monitoring review ensuring project compliance with the AHP Regulation and project characteristics approved in the AHP application.

**I. AHP Rating System and Watch List Placement**

The Bank maintains a project rating system and Watch List to monitor and manage projects that may encounter difficulties at any stage, whether in development or during the retention period. Retention period is defined as five years for homeownership and 15 years for rental initiatives.

**Rating System**

Ratings of 1 to 4 are assigned to projects for the following reasons. Projects with a rating of 3 have issues that may lead to placement on the Watch List if not resolved. Those with a rating of 4 are on the Watch List and are monitored until resolved.

<b>Rating</b>	<b>Reason</b>
<b>1</b>	The initiative is in full compliance with the AHP Regulation and HCI policies and procedures and no reports or documents are due to the Bank.
<b>2</b>	The initiative is in overall compliance with the AHP Regulation, but required or requires that a site visit be performed based on the parameters defined in Section Q of this Attachment C.
<b>3</b>	<p>The initiative has not started within two years of receiving approval for AHP funding, or the initiative has started but has not been physically completed within two years of approval.</p> <p>Also, an initiative may receive this rating if:</p> <ul style="list-style-type: none"> <li>• The overdue document that caused its 2 rating was not received within 60 days of receiving that rating;</li> <li>• It was complete but the Closeout Monitoring Review was not finished by the sponsor or member within 12 months for a homeownership project and 16 months for a rental project; or</li> <li>• It was missing required documentation, such as a Semiannual Progress Report, Annual Compliance Certification, or a Periodic Monitoring Report.</li> </ul> <p>Finally, an initiative may receive this rating if it requires special ongoing monitoring or has other deficiencies.</p>
<b>4 Watch List</b>	<p>If the cause of an initiative’s 3 rating is not resolved within 90 days, it will receive this rating and be added to the Watch List. These are primarily initiatives that are delayed their completion.</p> <p>Other projects may be rated a 4 and placed on the Watch List. These may include, but are not limited to, projects that have regulatory issues, those in noncompliance with HCI policies and procedures, and initiatives deemed in danger of financial default.</p> <p>Issues on the Watch List in recent years include delayed completion; homeownership initiatives in which all of the units are built, but have not been sold due to the economic environment; sponsor dissolved or has diminished capacity; financial operating difficulties; pending foreclosure; compliance issues with targeting or other qualifying characteristics; and more.</p>



	<p>The options include:</p> <ul style="list-style-type: none"><li>• In Danger of Financial Default</li><li>• Regulatory Noncompliance</li><li>• Delayed Completion</li><li>• Delayed Monitoring</li><li>• Other Noncompliance or Default</li></ul>
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## **J. Watch List Reporting and Requirements**

Watch List projects are reviewed monthly by HCI and quarterly by the Housing and Community Development Committee of the Bank's board of directors.

The issues causing the "4" rating are described in the report and an action plan and time-frame are established with the member and sponsor and included to guide the resolution of whatever issues caused the project to be added to the list. Members and sponsors complete additional monitoring and reporting for initiatives on the Watch List. Placement on the Watch List could also result in deobligation and/or recapture of funds. Such status may also lead to the disqualification of future AHP application, suspension, or debarment.

### Specific Requirements

Each project placed on the Watch List will be required to submit either a plan or a detailed development time line depending on their reason for placement on the Watch List. Both the plan and the timeline should contain and/or reflect review and approval by sponsor/owner and member.

- Projects other than Delayed Completion are required to submit a plan with projected dates and their plan B should they not meet their plan. Should contain review and approval by sponsor/owner and member.
- Delayed Completion initiatives will be required to submit a detailed development time line including the following dates at a minimum:
  - Acquisition
  - Zoning and Permits
  - Construction Contractor Selected
  - Financing Close
  - Construction Start
  - Construction Completion
- NIMBY (not-in-my-backyard) initiatives will be required to submit documentation of the NIMBY challenges.

The plan/timeline will be reviewed by the CIM and the Director and/or Deputy Director. Formal notification/confirmation to the member and sponsor/owner will be required. The Watch List report will be updated with the plan/timeline information, the Bank's position on the plan, and a short description of the alternatives for both the sponsor/member and the Bank.

In addition, periodic financial feasibility reviews on Delayed Completion and NIMBY initiatives will be required. "Periodic" will be defined on a case-by-case basis at the discretion of the CIM and the Director/Deputy Director.

#### **K. Watch List Resolution/Corrective Actions for Noncompliance**

For the purposes of this section, AHP subsidies include AHP direct or grant subsidy, the principal and AHP interest-rate subsidy on an AHP subsidized advance, and Equity Builder Program grants.

The AHP Regulation requires that members who pass AHP subsidy on to project sponsors and/or owners execute a legally enforceable retention mechanism (i.e. AHP mortgage and note) securing the AHP-assisted property, which is recorded with the appropriate municipality, and will authorize the member to recover subsidy from a project sponsor/owner or subsidy recipient if an event of noncompliance or default should occur. The Bank relies on the member participate in the corrective actions, and if needed, to exercise the full abilities of the recorded lien.

The corrective actions for noncompliance, in this order, are:

- (1) Cure - The member, project owner, or project sponsor cures the noncompliance within a reasonable period of time, generally not to exceed 12 months.
- (2) Modification - The circumstances of the noncompliance are eliminated through a modification of the scoring characteristics of the approved application pursuant to the AHP Regulation 12 CFR 1291.5(f). Although modifications can be done at any time, they are only considered a cure for noncompliance and not for other recapture scenarios.
- (3) Repayment of AHP subsidies – The Bank shall recapture or recover the AHP subsidies (plus interest, if appropriate) that are not used in compliance with the commitments made in the approved AHP application, the AHP Agreement, or as otherwise required by the FHFA's regulations, and if the misuse is the result of the actions or omissions of the member, project sponsor, or owner.
  - (a) Responsible parties for repayment of AHP subsidies:

The member or sponsor/owner shall repay to the Bank the amount of any subsidized (plus interest, as appropriate) that, as a result of the member's, sponsor's or owner's respective actions or omissions, is not

used in compliance with the terms of the approved application for the subsidy, unless the noncompliance is cured within a reasonable period of time.

- (b) Repayment of the AHP subsidies are not required if:
  - i. The member, project owner, or project sponsor cures the noncompliance as noted above; or
  - ii. The circumstances of the noncompliance are eliminated through a modification as noted above; or
  - iii. The member is unable to collect the AHP subsidy after making reasonable efforts to collect it.

If the member has a recorded mortgage or lien for the AHP subsidy or subsidized advance, this may include initiating foreclosure action against a project, sponsor, or owner and the amount of subsidy to be repaid to the Bank will be the amount recovered from the foreclosure after the payment of any prior liens. The member must demonstrate that “reasonable efforts” have been made to actively recover all misused AHP subsidy. If the member is not successful in recovering the full amount of the misused AHP subsidy from the project, sponsor, or owner, the member will only be liable for the amount of AHP subsidy that could be recovered through the foreclosure or other legal action.

- (c) Partial Recapture/Repayment for Noncompliance for Rental Initiatives:
  - i. In select circumstances, at the determination of the Bank, a partial recapture may be for noncompliance only on some or all of the units for some or all of the retention period. The funds will be due from the party responsible for the noncompliance.
- (4) Other Options - The other options listed below are utilized only after items 1 through 3 above have been exhausted, and after the member has fully exercised its abilities under the recorded lien and has pursued recapture of the subsidy through traditional loan recapture methods, including foreclosure.

- (a) Request for Waivers or No Action Letters

Used infrequently, the Bank may request a waiver or no action letter from the FHFA on actions related to a specific transaction or issue where it is believed or anticipated that the action would be in violation of the AHP Regulations.

- No Action Letters are written statements issued to a Bank providing that the FHFA will not recommend supervisory or other action to the director of the FHFA for failure to comply with a specific provision of a FHFA rule, regulation, policy, or order.
- Waivers are written statements issued by the FHFA to a Bank or a member of a Bank that waive a provision, restriction, or requirement of a FHFA rule, regulation, policy, or order, or a required submission of information, not otherwise required by law, in connection with a particular transaction or activity. A Waiver can be granted only if it is not inconsistent with the law and does not adversely affect any substantial existing rights and upon a determination that application of the provision, restriction, or requirement would adversely affect achievement of the purposes of the FHLBank Act, or upon a showing of good cause.

(b) Settlements

According to the AHP Regulation (12 CFR 1291.8), a Bank may settle a claim for AHP subsidies that it has against a member, project sponsor, or project owner for less than the full amount due. If a Bank enters into such a settlement, the FHFA may require the Bank to reimburse its AHP fund in the amount of any shortfall, unless:

- The Bank has sufficient documentation showing that the sum agreed to be repaid under the settlement is reasonably justified, based on the facts and circumstances of the noncompliance (including the degree of culpability of the non-complying parties and the extent of the Bank's recovery efforts); or
- The Bank obtains a determination from the FHFA that the sum agreed to be repaid under the settlement is reasonably justified, based on the facts and circumstances of the noncompliance (including the degree of culpability of the non-complying parties and the extent of the Bank's recovery efforts).

The provision is used in the rare circumstances where the full AHP subsidy due is not repaid, including in some cases where a member has documented all “reasonable efforts” to collect the AHP subsidy due, but is unsuccessful. Settlements are not considered where the other options of cure or modification are utilized. Settlement is also not considered when a member has not placed a lien or a deed restriction (if permitted by the Bank) on the property(ies) or has not made efforts to collect the AHP subsidy due.

In determining recommendation and approval of a settlement or reduced recapture of AHP subsidy and or AHP loan funds, the following may be utilized:

- Review and documentation of the facts and circumstances of the noncompliance.
- Determination of culpability of noncomplying party/ies (including member, sponsor, or project owner);

If needed, review of third-party cost validation to determine if the subsidy was used on compliance with the application and to evaluate culpability.

- Analysis of the repayment ability of the noncomplying party/ies, including:

Review of member, sponsor, owner, or project financial statements, taking into account reserves and cash flow; and

Other financial resources that may be accessed to repay.

- Any written guarantees for repayment or payment assistance.
- Review of collateral (generally, the project property/ies) to determine ability to repay, including:

Current valuation/appraisal of collateral; and

Other liens against the collateral.

All settlements will be documented in the project's chronological record file and in a detailed memo to the file, management, or the board's Housing and Community Development Committee. The chronological record and memo will summarize the event, the settlement amount, and resolution. In addition, the same will be included in a letter to the member and sponsor/owner. If needed, a formal agreement regarding the resolution may be executed between all AHP parties. All settlements will be reported to the board's Housing and Community Development Committee and will be presented to the full board for approval.

## **L. Suspension and Debarment**

If a member, project sponsor, or project owner shows a pattern of noncompliance, or engages in a single instance of flagrant noncompliance, with the terms of an approved application for AHP subsidy or the requirements of the AHP Regulation, the Bank may suspend or debar the party from participating in the AHP or related

programs. In addition, the FHFA may order a Bank to suspend or debar a member, project sponsor, or project owner.

**M. Other Circumstances Requiring Repayment of AHP Subsidy and Obligations**

**(1) Sale or Refinance**

- (a) Homeownership Initiatives - In the case of a sale or refinancing of the unit prior to the end of the retention period, an amount equal to a pro rata share of the AHP subsidy that financed the purchase, construction, or rehabilitation of the unit, reduced for every year the seller owned the unit, shall be repaid to the Bank from any net gain realized upon the sale or refinancing, unless:
- i. The unit was assisted with a permanent mortgage loan funded by an AHP subsidized advance;
  - ii. The unit is sold to a very low-, or low- or moderate-income household; or
  - iii. Following a refinancing, the unit continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism (i.e. the Bank's standard mortgage and note).
- (b) Rental Initiatives - In the case of a sale or refinancing of the project prior to the end of the retention period, the full amount of the AHP subsidy received by the owner shall be repaid to the Bank, unless:
- i. The project continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions committed to in the approved AHP application for the duration of the retention period; or
  - ii. If authorized by the Bank, in its discretion, the households are relocated, due to the exercise of eminent domain, or for expansion of housing or services, to another property that is made subject to a deed restriction or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions committed to in the approved AHP application for the remainder of the retention period.
  - iii. If a sponsor sells some, but not all of a project's units, the repayment of AHP subsidy is based on the percentage of units being sold. A sponsor selling 33 percent of the project's units would pay back 33 percent of the subsidy—which would be the “entire” subsidy for that part of the project.

**N. Other Issues: Fire or Foreclosure**

**(1) Fire**

For a project funded with AHP direct/grant subsidy that has been completely destroyed by fire, and documented that there is no criminal fault or negligence on the part of the owner, there is no requirement for recapture for the direct subsidy unless there is undisbursed subsidy or a noncompliance issue. Retention can be released following receipt of appropriate documentation.

If an AHP subsidized advance was utilized to provide funding, the obligation is subject to the member's mortgage, note, and other requirements. Following satisfaction of the obligation to the member, there may be no requirement for recapture for the subsidy unless there is undisbursed subsidy or a noncompliance issue. Retention can be released following receipt of appropriate documentation.

Partially damaged property would not qualify, because as it is anticipated that the owner would make the necessary repairs and place the property back in service. If the owner is unable to place the property back in service, the options involved would start with Cure, as noted under M.(1) above.

**(2) Foreclosure**

For both homeownership and rental initiatives, foreclosure is the end of the retention period; therefore, the project is no longer an AHP project. A project is then only liable for repayment of any subsidy for reasons of noncompliance prior to the foreclosure. If there was no noncompliance prior to foreclosure, then the project has nothing to repay. Foreclosure is not a sale or refinancing, which are the only conditions, other than noncompliance, for which the regulation requires repayment of the AHP subsidy. A short-sale of the property to avoid foreclosure would be a sale subject to repayment. A deed-in-lieu is considered a foreclosure.

Specifically, in ownership initiatives, the obligation to repay AHP subsidy to the Bank shall terminate after any foreclosure. For rental projects, the AHP Regulation states that the income-eligibility and affordability restrictions applicable to the project shall terminate after any foreclosure.

**O. Project Site Visits**

As a result of the Federal Housing Finance Agency's Advisory Bulletin AB 2013-08) issued December 13, 2013, effective July 1, 2014, site visits to certain projects are now required, regardless of other policies and procedures in place, to ensure the completion or continued operation of these specific initiatives.

Site visits are required for the following projects/risk factors:

- (1) Where the total amount of AHP subsidy is 50 percent or greater of total development costs and the project is not scheduled to receive an on-site project visit through the initial or long-term risk-based monitoring scheme.
- (2) Watch List projects that are categorized as In Danger of Financial Default, Regulatory Noncompliance, or Other Noncompliance or Default.
- (3) The circumstances or new information call into question the operational capacity of the project sponsor or owner, or the continued operational feasibility of the project.
- (4) Projects in which the Bank suspects that the owner, sponsor, managing agent, or other party may have misrepresented factual information or falsified income verifications or altered tenant files.
- (5) Projects that do not meet any of the above scenarios, but would benefit the department by conducting an on-site project visit. The project's community investment manager in consultation with the Director or Deputy Director would be responsible for the decision under this scenario.

A site visit can be accomplished at the completion of the project during its ribbon cutting or dedication event by any Bank staff member, during a Closeout Monitoring Review, for an Annual Compliance Certification/Periodic Monitoring Review (ACC/PMR) of rental rolls and income documentation, or at any other time post-completion. A site visit for Risk Factor 3, 4, or 5 can be done at any time.

Other than those on the Watch List, all other projects requiring a site visit based on these parameters will be assigned a Rating of 2.



### **XIII. Attachment D —**

#### **2018 Equity Builder Program – Homeownership Set-Aside Program**

The Equity Builder Program (EBP) is the Bank’s noncompetitive homeownership set-aside component of the AHP under the AHP Regulation.

The AHP Regulation and this plan guide the Bank, the participating member financial institutions (Members), and the homebuyers awarded EBP subsidy funds. They govern the activities of the EBP, including the following: eligibility, subsidy allocations, application review and approval, homebuyer approval, subsidy disbursement, affordability retention, monitoring, records retention, and subsidy recapture.

The EBP is available only to Members of the Bank. Members need only to comply with the AHP Regulation, this Implementation Plan policy, and the related procedures to be eligible for the program. Homebuyer/enrollment requests will be fulfilled on a first-come, first-served basis.

##### **A. Allocation of Subsidy Funds to EBP**

The allocation to the EBP will be the greater of 15 percent of the total Affordable Housing Program subsidy funds or \$1,000,000, with one-third of the allocation to be awarded to first-time homebuyers. In no case, will the contribution to the EBP be greater than 35 percent of the total AHP subsidy funds available.

The amount allocated to the EBP round will be divided among four funding periods:

- (1) 35 percent will be released in March 2018;
- (2) 25 percent will be released in April 2018;
- (3) 20 percent will be released in May 2018; and
- (4) 20 percent will be released in June 2018;

The dates for the opening of the EBP round, application and funding periods are detailed in Section B.

Any EBP funds recaptured or deobligated will be allocated to the EBP fund pool.

##### **Requirements – EBP Subsidy and Member Requirements**

EBP subsidy funds for each program year will be provided to Members pursuant to the Bank’s AHP Implementation Plan for the current year.

- (1) Following approval, subsidy funds will be available to Members with eligible applications on a first-come, first-served basis with a maximum enrollment cap of \$110,000 per Member, with no guarantee of funds.

- (2) The EBP pool will remain open for reservations for 12 months from the first open enrollment date as detailed in the AHP Implementation Plan. On December 31, of the current calendar year, any remaining funds not previously or currently committed from the current EBP pool of funds, will be re-allocated to the AHP pool. Any previously recapture or deobligated funds will be omitted from the current year's allocation and will remain in the EBP pool for income-eligible households.
- (3) Members may make enrollment requests of up to a maximum of \$11,000 per household to this general pool of funds to assist income-eligible households on a first-come, first-served, homebuyer-by-homebuyer basis. Funds will be held upon the online submission of the homebuyer information and officially reserved upon Bank approval of the enrollment. Income-eligible households approved under the EBP cannot receive AHP subsidy from any other FHLB Bank set-aside program.
- (4) The first one-third of the enrollment cap must be used for the enrollment of qualified first-time homebuyers, as defined by the Bank in the glossary of this section. After the first one-third, the remaining EBP funds can be used for first-time homebuyers or non-first-time homebuyers. Members will be required to certify that the homebuyer is a first-time homebuyer and may be required to provide additional documentation.
- (5) EBP subsidy funds can be used to pay for downpayment, closing cost, education/counseling, or rehabilitation assistance in connection with the household's purchase of an owner-occupied housing unit, including a condominium, cooperative housing unit, or manufactured housing unit to be used as the household's primary residence. A maximum of \$500 in EBP funds may be used to pay for education/counseling costs, and such funds may be used for such purpose only where:
  - (a) Such costs are incurred in connection with education/counseling of homebuyers who actually purchase an EBP-assisted unit;
  - (b) The cost of the education/counseling has not been covered by another funding source, including the Member; and
  - (c) The education/counseling cost is included in the total amount listed on the retention mechanism.
- (6) EBP subsidy funds cannot be used for refinancing an existing home or for reimbursement of earnest deposits or cash downpayments. In addition, EBP funds cannot be used to fund reserves for principal, interest, taxes, insurance or condominium fees or to fund prepaid life insurance premiums. While EBP funds can be layered with other first-time homebuyer or downpayment assistance programs, EBP subsidy cannot be used in combination with any other AHP subsidy. If an address is part of a project that received a grant through the AHP competitive program, it is not eligible for EBP funds.

**B. Requirements and Dates – Application**

Members will have an opportunity to apply for the Equity Builder Program funding round at two points in the year. Members approved during the first application period will have access to 80 percent of the funds allocated to the EBP funding round. Members approved during the second application period and members previously approved in the first application period will have access to the remaining 20 percent of the funds allocated to the round.

First Application Period:

Application Opens:	January 23, 2018
Applications Due:	March 2, 2018
Notice of Funds Availability:	March 14, 2018
Enrollments Begin:	March 28, 2018

Second Application Period:

(Members approved in the first application period do not need to re-apply.)

Application Opens:	May 4, 2018
Applications Due:	May 25, 2018
Notice of Funds Availability:	June 6, 2018
Enrollments Begin:	June 20, 2018

EBP funds will be released based on the following schedule:

EBP Funding Periods:

35 percent of the pool:	March 28, 2018
25 percent of the pool:	April 25, 2018
20 percent of the pool:	May 23, 2018
20 percent of the pool:	June 20, 2018

The Bank reserves the right in its sole discretion to determine, at the time the application is submitted, whether a Member is eligible to participate in the EBP based on, but not limited to, the borrowing and/or credit status of the Member. In addition, the Bank will consider the Member's past experience and performance with the program when determining eligibility. Member(s) may be contacted to discuss related concern(s) in advance of approval and award.

Only institutions that are Members of the Bank at the time of application may apply.

The Member will affirmatively indicate in the application that it will only use EBP-eligible mortgage products. Nontraditional mortgage products, including negative amortization and interest-only first mortgages, are not eligible. Eligible products include:

- Conventional fixed-rate mortgages;

- Conventional adjustable-rate mortgages with an initial interest rate period of five years or greater. The maximum initial and total rate adjustment cap(s) can be no greater than 2/6, respectively.

Other products may be presented for consideration and approval by the Bank. The specific mortgage product will be evaluated at enrollment and/or disbursement. In order to mitigate any unintended support of inappropriate lending practices, the Bank will review each homebuyer's transaction to assess whether the products offered are adjustable rate mortgages (ARMs), are subprime, or have predatory loan characteristics using a methodology and definitions based on the Interagency Guidance on Nontraditional Mortgage Product Risks (September 28, 2006) and the Statement on Subprime Mortgage Lending (June 29, 2007).

In addition, the Member will provide a description of special incentives being provided in connection with the purchase of the home in accordance with the Bank's accepted concessions listed in Section D.5. The fees charged to the homebuyer shall not exceed a reasonable market rate of interest, points, fees, and other charges for a loan of similar maturity, term, and risk.

An application will be deemed ineligible if it is incomplete, does not meet all of the program's eligibility requirements, or does not provide sufficient information to make a reasonable determination of eligibility with the program's general requirements.

All Members with an approved application must execute an Equity Builder Program Agreement (EBP Agreement), which documents the rights and responsibilities of both the Member and the Bank. A managing officer or authorized signatory (as designated by the Member and as authorized pursuant to the Member's current *Blanket Resolution for Advances, Letters of Credit, and Interest-Rate Swaps* on file with the Bank) is required to sign the EBP Agreement.

### **C. Other Requirements for Members**

It is recommended that each participating Member assign a coordinator to oversee the submission of enrollments to the Bank. Specifically, each member will need to ensure the following: program requirements are met in accordance with EBP disclosure guidelines, member personnel representing the program to homebuyers and entering data into the Banks' online system are appropriately trained, and documents for each transaction are submitted in a timely manner.

- (1) In the application, Members participating in the program are required to designate a primary and secondary contact person. The designated contact person will receive all email notifications and subsidy updates throughout the program round.
- (2) Following approval of the EBP Application, it is required that at least one member contact person attend the enrollment and disbursement training

sessions. Additional staff members such as loan originators, underwriters, and closers are welcome to attend either of the webinars as appropriate to his/her job responsibilities. The intent of this requirement is to ensure that each Member participating in the EBP receives a thorough understanding of the program, the regulatory requirements, and the calculation of income and disbursement process. Member participation and attendance will be monitored.

- (3) Members are required to access the EBP through the on-line Community Lending log-in page. Web User Registration ID requests and passwords will be limited to six per member.

**D. Requirements – Homebuyers/Households**

EBP subsidy funds will only be provided to households that:

- (1) Execute the Homebuyer Information, Household Members and Income Worksheet, and Authorization to Release/Certification of Information disclosure.
- (2) Have incomes at or below 80 percent of the median income for the location of the property to be purchased, as published annually by HUD, based upon the date which the Member enrolls the household for participation in the set-aside program. Household must remain income-eligible through the date approved by the Bank.
- (3) Have sufficient income to support the mortgage/home purchase at the time the household is accepted for enrollment by the Member in the Bank's EBP
- (4) Provide a minimum of \$500 in downpayment funds in the purchase of the subject property.
- (5) Complete a homebuyer or homeowner education/counseling program provided by, or based on one provided by, a nonprofit or other organization recognized as experienced in homebuyer or homeowner education/counseling and approved by the Bank. The counseling should follow accepted industry standards regarding the purchase and ownership, including maintenance, of the home. Although a minimum is not required, the Bank recommends a minimum of eight hours of home buyer education with a counseling component. The education/counseling must be completed prior to closing, but must have been received by the homebuyer within a reasonable time period not to exceed 24 months prior to the enrollment submission date. Online education/counseling will be considered at the sole discretion of the Bank and specific providers may be recommended. Members are required to make requests in advance and exceptions will be made at the sole discretion of the Bank.

The Bank's list of recognized education/counseling agencies includes those recognized by the Citizens Housing and Planning Association's Massachusetts Homeownership Collaborative (CHAPA), National Industry Standards for Homeownership Education and Counseling (NISHEC), or HUD.

- (6) Are participating in a Member-originated eligible mortgage product; as defined in Section C. above.
- (7) Will receive Member provided financial or other incentives in connection with such mortgage financing. The following types of concessions will be recognized:
  - (a) Reduced or waived fees
  - (b) Below market interest rates (must be supported by investor rate sheets)
  - (c) Expanded underwriting standards, or
  - (d) Downpayment assistance or other cash contributions made by the Member at closing.
- (8) Will receive, for all loans made in conjunction with the EBP subsidy, a rate of interest, points, fees, and any other charges by the Member that shall not exceed a reasonable market rate of interest, points, fees, and other charges for a loan of similar maturity, terms, and risk.
- (9) Have a specific known address for the new home, evidenced by an executed, valid purchase and sale agreement.
- (10) Will be subject to the Bank-provided subsidy retention agreement (mortgage and note) for the five-year affordability retention period.
- (11) Purchase a home within 90 days of enrollment, unless enrolled in an IDA/savings program or similar savings or counseling program. (Exceptions to the 90 days for circumstances like the construction of a new home are allowed at the discretion of the FHLB Boston.)

Additional requirements or information may be requested as detailed in the Procedures or Guidelines documents.

#### **E. Requirements - Homebuyer Enrollments**

Enrollment and disbursement requests are submitted online. Please refer to the EBP section on our website ([www.fhlbboston.com](http://www.fhlbboston.com)) under Housing and Economic Growth/Funding Programs for the EBP Manual, Procedures, and Checklist for step-by-step instructions on how to submit these requests.

All reservations for EBP funds are homebuyer specific. The Bank will allow the subject property to be updated or changed when a purchase transaction is cancelled due to specific property issues.

Homebuyer enrollment requests are generally reviewed within 15 business days of submission. (Please note that enrollments submitted during the AHP application review period may take longer as staff resources are limited.) As part of the review, HCI staff will review the request, including the third-party income documentation to determine income eligibility. To address any questions, an HCI staff person will contact the Member within a reasonable period of time. All missing documentation must be submitted within 10 business days. HCI retains sole discretion to deny an enrollment if the Member does not submit complete and sufficient income

documentation within 20 business days or if questions regarding the enrollment cannot be resolved.

The Member will be notified via email when the homebuyer is approved. If the enrollment request is denied, the Member will be notified with the reason for the denied request and will be afforded an opportunity to provide an explanation or to resolve the matters pertaining to the denial of the enrollment, if possible, unless the homebuyer is over the income eligibility limit.

Once the enrollment request is approved by the Bank, the amount of EBP funds requested for that homebuyer will be reserved for a 90-day period. The amount of the reservation will be deducted from the Member's maximum enrollment cap amount and from the total pool. The Bank reserves the right to request additional current income or other documentation prior to disbursement if more than 90 days have elapsed since enrollment or if changes have been made to property location or household size.

The Bank requests that Members submit enrollments at least 15 business days prior to the scheduled home closing to permit the department sufficient time to review the income documentation. The Bank cannot guarantee approval of enrollments submitted less than 15 business days prior to the close date. All required documentation should be submitted with the enrollment request.

Extensions to any of the EBP requirements may be granted on a case-by-case basis, at the Bank's sole discretion, if in the Bank's judgment, sufficient evidence is provided documenting progress toward homebuyer funding.

**F. Requirements – Disbursement/Funding**

EBP subsidy funds will be provided to Members on a reimbursement basis only after the closing, generally within 20 business days from the Bank's receipt of all materials. (Please note that disbursement requests submitted during the AHP application review period may take longer as staff resources are limited.) No EBP funds will be reimbursed to a Member if any of the evidentiary documentation is not received, reviewed, and approved by the designated HCI staff member.

If EBP funds are being used for rehabilitation, 100 percent of the work must be completed satisfactorily and sufficient evidence of payment for the work completed must be provided before funds can be disbursed.

The Bank will disburse subsidies only to institutions that are Members at the time they request a draw of subsidies.

EBP funds reserved by Members as part of an Individual Development Account or similar matched-savings program for down-payment and closing-cost, or

rehabilitation assistance to eligible households, must be disbursed to the eligible households within 24 months from the date of enrollment.

The Member may provide cash back to a household at closing on the mortgage loan in an amount not exceeding \$250. The Member shall make every attempt to insure that the EBP funds are used at the time of closing to directly benefit the homebuyer through downpayment and closing costs coverage. If a household is to receive more than \$250 cash back at closing, the first option would be to reduce the EBP grant amount. In the second option, the Member will apply all EBP subsidy exceeding such amount that is beyond what is needed at closing for closing costs and the approved mortgage amount as a credit to reduce the principal of the mortgage loan or as a credit toward the household's monthly payments on the mortgage loan. If the Member needs to exercise option two, the Bank must be notified in advance of the closing and/or as soon as possible.

Extensions to any of the EBP requirements may be granted on a case-by-case basis, at the Bank's sole discretion, if in the Bank's judgment, sufficient evidence is provided documenting progress toward homebuyer funding.

**G. Requirements – Progress Toward Use of EBP Subsidy**

EBP funds allocated within the current calendar year must be committed by year end of the current year. On December 31, any remaining funds from the current year round allocation, not previously committed, will be placed back into the AHP pool.

Extensions to any of the EBP requirements may be granted on a case-by-case basis, at the Bank's sole discretion, if in the Bank's judgment, sufficient evidence is provided documenting progress toward home-buyer funding.

**H. Requirements – Sale of the Home**

In the event of a sale prior to the end of the five-year retention period, the Member must ensure that the Bank is notified in advance of the closing. The Bank will require a draft copy of the Seller's Closing Disclosure and will calculate, prior to the closing, the portion of the subsidy that is to be repaid to the Bank. The calculation is based on the requirement that an amount equal to the pro rata share of the set-aside subsidy that financed the purchase, construction, or rehabilitation of the unit, reduced for every year the seller owned the unit, shall be repaid to the Bank from any net gain realized upon the sale of the unit, unless the unit is sold to a very low-, low- or moderate-income household, as defined by the Federal Housing Finance Agency's AHP Regulations and as determined by the Bank.

The Bank will make all reasonable efforts to determine that the new purchaser of the AHP assisted home is a low- or moderate-income household. If the Bank cannot conclude that the subsequent purchaser is, or is likely to be, low- or moderate-



income, then the selling household must repay the pro rata amount of the AHP subsidy from any net gain realized upon the sale.

**I. Requirements – Refinancing and Subordination**

During the term of the first mortgage and within the five-year retention period, the borrower may exercise the option to refinance the first mortgage executed with the Member, provided that the property continues to be subject to an EBP retention mechanism. The Bank must be notified and will allow subordination of the EBP funds to the refinanced first mortgage. This may include consenting to a discharge and then replacement of the existing EBP note and mortgage. Subordination requests may involve internal Bank legal review.

If following the refinancing, the property will not be subject to an EBP retention mechanism, the Member must ensure that the Bank is notified in advance of the closing. The Bank will require a draft copy of the Seller’s Closing Disclosure and will calculate, prior to closing, the portion of the subsidy that is to be repaid to the Bank. The calculation is based on the requirement that an amount equal to the pro rata share of the set-aside subsidy that financed the purchase, construction, or rehabilitation of the unit, reduced for every year the homebuyer owned the unit, shall be repaid to the Bank from any net gain realized upon the refinancing of the unit.

**J. Requirements – Death of EBP-Assisted Owner**

Upon death of an EBP-assisted owner within the five-year EBP retention period, the EBP retention agreement terminates and there is no obligation to repay the EBP subsidy. In all cases, the original EBP Mortgage and Note will be reviewed to determine if co-owners and or joint owners are still obligated under the original executed retention documents.

**K. Requirements – Foreclosure**

Upon foreclosure of a house purchased with EBP assistance or the owner delivering to the mortgage a deed in lieu of foreclosure, in each case during the five-year retention period, the EBP retention agreement terminates and there is no obligation to repay EBP.

**L. Requirements - Monitoring**

The Bank and the Members participating in the EBP will comply with the monitoring requirements detailed in the AHP Regulation. The Bank may, at its discretion, request additional documentation to confirm compliance with program requirements. Members are required to maintain with each household's file all pertinent documentation including, but not limited to, Member’s certification, income verification (at the time of enrollment), underwriting worksheets, education/counseling certification, Closing Disclosures (buyer’s and seller’s

disclosures), and other closing documentation evidencing the purchase of a home, including the details of any saving plan, if applicable. The Member is required to submit a copy of the recorded EBP mortgage, at time of disbursement.

At the Bank, in order to maintain effective internal controls, no one staff person at the Bank can recommend and approve a disbursement or enrollment. This may be waived in extreme and limited circumstances such as disaster. If such an instance were to occur, the department would conduct a separate review as soon as possible after the transaction has occurred.

**M. Requirements – Reporting**

If during the review of enrollments, the Bank determines or is made aware of any material misstatement, misrepresentation or omission of relevant fact, the Bank staff is obligated to elevate the concern and provide all documents to the Banks' internal control department for review and reporting. The Bank has a formal Red Flag policy that is updated regularly and required to be administered when reviewing enrollments.

Members participating in the EBP will provide the Bank with prompt written notice of any material misstatement, misrepresentation or omission in connection with the award of any EBP subsidy by the Bank that the Member becomes aware of through its underwriting and monitoring practices. Members participating in the EBP will also provide the Bank with all information, documentation and assistance reasonably requested by the Bank in response to the Bank's receipt of any such notice from such Member.

## **XIV. Attachment E —**

### **2018 Affordable Housing Program Guidelines for Revolving Loan Funds**

#### **A. Overview**

The AHP Regulation defines a revolving loan fund as “...a capital fund established to make mortgage or other loans whereby loan principal is repaid into the fund and re-lent to other borrowers.”

The AHP Regulation authorizes the Federal Home Loan Bank of Boston (Bank), in its discretion, to provide AHP direct (grant) subsidies under the competitive application program for eligible projects and households involving both the lending of the subsidy and subsequent re-lending of subsidy principal and interest repayments by a revolving loan fund. This expands the support of affordable housing through the program.

The Bank has opened the Affordable Housing Program up to eligible revolving loan funds requesting initial AHP subsidy funds for a specific project or for a program-based initiative.

A specific project initiative is one that has a specific address (or addresses) at application and will loan funds initially to a specific developer or owner for the specific address (or addresses). A project-specific initiative is most likely to be a rental initiative.

A program-based initiative is one with or without specific addresses identified at application and will loan funds initially to developers or owners. A program-based initiative is most likely a soft-second or rehabilitation program for homeowners, but is available for rental as well.

#### **A. Sponsor Qualifications**

A loan fund is considered an eligible sponsor. Members are eligible to apply for AHP direct subsidy for qualifying revolving loan funds that meet the definition of “revolving loan fund” and the project sponsor qualifications requirement.

A revolving loan fund sponsor that intends to use the AHP subsidy in accordance with this section must:

- (1) Provide audited financial statements that confirm its operations are consistent with sound business practices; and
- (2) Demonstrate the ability to re-lend AHP subsidy repayments on a timely basis and track the use of the AHP subsidy.

**B. Qualifying Project or Program**

A revolving loan fund would be able to apply for AHP direct subsidy to lend to a specified project (or projects) or a program-based initiative meeting the requirements of the competitive application program and to re-lend repayments of that subsidy to subsequent projects that meet certain minimum AHP eligibility requirements.

**C. Application – AHP Direct Subsidy and AHP Subsidized Advance**

An application for AHP direct subsidy and/or AHP subsidized advance shall include the revolving loan fund's criteria for the initial lending of the subsidy, identification of and information on a specific proposed AHP project or program, the revolving loan fund's criteria for subsequent lending of subsidy principal and interest repayments, and any other information required by the Bank.

Please note that the revolving loan fund must pass-through the AHP subsidized advance to the project or initiative as a one-time use and the AHP subsidized advance principal funds cannot be revolved. The AHP subsidized advance will be subject to all of the AHP regulatory provisions applicable to a project receiving AHP funds and will not be subject to the provisions governing loan funds under §1291.5 (c)(13).

The information in the application shall be sufficient for the Bank to:

- (1) Determine that the criteria for the initial lending of the subsidy, the specific proposed project if applicable, and the criteria for subsequent lending of subsidy principal and interest repayments, meet the eligibility requirements of the AHP Regulation; and
- (2) Evaluate the criteria for the initial lending of the subsidy, and the specific proposed project or program, pursuant to the guidelines established by the Bank.

The Bank shall review an application from a revolving loan fund to evaluate the project for the initial lending of the subsidy, pursuant to the Bank's cost and feasibility guidelines found in Attachment A and the scoring guidelines found in Attachment B.

**D. Disbursement Requirements**

AHP funds disbursed through a revolving loan may only be used for the financing of purchase, construction, or rehabilitation of affordable housing and, as discussed below, interest earned on the lending of the subsidy should also be used for AHP-eligible purposes.

AHP subsidy may not be used for purposes, such as to pay for predevelopment, operating, or other costs that are unrelated to the purchase, construction, or rehabilitation of housing.

**E. Other Requirements**

A revolving loan fund's interest rates must be reasonable and comply with the financing costs requirement of the AHP Regulation (1291.5(c)(5)), where the rate of interest, points, fees, and any other charges for all loans that are made in conjunction with the AHP subsidy shall not exceed a reasonable market rate of interest, points, fees and other charges for loans of similar maturity, terms, and risk.

**F. Initial Lending of AHP Direct Subsidy**

The initial loan(s) made by the revolving loan fund to the initial project(s) or program must meet AHP eligibility requirements. The revolving loan fund must also ensure that the initial loans are made to projects, programs, and households that meet the commitments made in the approved AHP application, and that they will be met for the full AHP retention period.

In the initial lending of AHP subsidy, the revolving loan fund is required to make a loan for a term equal to or greater than the AHP retention period (15 years for rental and five years for homeownership).

The initial lending of AHP subsidy by a revolving loan fund may be co-mingled with other financing to the project or program. Financing structures outside of the standard amortizing loan (principal and interest payments monthly) will be considered. Examples:

- RLF may lend other investor/pool funds with their standard rate and utilize the AHP as an amortizing second loan at zero percent.
- RLF may blend a larger loan with a higher rate with the AHP direct subsidy loaned at zero percent to produce a lower effective rate to the project.

The RLF may charge points or fees on the lending and re-lending of the AHP subsidy, as long as the fees comply with 1291.5(c)(5) of the AHP Regulation (“...not to exceed a reasonable market rate...for loans of similar maturity, terms, and risk”). The points/fees may be an addition to the lending pool or may be used to cover administration cost.

**G. Noncompliance on Initial Lending of AHP Direct Subsidy**

If a project funded initially is in noncompliance with the commitments in the approved AHP application, or is sold or refinanced prior to the end of the applicable AHP retention period, the required amount of AHP subsidy shall be repaid to the

revolving loan fund. The revolving loan fund shall re-lend such repaid subsidy, excluding the amounts of AHP subsidy principal already repaid to the revolving loan fund, to another project or owner-occupied unit meeting the initial lending requirements for the remainder of the retention period.

For example, if an initial-lending rental project is sold after eight years and the buyer does not commit to maintain the AHP income targeting and affordability commitments, then the revolving loan fund must re-lend the repaid subsidy to another eligible project meeting the initial lending requirements that will have a retention period of seven years in order to complete the full 15-year retention period required for an initial lending rental project. In this case, the amount of subsidy that must be used for another initial-lending project does not include the amounts of AHP subsidy principal already repaid to the revolving loan fund.

#### **H. Subsequent or Re-Lending of AHP Direct Subsidy Principal and Interest Repayments**

The subsequent loans made by the revolving loan fund to projects or households with amounts received from repayments of the initial loans, would have to meet AHP eligibility requirements.

All repayments of AHP subsidy principal and interest payments must be tracked and reported as repaid and as they are re-loaned. The Bank will have an online tracking system available for reporting to the Bank.

For subsequent lending of the AHP subsidy and principal and interest repayments, the AHP eligibility requirements are that subsequent lending must be for the purchase, construction, or rehabilitation of owner occupied units for households with incomes at or below 80 percent of the median income for the area, or of rental projects where at least 20 percent of the units are occupied by and affordable for households with incomes at or below 50 percent of the median income for the area, and must meet all other eligibility requirements.

AHP subsidy principal and interest repayments received by the revolving loan fund may also be provided as nonrepayable grants to eligible projects.

The revolving loan fund must return to the Bank any AHP subsidy that will not be used for AHP-eligible purposes.

Each RLF application is required to provide a plan for the re-lending (or granting) of the AHP direct subsidy and interest payments during the AHP retention period (15 years for rental and five years for homeownership). The plan must include:

- The anticipated timeframe for re-lending of all payments of principal and interest from the initial lending of the AHP subsidy;

- Whether the payments will be held and accumulated until sufficient to re-lend or will be incorporated into another pool with like requirements for use/eligibility; and
- If it is the intention of the RLF to grant the AHP subsidy funds after the initial lending, the sponsor must outline the parameters for granting in the plan.

After the end of the retention period, the RLF may continue to re-lend the funds but keep the interest for operating expenses. **Using the interest for operating expenses is not allowed during the retention period (per the Preamble).**

The Bank will not require the revolving loan fund's subsequent lending of subsidy principal and interest payments to be subject to the retention period, monitoring, or additional recapture requirements.

#### **I. AHP Agreement**

To ensure each party understands its responsibilities and those of the other parties taking part in the AHP, the Bank prepares an AHP Agreement to be signed by the member institution, project sponsor/revolving loan fund, project owner of the initial project (if applicable), and the Bank. A draft of the AHP Agreement is included with the award letter. An executed AHP Agreement is expected within 12 months and is required prior to the first disbursement of AHP subsidy.

The executed AHP Agreement includes the terms and conditions that govern the approval and funding of the application, including all representations made in the application, and that bind the member and project sponsor/revolving loan fund, and project owner. This includes any monitoring/reporting requirements and fulfillment of the AHP Qualifying Characteristics. The Qualifying Characteristics summarize the scoring elements of the application and project, upon which, in part, it was approved for subsidy. The AHP Qualifying Characteristics are an integral part of the AHP Agreement and is included as an attachment to the AHP Agreement. For more information on the AHP Agreement, please see Attachment C, Section C.

#### **J. AHP Affordability Retention Documents**

The AHP Regulations require that a mortgage, or other legally enforceable mechanism, such as a deed restriction, be used to secure the obligations contained in the AHP Agreement. This mechanism will secure the entire AHP Agreement including, but is not limited to, its affordability provisions. The Bank provides standard mortgage and note documents for a variety of project types. For more information on the required retention documents, please see Attachment C, Section E.

**K. Retention Documents for Subsequent Lending and Re-lending of AHP Subsidy**

The revolving loan fund's subsequent lending of AHP subsidy principal and interest payments are not subject to retention period, monitoring, and recapture requirements as defined by the Bank in its AHP Implementation Plan.

**L. Monitoring**

Like all other approved AHP initiatives, the project or program funded as part of the revolving loan fund's initial lending of the AHP direct subsidy is subject to initial and long-term monitoring, as applicable to owner-occupied or rental housing.

In order for the Bank to meet its regulatory requirements and determine that the actual project costs were reasonable for the projects funded by a loan fund using subsidy, the initial monitoring of such an AHP-approved application sponsored by a loan fund will include reviewing the actual project costs of the actual project funded with the initial lending of the subsidy by the loan fund.

The Bank will review these actual project costs in accordance with the Bank's project costs guidelines to determine that these costs were reasonable and that the subsidy was needed in accordance with the AHP Regulation and Project Cost and Feasibility Guidelines in Attachment A.

If, upon initial monitoring of the project, the Bank found that the project did not meet the scoring criteria and could not be modified, then the revolving loan fund would have to repay the AHP subsidy to the Bank.

The initial lending of AHP subsidy by a RLF will be monitored in the same manner that the Bank monitors projects that are not designated as RLFs. The monitoring process is described in the current AHP Implementation Plan, Attachment C. This would include semiannual project progress reports, a final closeout review, annual compliance certifications, and periodic monitoring reports.

Additional reporting will be required for the tracking of repayments of principal and interest from the initial loan and subsequent re-lending (or granting) of AHP subsidy and use/eligibility during the AHP retention period (15 years for rental and five years for homeownership). The reporting fields would include:

- Total Principal and Interest Repaid During the Period (with a break out for principal and interest)
- Total Principal and Interest Repaid To Date (with a breakout for both principal and interest and can be a calculated field adding all current and prior reporting)
- Re-lent Funds During the Period
- Funds Granted During the Period and Documentation
- Use/Program/Documentation for Funds Re-Lent/Granted During the Period



- Re-lent/Granted Funds To Date

As noted in a prior section, the Bank will not require the RLF's subsequent lending of subsidy principal and interest payments to be subject to the retention period, monitoring, or additional recapture requirements.

#### **M. Modifications, Sale, Refinance, Noncompliance**

The AHP Regulation is clear that in the case of an event of noncompliance, a sale, or a refinancing within the AHP retention period (15 years for rental and five years for homeownership), the required amount of AHP subsidy shall be repaid to the RLF and shall be re-lent to another project meeting the initial lending requirements for the remainder of the retention period.

Initial lending requirements are "pursuant to the Bank's scoring guidelines." The AHP Regulation refers to "initial lending of subsidy" in 1291.5(c)(13)(iii)(A) that "...the initial lending of the AHP subsidy shall meet the eligibility requirements of this paragraph (c)..." Paragraph (c) is the minimum eligibility requirements for the competitive application program.

Therefore, the subsequent project would have to meet the same scoring characteristics and other requirements as the originally approved AHP application for the remainder of the AHP retention period. If the RLF cannot locate a project that meets the commitments in the original application, the AHP subsidy will be repaid by the RLF to the Bank.