



REQUEST FOR INPUT: FEDERAL HOME LOAN BANK
AFFORDABLE HOUSING PROGRAM COMPETITIVE
APPLICATION PROCESS

June 20, 2024



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Introduction

The Federal Housing Finance Agency (FHFA) is requesting public input on the efficiency and effectiveness of the Federal Home Loan Banks' (FHLBank) Affordable Housing Program (AHP) competitive application process, as well as suggestions for potential improvements. The FHLBanks provide funding through their AHP to support the purchase, construction, and rehabilitation of stable and affordable owner-occupied and rental housing for very low-, low-, and moderate-income households. Each FHLBank provides AHP funding through two distinct programs – a competitive application program that funds both rental and homeownership projects (although the programs are generally designed to solicit applications for the development of multifamily rental housing), and a homeownership set-aside program that supports owner-occupied housing for income-eligible households. This Request for Input (RFI) seeks input on the FHLBanks' AHP competitive application programs.

Public Input Instructions

FHFA invites input on all aspects of the RFI, no later than August 19, 2024. Submissions will be posted to FHFA's public website at www.fhfa.gov, except as described below. Respondents should submit only information that the respondent wishes to make available publicly. FHFA may post only a single representative example of identical or substantially identical submissions, and in such cases will generally identify the number of identical or substantially identical submissions represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any submission that contains content that is obscene, vulgar, profane, or threatens harm. All submissions, including those that are redacted or not posted, will be retained in their original form in FHFA's internal RFI file. Respondents that would like FHFA to consider any portion of their submission exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA's *Policy on Communications with Outside Parties in Connection with FHFA Rulemakings*, which FHFA is also applying to RFI submissions, see https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf. FHFA cannot guarantee that such data or information, or the identity of the respondent, will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. See 12 CFR 1202.8, 12 CFR 1214.2. and <https://www.fhfa.gov/about/foia-reference-guide> for additional information.

Background: Overview of Affordable Housing Program

Between 1990 and 2023, the FHLBanks awarded approximately \$8 billion in AHP subsidies to assist in the purchase, construction, and rehabilitation of over 1 million housing units. The AHP has proven effective in leveraging public and private resources for funding affordable housing projects, many of which have presented underwriting challenges, such as projects for homeless households and special needs populations. The AHP has also provided funds in conjunction with several different federal and state funding sources, including Low-Income Housing Tax Credits (LIHTC, or tax credits), for the development of rental housing for very low-income households. Although a critical source of gap funding, many projects receive less than 5 percent of their total capital funding needs from the AHP.

In November 2023, FHFA published the *FHLBank System at 100: Focusing on the Future* Report that outlines recommended actions informed by the Agency's review of the FHLBank System. One key finding of the review was that the FHLBanks should increase their support for housing and community development. During the review, many stakeholders, while conveying their support for the AHP, expressed concerns about the application processes for competitive AHP subsidy awards. These stakeholders encouraged FHFA to improve the efficiency of the application processes, which they stated require significant commitments of time and effort for a relatively small amount of AHP subsidy relative to other project funding sources.

Statutory Requirements

The FHLBank System consists of eleven district FHLBanks and the Office of Finance, a joint office whose main function is to issue and service FHLBank debt securities. The FHLBanks are wholesale, cooperatively owned financial institutions, the debt of which is the joint and several obligation of the eleven FHLBanks. They are organized under authority of the Federal Home Loan Bank Act (Bank Act) to serve the public interest by enhancing the availability of residential housing finance and community lending credit through their member institutions. The Bank Act requires that each FHLBank contribute annually at least 10 percent of its previous year's net earnings to an AHP, subject to a minimum annual combined contribution by the FHLBanks of \$100 million.¹

AHP subsidies, which are provided by the FHLBanks in the form of grants or as subsidies to lower the interest rates on advances to their members, must be used to finance: (i) homeownership by households with incomes at or below 80 percent of area median income (AMI); or (ii) the purchase, construction, or rehabilitation of rental housing in which at least 20 percent of the units will be occupied by and affordable for households with incomes at or below 50 percent of AMI. The statute prioritizes projects that use federal government properties and

¹ The FHLBanks' AHPs are governed by section 10(j) of the Bank Act (12 U.S.C. 1430(j)).

projects that are sponsored by a nonprofit organization or state government entity. The statute further requires that FHFA issue regulations to, among other things, establish priorities for the use of the AHP funds, ensure that a majority of the assistance is ultimately received by low- and moderate-income households, and ensure that projects receiving AHP funds be subject to adequate long-term affordability monitoring requirements.

Regulatory Requirements

The AHP regulation requires the FHLBanks to allocate at least 65 percent of their available AHP funding to competitive application programs which support the purchase, construction, and rehabilitation of owner-occupied and rental housing.² The AHP regulation requires each FHLBank to establish a competitive General Fund.³ In 2018, FHFA revised the AHP regulation to authorize the FHLBanks, in their discretion, to also establish optional competitive Targeted Funds to address specific affordable housing needs within their districts that are either unmet, have proven difficult to address through the FHLBank's General Fund, or align with objectives identified in their strategic plans.⁴ Under both competitive application programs, FHLBank members apply to the FHLBank for AHP subsidies on behalf of project sponsors, which are typically nonprofit affordable housing developers, but may include state government entities and for-profit organizations. Applicants for AHP funds under the competitive application programs must meet certain eligibility requirements required by the statute and the AHP regulation, which are further discussed below.

The AHP regulation also provides discretion to the FHLBanks in adopting certain eligibility requirements and scoring criteria for their competitive application programs, as well as how each FHLBank chooses to design its application forms and conduct its application processes. Accordingly, the FHLBanks have established their application processes to reflect not only the statutory and regulatory requirements, but also unique aspects of their own competitive application programs, which differ across FHLBanks.

The regulation requires that the FHLBanks obtain sufficient information for determining whether the proposed project application meets eligibility requirements.⁵ For example, AHP applications must be:

- Submitted on behalf of a qualified project sponsor(s) that can perform the responsibilities committed to in the application;⁶

² 12 CFR 1291.12, 1291.23.

³ 12 CFR 1291.20(a)

⁴ 12CFR 1291.1. To date, only one FHLBank has established and implemented a Targeted Fund.

⁵ 12 CFR 1291.22(b)(1).

⁶ 12 CFR 1291.21(b).

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- Intended for the purchase, construction, or rehabilitation of owner-occupied or rental housing;⁷
- In compliance with the AHP income targeting requirements;⁸
- Developmentally feasible, which requires that the project must be likely to be completed and occupied, based on relevant factors contained in the FHLBank's project feasibility guidelines, which include the development budget, market analysis, and the project sponsor's experience in providing the requested assistance to households;⁹
- Operationally feasible, which requires that a rental project must be able to operate in a financially sound manner, in accordance with the FHLBank's project feasibility guidelines, as projected in the project's operating pro forma;¹⁰
- Likely to draw down some or all of the requested AHP subsidy or use it to procure other financing commitments within 12 months of application approval;¹¹
- Subject to a retention agreement¹² (5 years for owner-occupied housing and 15 years for rental housing);
- In compliance with applicable federal and state laws on fair housing;¹³ and
- Able to demonstrate a need for the requested AHP subsidy.¹⁴

The regulation also requires that each FHLBank evaluate and approve the applications pursuant to the FHLBank's scoring criteria.¹⁵ AHP funds are awarded on a competitive basis to applicants based on specific scoring criteria established by each FHLBank pursuant to the general priorities in the Bank Act and scoring parameters in the AHP regulation. Because the FHLBanks have discretion under the regulation to adopt certain scoring criteria based on the affordable housing needs in their districts, the applications received by each FHLBank differ as they must reflect the specific scoring criteria the FHLBank has adopted for that annual funding round. Applicants are asked in the FHLBank's application form to indicate which of the scoring criteria their proposed project will meet. A maximum of 100 points is possible for each project

⁷ 12 CFR. 1291.23(a).

⁸ 12 CFR 1291. 23(a) and (b).

⁹ 12 CFR 1291.23(b)(1).

¹⁰ 12 CFR 1291.23(b)(2).

¹¹ 12 CFR 1291.23(c).

¹² 12 CFR 1291.23(d). The retention agreement is a deed restriction or other legally enforceable retention agreement or mechanism that requires, for an AHP-assisted owner-occupied unit, that the AHP subsidy recipient repay a portion of the subsidy received in the case of a sale, transfer, assignment of title or deed, or refinancing of the owner-occupied unit during a five-year retention period, unless one of the regulatory exceptions applies. For an AHP-assisted rental project, the retention agreement requires that: (i) the project's rental units, or applicable portion thereof, must remain occupied by and affordable for households at or below the application's targeted income levels for the duration of a 15-year retention period; and (ii) in the case of a sale, transfer, assignment of title or deed, or refinancing of the rental project during the 15-year period, the project owner must repay the full amount of the AHP subsidy received unless one of the regulatory exceptions applies. 12 CFR 1291.15(a)(7) and (a)(8).

¹³ 12 CFR 1291.23(e).

¹⁴ 12 CFR 1291.24(a)(3). The difference between the project's sources of funds (excluding AHP subsidy) and uses of funds, as reflected in the project's development budget, is the project's need for subsidy, which is the maximum amount of AHP subsidy the project may receive.

¹⁵ 12 CFR 1291.25, 1291.26, 1291.27, 1291.28.

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application, with points awarded for projects that will serve certain targeted household income levels, target specific populations or communities, connect residents with or offer services or activities that support improved economic opportunities, include donated property, have nonprofit or government sponsorship, or promote community stability including affordable housing preservation, among other FHLBank district scoring priorities.

Each FHLBank is required by the AHP regulation to adopt and publish an AHP Implementation Plan.¹⁶ An FHLBank's Implementation Plan is the guiding document for the FHLBank's administration of its AHP. While the FHLBanks' policies and requirements in the Implementation Plan must be consistent with the AHP regulation, those policies and requirements, including the FHLBank's scoring criteria, vary based on policy priorities determined by the FHLBank's assessment of the affordable housing needs in its district. For example, each FHLBank's feasibility guidelines differ, by necessity, because development costs differ in each FHLBank district.

To ensure that the AHP is implemented in compliance with the applicable statutory and regulatory requirements, each FHLBank must implement policies and procedures to administer the AHP, including within a sound internal control environment. In response to these requirements, the FHLBanks generally do not make a distinction or differentiate the amount of information required from applicants regardless of the amount of AHP subsidy requested or the complexity of the project. Because the FHLBanks must confirm that each project meets all of the AHP eligibility requirements at the time of application, they are unable to eliminate or defer any of these requirements from the applications.

Discussion

The regulatory parameters under which the FHLBanks operate their AHP have evolved since the inception of the program. For example, FHFA and one of its predecessor agencies, the Federal Housing Finance Board (Finance Board), engaged in numerous rulemakings over the years to revise, clarify, and streamline the AHP requirements as the program matured and housing markets evolved. In the early years of the AHP, the regulation was designed to address affordable housing needs from a national perspective. As a result, the AHP regulation required every applicant to address specific scoring criteria that represented housing needs that existed in all of the FHLBank districts. The FHLBanks would review and then forward the applications to the Finance Board's Board of Directors, which would then approve eligible applications in accordance with the regulation's competitive scoring requirements. Today, AHP approval and governance authorities rest with the individual FHLBanks, providing more discretion to each FHLBank to address the affordable housing needs in its respective district.

¹⁶ 12 CFR 1291.13(b).

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A significant development in the evolution of the AHP was the adoption of a regulatory requirement that each FHLBank annually produce a Targeted Community Lending Plan (TCLP).¹⁷ By regulation, each FHLBank's TCLP must describe how the FHLBank will prioritize and address identified credit needs and market opportunities within its district. The TCLP must be developed in consultation with the FHLBank's Affordable Housing Advisory Council and with the FHLBank's members, housing associates, and public and private economic organizations in the FHLBank's district. The regulation also requires each FHLBank to identify and assess in its TCLP significant affordable housing needs in its district that will be addressed through its AHP, reflecting market research conducted or obtained by the FHLBank. The TCLP must be approved by the FHLBank's Board of Directors and each FHLBank is required to publish its TCLP on its website.

The AHP regulation also requires linkage between the TCLP and the AHP Implementation Plan. As previously noted, the AHP regulation requires that each FHLBank adopt an AHP Implementation Plan that includes, among other things, the requirements for administering its competitive application program(s) and its scoring methodology. As a result, an FHLBank's scoring criteria for its competitive application program must flow logically from the analysis and identified housing needs in the FHLBank's TCLP.

As described above, FHFA and its predecessor agency engaged in several efforts over many years to enhance each FHLBank's ability to address the affordable housing needs within its district. However, less attention has been placed on streamlining or differentiating the requirements imposed by the regulation on applicants and members under the competitive application program. For example, the AHP regulation does not differentiate the level or amount of documentation that must be submitted for smaller projects relative to larger projects.

In addition, the AHP regulation does not authorize the FHLBanks to streamline the application process requirements for sponsors or projects that have successfully competed for AHP subsidy in the past. Although not part of the application process, the AHP regulation does not permit the FHLBanks to differentiate the retention and other compliance requirements based on the number of units in AHP-assisted projects, the amount of the award, or the percentage of the total amount of funding the AHP award contributes to the project.

With these considerations in mind, FHFA seeks input on the existing AHP application requirements and process, as well as any opportunities for streamlining and improving the application process. FHFA also requests input on the processes and requirements of other gap funding providers. Each FHLBank develops user or reference guides and resources to assist FHLBank members and project sponsors apply for [AHP competitive application funding](#). FHFA is providing these resources to assist stakeholders in providing feedback on the FHLBanks' AHP competitive applications.

¹⁷ 12 CFR 1290.6.

Public Input Questions

The AHP competitive application process must be administered in a fair, efficient, and effective manner while also ensuring that the FHLBanks are able to verify that applicants meet the AHP eligibility, scoring, and other application requirements. To further this objective, FHFA is [requesting input](#) on the questions below regarding the FHLBanks' competitive application programs process. For stakeholders who have applied for AHP subsidy, please share your experience in applying for the subsidy when responding to the questions below. Also, please indicate whether the application was successful.

Question 1	Are there particular components of the FHLBanks' AHP application processes that could be made more effective or efficient, and if so, how? Are any of the FHLBanks' specific documentation requirements for AHP applications unnecessary for verifying that the applicant meets the AHP eligibility requirements and scoring criteria? Are there ways to streamline the application process while maintaining the FHLBanks' ability to verify applicants' compliance with the AHP eligibility requirements and scoring criteria?
Question 2	How do the FHLBanks' AHP application processes compare to those of other providers of gap funding with respect to scope, complexity, and documentation requirements?
Question 3	Do the FHLBanks' AHP application processes leverage other funders' applications/requirements? Are the AHP application processes duplicative or complementary of other funders' underwriting requirements and processes? Do the AHP application processes create the need for additional information and documentation?
Question 4	Should the AHP regulation allow the FHLBanks to differentiate their AHP application requirements for projects requesting subsidy that constitutes a small percentage of the total funding in the project? If yes, why? Do other gap funders differentiate their application requirements for smaller projects?
Question 5	What role do consultants provide in applying for AHP funds? What are the reasons that an AHP applicant may use a consultant? To the extent that applicants are using the services of consultants to apply for AHP subsidy, how does the practice compare to the use of consultants for other sources of gap funding?
Question 6	Are there effective practices the FHLBanks could implement to coordinate the underwriting review process across multiple funding sources in a project?
Question 7	What is the single most important change you would recommend for improving the AHP application process?
Question 8	What concrete steps would you recommend for simplifying the AHP application process and why?