

Part of Subjects in 12 CFR Part 556

savings associations.

Accordingly, the Director of the OTS hereby proposes to amend part 556, chapter V, title 12, Code of Federal Regulations, as set forth below:

SUPCHAPTER C—REGULATIONS FOR FEDERAL SAVINGS ASSOCIATIONS

PART 556—STATEMENTS OF POLICY

1. The authority citation for part 556 continues to read as follows:

Authority: Sec. 552, 80 Stat. 388, as amended (5 U.S.C. 552); sec. 550, 80 Stat. 388, as amended (5 U.S.C. 559); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 341, 90 Stat. 1505, as amended (12 U.S.C. 1701-3); secs. 902-920, as added by sec. 2001, 92 Stat. 3728-3741, as amended (15 U.S.C. 1693-1693r).

2. Section 556.5 is revised to read as follows:

§ 556.5 Establishment of branch offices.

(a) *General.* As a general policy, the OTS permits a federal savings association to branch freely in any state or states of the United States and its territories, except as provided in paragraph (b) of this section.

(b) *Limitations.* No branching will be permitted under paragraph (a) of this section that will result in the following:

(1) Establishment or operation of a branch outside the state in which the association has its home office in violation of section 5(r) of the Home Owners' Loan Act;

(2) Formation by any company of a multiple savings and loan holding company controlling savings association in more than one state in violation of section 10(e)(3) of the Home Owners' Loan Act; or

(3) Acquisition of a savings association and the establishment and operation of new branches by such savings association in violation of section 13(k)(4) of the Federal Deposit Insurance Act.

(c) *Branching applications—(1)*

General. Prior to opening a branch, an association must obtain approval of a branching application pursuant to § 545.92 of this subchapter. The OTS may approve or deny an application based on information available from any source and supervisory objection may be interposed at any point during the processing of the application. In granting supervisory clearance to an applicant, the OTS will consider whether the policies, condition, and operation of the applicant are satisfactory and afford no basis for supervisory objection.

(2) *Regulatory capital.* For supervisory clearance, an association's regulatory capital should meet or exceed the minimum requirements established by law and applicable regulations of the OTS.

(3) *Community reinvestment.* Pursuant to the Community Reinvestment Act of 1977 (12 U.S.C. 2901), the OTS encourages savings associations to help meet in an affirmative and continuing manner the credit needs of all communities in which they do business, including low- and moderate-income neighborhoods, consistent with safe and sound operation. The OTS will review and evaluate an applicant's record under part 563e of this chapter, may deny an application based on the assessment of an association's CRA record, and may approve a branch application on condition that the association improve specific aspects of its community-investment-related practices and performance. However, in most cases, commitments by an applicant to improve an applicant's record of compliance with the CRA shall not be regarded as sufficient to overcome a deficient CRA record at the time of application.

(4) *Protest and oral argument.* Protests to applications for branches must be submitted in writing and factually documented. Procedures governing protests and oral arguments are set forth in supervisory guidance issued by the OTS.

(5) *Expiration of approvals.* If an association does not open a branch within the time specified in the approval, and the Director or his or her designee finds that the association is not making a good-faith effort to open the branch promptly, the approval will be deemed to have expired and the association will be required to reapply if it wants to branch in that location.

(d) *Branch closings.* Pursuant to § 545.94 of this subchapter, the OTS requires an association to notify the OTS when it plans to close a branch.

Dated: March 5, 1991.

By the Office of Thrift Supervision

Timothy Ryan,

Director.

[FR Doc. 91-30906 Filed 12-27-91; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 902

[91-641]

Operations

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board ("Finance Board") proposes to

establish the procedures for the semiannual assessments on the Federal Home Loan Bank System for Finance Board administrative and operating expenses; the procedures for conducting the Finance Board's monthly survey of rates and terms on conventional, one-family nonfarm mortgage loans; the schedule of fees for services available from the Finance Board; and the Minority Contractors Outreach Program.

DATES: Comments must be submitted by January 29, 1992.

ADDRESSES: Comments may be mailed to Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Charles Szelner, Attorney, Office of General Counsel, (202) 408-2554, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. General

This regulation establishes procedures for various Finance Board administrative activities not directly related to the supervision of the Federal Home Loan Banks ("FHLBB"), yet required under either the Federal Home Loan Bank Act ("Bank Act") or other statutes.

1. Assessments

The Bank Act, as amended, provides for funding of the Finance Board through semiannual assessments levied on the FHLBBs. This funding mode is similar to the one used by the former Federal Home Loan Bank Board ("FHLBB"), with one notable difference. While the FHLBB was subject to an appropriations process, (15 U.S.C. 712a(b)(1) (1988) repealed; 103 Stat. 183, 436 (1989)), the Finance Board's funds have a nonappropriated status. 12 U.S.C. 1422b(c). Accordingly, the procedure proposed by the Finance Board to assess the Federal Home Loan Banks will differ somewhat from the procedure used by the FHLBB. The essential difference is that the Finance Board must formally adopt its annual budget prior to assessing the FHLBBs, whereas previously, the FHLBB's overall budget was determined through enactment of the annual Housing and Urban Development—Independent Offices Appropriations Acts.

2. Monthly Interest Rate Survey

Section 731 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law No.

101-73, 103 Stat. 183, 423-426 (1989) amended section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) and section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) to make the Finance Board responsible for conducting a monthly survey of conventional, one-family nonfarm mortgage loans by all major lenders in order to determine a national average one-family house price. This survey was previously conducted by the FHLBB. This regulation details the procedures by which the Finance Board will conduct its survey.

3. User Fee Charges

Section 9701 of title 31, United States Code (31 U.S.C. 9701), calls for each federal agency to charge an appropriate fee for any services provided by it to only selected members of the public. The Office of Management and Budget provides guidance for agencies on promulgating such fees by regulation. The Finance Board provides an early facsimile transmission ("FAX") service to recipients of its adjustable-rate mortgage index, called "National Average Contract Mortgage Rate for Purchase of Previously Occupied Homes by Combined Lenders." These regulations provide the schedule of fees for such service.

4. Minority Contracting Requirements

Subsection (c) of section 1216 of the Financial Institutions, Reform, Recovery and Enforcement Act of 1989, 103 Stat. 183, 529-30 (1989) codified at 12 U.S.C. 1833e, requires the Finance Board to promulgate regulations establishing a minority outreach program in conjunction with its contracts for the procurement of goods or services in furtherance of its duties or mission. This regulation implements that requirement.

B. Administrative Procedure Act

The Finance Board is adopting this regulation as a proposed rule with a thirty day notice and comment period.

C. Regulatory Flexibility Act

The Board of Directors certifies that this rule will not have a significant economic impact on a substantial number of small entities. Four out of the five topics herein deal with internal agency procedures, and only the Minority Contractors Outreach Program will effect small entities. However, it will not have a substantial effect because of the nature of the Finance Board's procurement process. A portion of Finance Board procurement contracts already go to minority-owned entities. The Minority Contractors Outreach

Program is a recruitment program and does not establish quotas or otherwise alter the agency's established procurement process for goods or services.

List of Subjects in 12 CFR Part 902

Assessments, Federal home loan banks, Government contracts, minority businesses, mortgages.

Accordingly, the Finance Board proposes to add part 902 as follows:

PART 902—OPERATIONS

Sec.

- 902.1 Definitions.
- 902.2 Assessments.
- 902.3 Mortgage interest rate survey.
- 902.4 Schedule of charges for agency services.
- 902.5 Minority Contractors Outreach Program.

Authority: Sec. 2B, as added by 103 Stat. 183, 413 (12 U.S.C. 1422b); sec. 18(b) as amended by 103 Stat. 183, 419 (12 U.S.C. 1438(b)); Pub. L. No. 101-73, 103 Stat. 183, 529-30 (1989) (12 U.S.C. 1833e).

§ 902.1 Definitions.

As used in this part:

Bank means a Federal Home Loan Bank.

Bank System means the Federal Home Loan Bank System, consisting of all twelve Banks.

Board of Directors means the governing Board of Directors of the Federal Housing Finance Board.

Business means an enterprise, including a firm, corporation, joint stock company, partnership, joint venture or association that engages in commercial activity on a regular basis.

Chairperson means the Chairperson of the Board of Directors.

Finance Board means the Federal Housing Finance Board.

Minority means:

(1) A male person or persons classified as either an African-American, a Native-American, a Hispanic-American, or an Asian-American; or

(2) A female person or persons regardless of ethnic or racial classification.

Minority-owned entity means a business, including an enterprise, corporation, professional association, partnership, joint stock company or joint venture that is:

(1) Owned or controlled by any combination of African-Americans, Native-Americans, Hispanic-Americans or Asian-Americans, regardless of gender, where such ownership or control includes the management of the daily business operations; or

(2) Owned or controlled by female persons, regardless of ethnic origin, where such ownership or control includes the management of its daily business operations.

§ 902.2 Assessments.

(a) Pursuant to section 18(b) of the Federal Home Loan Bank Act, as amended, the Finance Board will assess the Bank System for such funds as may be necessary to meet the annual administrative and operating expenses of the Finance Board. This section governs the procedures under which each Bank shall be assessed for its portion of the Finance Board's annual administrative and operating expenses.

(b) Prior to the end of each calendar year, or as soon as possible thereafter, the Board of Directors shall adopt a resolution approving an annual budget for all Finance Board expenses for the next calendar year. A copy of such resolution shall be forwarded to each Bank president.

(c) The Finance Board shall make two assessments on the Bank System for each calendar year. The first assessment shall cover the first six-month period of each calendar year, and the second assessment shall cover the second such period.

(d) Each assessment for each six-month period on the Bank System will be for one-half of the budget approved by the Board of Directors pursuant to paragraph (b) of this section, except that such amount may be offset by:

(1) Revenues received by the Finance Board from subleasing portions of its office building in the District of Columbia; and

(2) Funds, determined by the Finance Board to be surplus funds from prior assessments, in the Finance Board's special deposit account in the United States Treasury at the time of assessment.

(e) Each assessment made pursuant to this section shall be paid by the Bank System. Each Bank's *pro rata* share of such assessment will be based on the total paid-in value of all capital stock of the Bank System.

(f) Prior to an assessment being made pursuant to this section, the Board of Directors shall adopt a resolution notifying the Banks that an assessment is being levied for a particular six-month period, with a copy of such resolution being forwarded to each Bank president.

(g) Following the notification in paragraph (f) of this section, the Chairperson, or designee, shall determine the assessment for each Bank and notify the Banks in writing of the amount due under the assessment.

ed on the formula in paragraph (e) of section.

(h) Unless otherwise instructed by the Chairperson, or designee, each Bank may transfer its *pro rata* share of an assessment to the Finance Board in equal monthly installments over the six-month period covered by the assessment.

§ 902.3 Mortgage Interest Rate Survey.

The Finance Board conducts its Monthly Survey of Rates and Terms on Conventional One-Family Nonfarm Mortgage Loans in the following manner:

(a) *Initial survey.* Each month, the Finance Board samples approximately 1,000 mortgage lenders (savings and loan association, savings banks, commercial banks, and mortgage loan companies) to report the terms and conditions on all conventional mortgages (not federally insured or guaranteed) used to purchase single-family homes that each such lender closes during the last five working days of the month. In most cases, the information is reported electronically in a format similar to Finance Board Form FHB 10-91. The data is weighted so that the pattern of weighted responses matches the actual pattern of mortgage originations by lender type, by lender size class, and by state. The Finance Board tabulates the data and publishes it late in the following month.

(b) *Adjustable-rate mortgage index.* The weighted data, tabulated and published pursuant to paragraph (a) of this section, is used to compile the Finance Board's adjustable-rate mortgage index, entitled the "National Average Contract Mortgage Rate for the Purchase of Previously Occupied Homes by Combined Lenders." This index is the successor to the index maintained by the former Federal Home Loan Bank Board and is used for determining the movement of the interest rate on the renegotiable rate mortgages.

(c) *Means of survey.* The Finance Board collects the data for the compilation of the indices described in this section by contract. Pursuant to such contract, a Finance Board form, entitled "Monthly Survey of Rates and Terms on Conventional One-Family Nonfarm Mortgage Loans" (FHB Form 10-91), is distributed to selected lending institutions. The data is collected, compiled and processed, and the completed survey results are forwarded to the housing Finance Directorate of the Finance Board for tabulation and distribution.

§ 902.4 Schedule of charges for agency services.

(a) *Authority.* Section 9701 of title 31, United States Code, directs government agencies to charge a fee for any special service provided to a selected segment of the public who make use of such special service (31 U.S.C. 9701). The Office of Management and Budget's Circular A-25 contains guidelines for agencies to follow when promulgating regulations for such user fee charges. This section implements this authority.

(b) *ARM Index FAX Broadcast Service.* The Finance Board makes available for early morning special facsimile transmission ("FAX") a particular adjustable-rate mortgage ("ARM") index, from its Mortgage Interest Rate Survey, which is called the "National Average Contract Mortgage Rate for the Purchase of Previously Occupied Homes by Combined Lenders."

(1) *Subscription.* (i) The ARM Index FAX Broadcast Service is available on an annual subscription basis only. Parties may subscribe to the service by contacting the Housing Finance Directorate, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, and forwarding the necessary fees to the same address.

(ii) Subscribers may cancel their subscriptions by notifying the Housing Finance Directorate.

(2) *Fee charge—(i) Schedule.* The annual fee of the ARM Index FAX Broadcast Service is \$36.00, representing twelve months of service at \$3.00 per month;

(ii) *Prepayment.* Each request for subscription to the ARM Index FAX Broadcast Service must be accompanied by a remittance of the entire annual fee for the subscription period;

(iii) *Form of prepayment.* Each fee prepayment accompanying a request must be by check, bank draft or a money order issued by the United States Postal Service and made payable to the Federal Housing Finance Board;

(iv) *Refund of prepayment.* Upon cancellation of the ARM Index FAX Broadcast Service, the Finance Board will remit to the canceling subscriber three (3) dollars for every month of canceled service, except that no money will be refunded for any fraction of a month.

(3) *Special programming charge.* The Finance Board may at its discretion provide special tabulations of other Mortgage Interest Rate Survey for individual users, upon written request, at the prepaid price of \$100 per hour for the analyst's time, with a minimum charge of \$100.

§ 902.5 Minority Contractors Outreach Program.

(a) *Scope.* (1) This section establishes the Finance Board's Minority Contractors Outreach Program and designates the officials responsible for implementing the Program and its oversight.

(2) The Minority Contractor Outreach Program:

(i) Seeks to encourage the maximum participation of minorities in all Finance Board procurement contracts for goods or services;

(ii) Shall operate consistent with the principle of full and open competition for all Finance Board contracts, and the concept of contracting for minimum agency needs at the lowest practical cost; and

(iii) Shall not be construed to be a substitute means of procurement for the Finance Board's established procedural process for the procurement of goods or services.

(b) *Responsibilities.* (1) The Director of Administration shall have general oversight of the Minority Contractors Outreach Program.

(2) The Chairperson shall:

(i) Appoint a Minority Contractors Advocate; who shall—

(A) Have primary responsibility for furthering the purposes of the Minority Contractors Outreach Program;

(B) Be responsible for challenging barriers to, and promoting maximum participation by, minorities or minority-owned entities in the Finance Board procurement process;

(C) Develop a manual describing the procedures by which the Finance Board will implement the Minority Contractors Outreach Program.

(ii) Assign such Advocate only such duties or responsibilities, with respect to the Minority Contractors Outreach Program, as are consistent with this section, and shall not assign such Advocate any duties of a contracting officer or of a technical representative on a contract.

(c) *Program components.* The Minority Contractors Outreach Program procedures shall include the following:

(1) *Contractor File.* (i) The Minority Contractors Advocate shall compile and maintain an ongoing file consisting of minority contractors or minority-owned entities that are interested in contracting with the Finance Board for goods or services through the competitive bidding or negotiation procurement process.

(ii) The information in such file shall list the current name and address of each such minority contractor or minority-owned entity and shall

ategorize each name and address as follows:

- (A) Accounting services;
- (B) Building support services;
- (C) Computer services;
- (D) Consulting services;
- (E) Legal services;
- (F) Office supplies and equipment.

(2) **Solicitation.** The Minority Contractors Advocate shall implement a procedure for soliciting potential candidates for the contractor file provided for in paragraph (c)(1) of this section, by means of any of the following:

- (i) Referrals from executive departments, agencies or instrumentalities of the Federal Government;
 - (ii) Direct solicitation of selected candidates;
 - (iii) Advertising by direct mail or publications specifically directed to minorities, or minority-owned entities;
 - (iv) Sponsoring Finance Board seminars designed to explain the Minority Contractors Outreach Program to minority contractors or minority-owned entities who have the potential of contracting with the Finance Board;
 - (v) Attendance at conventions, conferences or other professional meetings of minority-owned entities.
- (3) **Certification.** (i) No minority contractor or minority-owned entity (whether solicited by the Minority Contractors Advocate or not) may participate in the Finance Board procurement process as a minority contractor or minority-owned entity unless certified as such by the Chairperson, or designee.
- (ii) The certification shall be by a means and form approved by the Finance Board.
- (iii) Nothing in this section shall be deemed to prevent a non-certified minority contractor or minority-owned entity from participating in the procurement process as a contractor or entity not designated or deemed a minority or minority-owned.
- (4) **Promotion.** (i) The Minority Contractors Advocate shall maintain an ongoing campaign of promotion of the Minority Contractors Outreach Program with all certified minority contractors and minority-owned entities.
- (ii) This campaign shall include:
- (A) Ongoing promotion of the Minority Contractors Outreach Program with certified minority contractors and minority-owned entities;
 - (B) Alerting appropriate certified minority contractors and minority-owned entities when the Finance Board makes a solicitation for a bid or initiates

the negotiation of a procurement contract for goods or services;

(C) Acting as a liaison between the Finance Board contracting authorities and a particular minority contractor or minority-owned entity; and

(D) Assisting any certified minority contractor or minority-owned entity to understand Finance Board contracting procedures or other information regarding a particular bid or contract.

(iii) Nothing in this paragraph shall authorize the Minority Contractors Advocate to represent the interests of any minority contractor or minority-owned entity in any contract matter or bid before the Finance Board.

(5) **Contract award guidelines.**—(i) **Contracts not exceeding \$25,000.** The Finance Board Contracting Officer shall, from time to time, award contracts for the procurement of goods or services, that do not exceed \$25,000 in cost, to certified minority contractors or minority-owned entities listed in the contractor file provided for in paragraph (c)(1) of this section, to the extent not inconsistent with the principles of the Federal Government procurement process and the need of full and open competition. Such awards shall be made after consultation with the Minority Contractors Advocate.

(ii) **Contracts exceeding \$25,000.** Contracts for goods or services that exceed \$25,000 will be awarded strictly on the basis and principles of the Federal Government procurement process and the need for full and open competition. The Finance Board Contracting Officer and the Minority Contractors Advocate shall work to ensure, promote and facilitate the maximum participation of minority contractors or minority-owned entities in the Finance Board's procurement of goods or services in excess of \$25,000.

By the Federal Housing Finance Board.
 Dated: December 18, 1991.
 Daniel F. Evans, Jr.,
 Chairman.
 [FR Doc. 91-31006 Filed 12-27-91; 8:45 am]
 BILLING CODE 4725-01

12 CFR Part 904
(91-642)

Freedom of Information Act Regulations

AGENCY: Federal Housing Finance Board.
ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board ("Finance Board") proposes to issue regulations governing procedures

for disclosure of information and records to the public pursuant to the Freedom of Information Act ("FOIA") (5 U.S.C. 552).

DATES: Comments must be submitted by January 29, 1992.

ADDRESSES: Comments may be mailed to Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Charles Szlenker, Attorney, Office of General Counsel, (202) 408-2554, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: The Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") amended the Federal Home Loan Bank Act ("Bank Act") to create the Finance Board as an independent executive agency responsible for regulating the Federal Home Loan Bank System. 12 U.S.C. 1422a(a)(2) (Supp. I 1989). As such, the Finance Board is required to adopt regulations implementing the FOIA and to publish a fee schedule. 5 U.S.C. 552(a)(4) (1988). These proposed regulations fulfill that mandate. The FOIA further stipulates that an agency's FOIA fees conform to guidelines promulgated by the Office of Management and Budget ("OMB"). *Id.* at 552(a)(4)(A)(i). Accordingly, the Finance Board's fee schedule for FOIA is based on the OMB guidelines. 52 FR 10012 (Mar. 27, 1987). In formulating the FOIA fees, the Finance Board was guided by the cost to the Finance Board of complying with a FOIA request for information and by the fee schedules adopted by the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the Board of Governors of the Federal Reserve System.

The FIRREA continued the regulations of the former Federal Home Loan Bank Board in effect until superseded by the appropriate successor. 103 Stat. 183, 357 (1989). These new regulations will replace the former Federal Home Loan Bank Board's FOIA regulations.

Regulatory Flexibility Act

In accordance with section 605(b) of title 5, United States Code, the Board of Directors of the Finance Board hereby certifies that these proposed regulations will not have a significant impact on a substantial number of small entities. The Board reaches this conclusion because of (1) the very small number of FOIA requests handled by the Finance Board since its creation in August of 1989 and because (2) in most of those FOIA requests, the fee—if it had been