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Federal Home Loan Bank Affordable Housing Program

12 CFR Parts 1290, 1291

**Questions and Answers on the Adoption of a General Fund Regulatory Priority for
Projects Located in Specific States, Territories, or Regions Thereof,
under 12 CFR 1291.26(e)(3)**

This document sets forth answers prepared by Federal Housing Finance Agency (FHFA) staff in response to questions raised about amendments to the Affordable Housing Program (AHP) regulation by the final rule issued on November 28, 2018.¹ The questions and answers constitute informal staff explanations or clarifications of certain provisions of the final rule for the Federal Home Loan Banks (Banks), Bank members, and AHP participants.

Q1: May a Bank adopt a scoring criterion for projects located in a particular State, territory (i.e., Guam, Northern Mariana Islands, American Samoa, Puerto Rico, and the U.S. Virgin Islands), or region thereof, in its district, under the *Housing for Other Targeted Populations* regulatory priority for its General Fund?

A1: Yes. The AHP regulation defines the *Housing for Other Targeted Populations* regulatory priority as “[t]he financing of housing in which at least 20 percent of the units are reserved for households specifically in need of housing, *such as* agricultural workers, military veterans, Native Americans, households requiring large units, or kinship care households . . .” 12 CFR 1291.26(e)(3) (emphasis added). As stated in FHFA’s July 2019 Q&A Part I (Q1 under Scoring Criteria for the General Fund), “the phrase ‘such as’ . . . is consistent with the common usage of the phrase. In other words, it precedes an illustrative, but not exhaustive, list of examples that meet the criteria in the paragraph. A Bank may choose to adopt one or more of the examples as part of its scoring system and may adopt additional examples not specified in the regulation, provided they meet the criteria in the paragraph and are similar in nature to the specific examples provided in the regulation.” Two of the examples given – agricultural workers and Native Americans – could involve geographic components; accordingly, a geographically-defined scoring criterion could be considered similar in nature to those specific examples. Therefore, a Bank could, for example, adopt a scoring criterion for projects located in a specific State, regardless of whether those projects also address another housing need specified under the *Housing for Other Targeted Populations* priority (e.g., households requiring large units).

Note that in adopting scoring criteria and allocating points under its scoring framework, a Bank must demonstrate why it has chosen to address those affordable housing needs in its district. *See* 12 CFR 1290.6(a)(5)(v) (requiring that each Bank’s Targeted Community Lending Plan “[i]dentify and assess significant affordable housing needs in its district that will be addressed through its Affordable Housing Program . . ., reflecting market research conducted or obtained by the Bank”).

¹ 83 Fed. Reg. 61186 (Nov. 28, 2018).

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Q2: If a Bank adopts a scoring criterion for projects located in a particular State, territory, or region thereof, in its district, under the *Housing for Other Targeted Populations* regulatory priority for its General Fund, may it also adopt a scoring criterion for projects located in its district under the *Bank District Priorities* scoring category (12 CFR 1291.26(h))?

A2: Yes. Note, however, that a Bank may not allocate points in such a way as to exclude all out-of-district projects from its General Fund. *See* 12 CFR 1291.25(a)(2)(i).