



April 25, 2006

Federal Housing Finance Board
1625 Eye Street, N.W.
Washington, DC 20006
Attention: Public Comments

Subject: Federal Housing Finance Board
Proposed Rule: Affordable Housing Program Amendments
RIN Number 3069 – AB26
Docket Number 2005-23

Dear Federal Housing Finance Board Public Comments Coordinator:

Thank you for the opportunity to offer comments regarding the above-referenced proposed amendment (“Proposed Amendment”) to the federal regulation (“AHP Regulation”) that governs the operation of the Affordable Housing Program (“AHP”) as promulgated by the Federal Housing Finance Board (“Finance Board”).

On behalf of the Federal Home Loan Bank of New York (“New York Bank”), I would like to thank the Finance Board for undertaking the challenging task of revising the existing AHP Regulation and proposing several changes intended to improve the effectiveness and efficiency of the program. First, the New York Bank generally agrees with and accepts many of the proposed changes to the AHP Regulation. Second, the New York Bank commends the Finance Board for the regulatory framework that it has provided over the years that has been the cornerstone of the AHP’s strength. This framework has traditionally provided each Bank with the flexibility to best respond to their respective District needs while establishing fair and consistent standards in distributing limited AHP dollars. The New York Bank acknowledges that the Proposed Amendment expands certain options that each Federal Home Loan Bank (“Bank”) has in implementing the AHP while maintaining the AHP’s core mission of equitably distributing subsidy dollars to meet affordable housing needs. Third, the New York Bank welcomes the reorganized text and technical changes set forth in the Proposed Amendment. We believe that these revisions will make it easier for our members, project sponsors, and New York Bank staff to understand and enforce the AHP Regulation.

Conversely, the New York Bank is concerned that certain provisions of the Proposed Amendment, in their present condition, aim to nationalize the AHP and undercut the regional distinctiveness that has made the AHP a valued financial tool in local housing markets around the country over the past sixteen years. Furthermore, the New York Bank is concerned that the Proposed Amendment overly liberalizes certain limits that historically restricted the use of AHP funds. These changes may create administrative and regulatory inconsistencies among the other Banks and undermine the outstanding reputation that the AHP has achieved since its inception.

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Inasmuch as the New York Bank supports the preponderance of changes specified in the Proposed Amendment, our comments are limited to a few areas where further guidance, clarification or changes would better serve our District. Our comments on the Proposed Amendment are as follows:

1. Definitions: Median Income for the Area

The New York Bank requests clarification on the use of the median income for the area obtained from the Federal Financial Institutions Examination Council (“FFIEC”). Specifically, we would like the AHP Regulation to identify if the term “area,” when using the FFIEC income data pertains to a given “census tract” or what is labeled as the “HUD Estimated MSA/MD/non-MSA/MD.”

2. §951.5(c)(14): Use of AHP subsidy in loan pools

The New York Bank would encourage the Finance Board to solicit further input from Bank members and industry experts prior to permitting the financing of loan pools as an authorized use for AHP subsidy. While the New York Bank agrees that the Finance Board’s decision to ease prescriptive requirements are appropriate in the certain areas of real estate finance where we have gained a reliable degree of experience, we are of the opinion that additional guidance is warranted before the Banks are allowed to provide AHP subsidy in a manner that is a major departure from directly subsidizing owner-occupied and rental housing projects. First, the AHP Regulation does not adequately define what a “loan pool” is or how the AHP can finance such initiatives. Second, we cannot envision how such a fund would conform with AHP eligibility requirements; what types of housing-related entities would desire to invest in such a pool; how the use of AHP subsidy could be effectively and pragmatically monitored; and what market need would be addressed by such an initiative. Third, we are concerned that various groups who intend to access AHP funds in order finance loan pools may lack the experience and skills to competently manage such investments. Fourth, the encouragement of such activities through the AHP may provide not-for-profit sponsors and other housing-related groups an opportunity to compete with Bank members who are already professionally engaged in the lending market. Finally, we would prefer not to raise false hopes by those who may wish to use AHP subsidy in this way until there has been an opportunity to discuss concrete examples of how such pools can effectively operate within the regulatory framework of the AHP.

3. §951.5(d)(5): District Priorities

As previously stated, the New York Bank acknowledges that the Proposed Amendment is partially intended to reduce prescriptive requirements. As such, we recommend that the Proposed Amendment be expanded to incorporate additional Scoring Criteria changes related to the First and Second District Priority categories. Rather than having two distinct District Priorities, we suggest that the Finance Board consider having one comprehensive District Priority category in which multiple sub-categories are permitted.

Similarly, rather than requiring each Bank to select at least one District priority from an arbitrary list that was originally developed nine years ago and may no longer address relevant industry trends, we propose that each Bank be permitted to define one or more priorities tailored to their respective District's needs. In order to balance the District Priorities with the other competitive categories established in the AHP Regulation, the maximum number of points could be capped for each sub-category and the District Priority category as a whole.

The New York Bank is likewise concerned that the Proposed Amendment is eliminating the preference for In-District Projects from the existing list of authorized criteria that comprise the First District Priority. The New York Bank has awarded points to In-District projects over the past six years and would like to continue to have the option of including this preference in our scoring competitive objectives. During this time, we have both accommodated our members who do business outside our District and ensured that the majority of AHP funds remained in our District and met regional housing needs. First, the New York Bank is of the opinion that the mandate to eliminate a scoring preference for In-District projects nationalizes the AHP and undermines the efforts of each Bank to address regional housing needs. Second, this proposal provides large, nationally chartered banks an unfair competitive advantage over small, neighborhood lenders whereby AHP dollars may be monopolized by a few Bank members. Third, the elimination of a preference of In-District projects will undoubtedly force the Banks to expand staff or expend resources on contracted services in an effort to perform site visits to far-away projects. This requirement will eventually result in a program that costs more to administer, on a project-by-project basis, than the amount of subsidy actually awarded. Ultimately, the New York Bank believes that much value can still be gained if each Bank primarily funds In-District projects. Specifically, each Bank's staff tends to be most familiar with the other funding programs that exclusively pertain to their respective Districts. Moreover; it would be difficult for each Bank to maintain a set of project feasibility thresholds and "reasonable and customary costs" on a nationwide scale.

4. §951.6(c)(2)(i): Eligible Households

The New York Bank requests further clarification of when household income is determined for set-aside participants. The Proposed Amendment defines eligible households as having "incomes at or below 80 percent of the median income for the area at the time the household is accepted for enrollment by the member *and the Bank* [italics added]." Typically, a household may begin their participation in the First Home Clubsm with a member bank several months before they are formally enrolled with the New York Bank. Since the New York Bank holds enrollment periods at certain designated times during the year, households are enrolled in groups and not on a one-by-one basis. Therefore, since there are usually two different dates for enrollment (i.e., one with the member and one with the New York Bank), we suggest that the Proposed Amendment either revise the definition of the timing of acceptance for enrollment or allow each Bank to define the timing of determining household eligibility in its Implementation Plan.

5. §951.6(c)(6): Member Financial Incentives

The New York Bank requests further clarification regarding the member financial incentives, as expressed in the Proposed Amendment. As currently written, “The Bank shall establish incentives for members to provide financial or other assistance in connection with providing the AHP direct subsidy.” In order to avert any misinterpretation of this provision, we recommend that the Proposed Amendment be revised to read, “The Bank shall establish *the types of* incentives for members to provide financial or other assistance in connection with providing the AHP direct subsidy.” Please be advised that the types of financial incentives that New York Bank has customarily required members to offer to program participants include discounted interest rates on end loans, higher rates for systematic savings accounts, and reduced loan processing fees.

6. §951.6(c)(10): No cash back to household

The New York Bank has historically prohibited cash back at closing (with the exception of allowing nominal reimbursements for earnest money or pre-closing expenses). The New York Bank customarily requires excess cash to be used at time of closing to reduce the principal on the household’s first mortgage loan. We have diligently educated our members in an effort to minimize the number of times that these situations arise. Nevertheless, we recommend that the Proposed Amendment be modified to permit a de minimus exception up to \$200. As anyone involved in home purchase closings can attest, many variables affect the actual cash needed to pay closing costs. In turn, this makes it difficult to forecast actual closing costs. As previously mentioned, since a household usually pays at least \$200 in earnest money or other pre-closing expenses, receiving any funds back is in essence a reimbursement and not a cash windfall. The Proposed Amendment poses a costly administrative burden on the Bank and the member in an effort to micromanage a situation that, in reality, involves a relatively small amount of money.

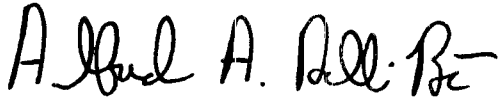
7. §951.2(a): Required annual AHP contributions

As previously mentioned, the New York Bank is concerned that the proposed elimination of the preference for In-District Projects from the existing list of authorized criteria that comprise the First District Priority will force the Banks to expand staff or expend resources on contracted services in an effort to perform site visits to far-away projects.

In consideration of the increased expenses that each Bank may incur as a result of an expanded portfolio of out-of-District AHP-assisted projects, the New York Bank recommends that the Finance Board permit each Bank to charge their annual AHP subsidy fund for general and administrative expenses associated with the operation of the AHP not to exceed 5% of each Bank’s annual AHP contribution.

Thank you in advance for your consideration of these comments. We are grateful for the Finance Board's efforts to revise the AHP Regulations in a way that will help us build on the strong foundation that has led to the AHP's past success. We look forward to an even stronger future. If you have any questions, please do not hesitate to contact Paul Héroux, Senior Vice President, at (212) 441-6808 or Joseph Gallo, Vice President, at (212) 441-6851.

Sincerely,

A handwritten signature in black ink that reads "Alfred A. DelliBovi". The signature is written in a cursive style with a horizontal line at the end.

Alfred A. DelliBovi
President and
Chief Executive Officer