



## FEDERAL HOUSING FINANCE BOARD

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January 10, 2006

Mr. Terry C. Smith  
President and Chief Executive Officer  
Federal Home Loan Bank of Dallas  
PO Box 619026  
Dallas Texas 75261

NO-ACTION LETTER: Federal Home Loan Bank of Dallas: Temporary Noncompliance with AHP Reporting, Monitoring, and Rescoring Requirements (12 C.F.R. part 951) for Projects Affected by Hurricane Katrina (2006-NAL-01)

Dear Mr. Smith:

Your letter of September 20, 2005, as supplemented by staff correspondence on October 6, 2005 and November 1, 2005, requests no-action relief to allow the Federal Home Loan Bank of Dallas (Bank), members, and sponsors or owners of Affordable Housing Program (AHP) projects additional time to conduct reporting and reviewing obligations under the monitoring requirements of sections 951.10 and 951.11 of the AHP regulation for projects damaged as a result of Hurricane Katrina and for sponsors and members whose offices have been damaged by Hurricane Katrina. *See* 12 C.F.R. §§ 951.10 and 951.11. The Bank also requests no-action relief to allow it to modify, prior to or after completion of a project, projects adversely affected by Hurricane Katrina even if such projects do not comply with the modification rescoring requirements of 12 C.F.R. § 951.7(a)(2).

The Board of Directors of the Federal Housing Finance Board (Finance Board) previously has directed the Office of Supervision and the Office of General Counsel to provide all appropriate relief for Federal Home Loan Banks and members in areas where housing is much needed as a result of Hurricane Katrina. Accordingly, in correspondence dated November 10, 2005 (see (2005-NAL-02), the Office of Supervision provided no-action relief for certain procedures outlined in the September 20, 2005 request (*Transactions or Activities to Accommodate the Needs of Members*). This letter responds to the actions the Bank requested regarding AHP projects in that same request, by granting relief from the regulatory requirements concerning modifications to approved projects and the regulatory time limits for AHP compliance monitoring, subject to the limitations outlined below. Should the relief granted below be proven

to be insufficient, we will, of course, revisit the matter with you.

In the case of any Bank review of documentation required to be performed for an AHP project pursuant to 12 C.F.R. § 951.11(a)(3)(iii)(B)(1), (2), and (3) on or before September 30, 2006, the Bank may extend by up to one year the time by which such review of documentation is required to be performed. The foregoing relief applies only if the AHP project, or the office or offices of the member or project owner or sponsor that contained the records relating to the AHP project, were damaged as a result of Hurricane Katrina. Subsequent reviews of documentation will be required to be performed according to the timeframes set forth in 12 C.F.R. § 951.11(a)(3)(iii)(B)(1), (2), and (3).

In the case of any certification, report, or determination with respect to an AHP project that either a project sponsor, project owner, or a member is required to make or deliver to the Bank on or before September 30, 2006 pursuant to 12 C.F.R. §§ 951.10 or 951.11, the Bank may extend the time when such certification is due by up to one year. The foregoing relief applies only if the AHP project, or the office or offices of the member or project owner or sponsor that contained the records relating to the AHP project, were damaged as a result of Hurricane Katrina.

The Bank may extend the timeframe within which the Bank must make the determinations required under 12 C.F.R. § 951.10(c)(2) from 1 year and 120 days after the completion of an AHP rental project, to 2 years and 120 days after the completion of an AHP rental project that has been damaged as a result of Hurricane Katrina.

The Bank may modify projects that have been adversely affected by Hurricane Katrina without regard to whether a change in project circumstances prior to or after project completion would meet the modification rescoring requirements of 12 C.F.R. § 951.7(a)(2).

The Office of Supervision is providing this no-action relief so that members and project sponsors and owners may have additional time to submit certifications and other documentation required for initial and long-term monitoring where either an approved AHP project, or the offices of the member or project sponsors/owners, were damaged as a result of Hurricane Katrina. This no-action relief also will allow the Bank additional time to review submitted documentation and complete its assessments about project compliance in these cases. The relief provided herein with respect to sections 951.10 and 951.11 of the AHP regulation will assist the Bank and the affected projects, members, and project sponsors/owners to meet the monitoring obligations of the AHP regulation while recognizing that delays are likely to occur because of the adverse effects of Hurricane Katrina on the operations of projects, members, and sponsors. The relief provided herein with respect to section 951.7(a)(2) will allow the Bank to deem affected projects to still be in compliance despite changes in project circumstances.

In light of these circumstances, the Office of Supervision will not recommend to its Board of Directors that supervisory action be taken against the Bank, nor will the Office of Supervision undertake any such supervisory action, for: (1) any violations of the requirements of 12 C.F.R. §§ 951.10 and 951.11 resulting from extensions of time periods for monitoring of projects

damaged as a result of Hurricane Katrina, provided that the Bank, projects, members, and project sponsors/owners meet the conditions listed above; or (2) in the case of any AHP project that was adversely affected as a result of Hurricane Katrina, any violation of the requirements of 12 C.F.R. § 951.7(a)(2) resulting from an approval, pursuant to 12 C.F.R. § 951.7(a), prior to or after completion of the project, of a modification to the terms of the approved application for such project. This No-Action Letter does not alter the Bank's obligation to otherwise comply with all sections of 12 C.F.R. part 951 with respect to enforcing compliance of these projects with all other requirements of the AHP regulation, and compliance of all other AHP-assisted projects not affected by Hurricane Katrina with the requirements of the AHP regulation.

In addition to the four matters discussed above, the Bank also requested no-action relief so that the Bank would not have to: (1) take remedial actions to recover AHP subsidies in the case of any AHP project that has been substantially destroyed as a result of Hurricane Katrina; (2) obtain monitoring information with respect to any AHP project that has been substantially destroyed as a result of Hurricane Katrina; and (3) require a project adversely affected by Hurricane Katrina to continue to meet the eligibility requirement for using the AHP subsidy within 12 months as a condition for a project modification. *See* 12 C.F.R. §§ 951.5(b)(3) and 951.7(a)(1). The Bank does not need Office of Supervision or Finance Board action in order to implement these three program aspects, as doing so is within the Bank's authority under the AHP regulation. The Finance Board's Office of General Counsel previously has opined that AHP obligations, including monitoring and remedial actions, end upon the physical loss of a property. The eligibility requirement for use of AHP subsidy within 12 months must be met only once at the time of application and, therefore, is not a factor in modifications.

This No-Action Letter expresses only the position of staff and may be modified or superseded by the Board of Directors of the Finance Board. Because this No-Action Letter is based upon the Bank's representations, any change in the facts or circumstances from those represented by the Bank may warrant a staff recommendation that the Finance Board take appropriate supervisory action. If you have any questions, please contact Charles E. McLean, Jr., Associate Director, Office of Supervision, at 202-408-2537, or Michael J. Powers, Portfolio Manager, Office of Supervision, at 202-408-2534.

Sincerely,

*/s/ Stephen M. Cross*

Stephen M. Cross  
Director  
Office of Supervision

cc: Charles E. McLean, Jr.  
John P. Kennedy  
Michael J. Powers  
Julie A. Humphrey