



## ADVISORY BULLETIN 2005-AB-03

March 24, 2005

---

### *Federal Housing Finance Board Office of Supervision*

---

**To:** Federal Home Loan Bank Chairs, Presidents, Community Investment Officers, General Counsels, and Directors of Internal Audit

**From:** Stephen M. Cross  
Director, Office of Supervision

**Subject:** Affordable Housing Program Homeownership Set-Aside Program Operations

#### **Background:**

In the course of recent examinations of the Affordable Housing Program (AHP), Federal Housing Finance Board (Finance Board) examiners noted certain weaknesses in the Federal Home Loan Banks' (FHLBanks) policies and procedures implementing their homeownership set-aside programs.

This Advisory Bulletin provides guidance clarifying and reiterating certain regulatory requirements of the homeownership set-aside programs. It is the responsibility of the FHLBank to ensure that the use of AHP funds in its homeownership set-aside is consistent with the AHP statute and regulations. Further, it is the FHLBank's responsibility to ensure that any members using the homeownership set-aside are fully informed of, and comply with, all regulatory requirements that apply to the program.

#### **Guidance:**

In 1995, the Finance Board, by regulation, authorized the FHLBanks to establish AHP homeownership set-aside programs in the spirit of the National Homeownership Strategy, which recognized that lack of a downpayment, and not the inability to make mortgage payments, is a principal barrier to homeownership for many low- and moderate-income households. Consequently, the homeownership set-aside program was designed to fill the gap where a household has sufficient income to support a mortgage on an affordable home and, thus, all other factors such as creditworthiness being equal, could buy a home "but for" the lack of cash for the downpayment and closing costs associated with the purchase.

Section 951.5(a) of Finance Board regulations (12 C.F.R. § 951.5(a)) sets forth the eligibility requirements for members and households that receive AHP grant assistance under this program. This Advisory Bulletin provides guidance on the eligibility requirements for:

- ▶ household income and enrollment;
- ▶ household use of set-aside grants; and
- ▶ financial or other incentives in conjunction with a mortgage.

In addition, the Advisory Bulletin outlines other requirements for the use of homeownership set-asides, including member certification that funds received by the member are provided only to households that meet the eligibility requirements of section 951.5(a).

#### Household Income (Section 951.5(a)(2)(i)).

Homeownership set-asides are the funds provided to a member in accordance with allocation criteria established by a FHLBank for its homeownership set-aside program. A member receiving set-aside assistance must provide those funds only to low- and moderate-income (LMI) households. LMI households have income of 80 percent or less of the median income for the area. A FHLBank's AHP implementation plan must identify one or more median income standards, under which any owner-occupied project receiving set-asides must qualify.

The FHLBank must require a member to certify a household's AHP eligibility prior to disbursement of funds. For purposes of the homeownership set-aside program, the date on which a household is determined to be income eligible is the date on which the member enrolls the household for participation in the set-aside program. A household that is low- and moderate-income must have sufficient income to support a mortgage, net of any subsidies, on a home purchase at the time the member enrolls the household in the homeownership set-aside program. The member may not enroll a household that does not have a sufficient current stream of income to support a home purchase, but that intends to use the subsidy following the realization of an increase in income, for example, upon graduating from college and entering into full-time employment. Similarly, for homeownership set-aside programs that target households that participate in savings initiatives such as Individual Development Accounts (IDA) or HUD's Family Self-Sufficiency (FSS) program, the date of enrollment is not the date on which the household enrolled in either an IDA or FSS program, but rather the date on which the household enrolls for participation in the set-aside program.

All members of a FHLBank must calculate household income in the same manner, using the same income documentation and calculation methods. Each FHLBank should give guidance to its members on how to calculate household income in order to ensure that all homeownership set-aside program participants calculate household income eligibility consistently.

#### Household Use of Homeownership Set-Aside Grants (Section 951.5(a)(4)).

The AHP subsidy must be used only to pay for downpayment, closing costs, counseling, or rehabilitation assistance in connection with the household's purchase or rehabilitation of an owner-occupied housing unit. If a household has more downpayment and closing cost assistance available than needed to reach the proposed mortgage amount and to pay for closing costs, the

additional assistance must be used to increase the downpayment and further reduce the size of the household's mortgage. The household may not receive cash back at the closing for the home purchase in the amount of the additional downpayment and closing cost assistance.

Member Financial and Other Incentives (Section 951.5(a)(6)).

A FHLBank must identify in its AHP implementation plan the types of financial and other incentives that a member using set-aside funds may provide in connection with a mortgage. *See* 12 C.F.R. § 951.3(b)(1)(ii). If a member is providing mortgage financing to a participating household, the interest rate, points, fees, and other charges may not exceed reasonable market rates for loans of similar maturity, terms, and risk. If the member using the set-aside is not providing the mortgage financing to the participating household, it is still incumbent upon the member to ensure that the set-aside is being used for permissible purposes and that the interest rate, points, fees, and other charges do not exceed reasonable rates for loans of similar maturity, terms, and risk.

Member Responsibilities (Section 951.8(b)(2)).

Prior to disbursement of homeownership set-aside funds by a FHLBank to a member, the member must certify that the funds will be provided to a household meeting the eligibility requirements of the set-aside program, including that the funds will be used for eligible purposes. The FHLBank's AHP implementation plan must specify the period of time during which homeownership set-aside funds must be drawn down. *See* 12 C.F.R. § 951.3(b)(1)(vii).

**Principal Finance Board Contacts:**

Charles McLean, Associate Director for Community Investment and Affordable Housing Program, 202-408-2537, [mcleanc@fhfb.gov](mailto:mcleanc@fhfb.gov).

Melissa Allen, Program Analyst for Community Investment and Affordable Housing, 202-408-2524, [allenm@fhfb.gov](mailto:allenm@fhfb.gov).

Sharon Like, Senior Attorney-Advisor, Office of General Counsel, 202-408-2930, [likes@fhfb.gov](mailto:likes@fhfb.gov).

An Advisory Bulletin is a staff document through which the Office of Supervision provides guidance to the Federal Home Loan Banks and the Office of Finance regarding particular supervisory issues. Although an Advisory Bulletin does not have the force of a regulation or an order, it does reflect the position of the Office of Supervision on the particular issue and as such will be followed by examination staff. If non-compliance with an Advisory Bulletin is cited as the basis for a supervisory determination, any such determination will be subject to review by the Board of Directors pursuant to the procedures of 12 C.F.R. § 907.9. Advisory Bulletins are effective upon issuance.