



## Comment #1

Federal Home Loan Bank of Des Moines

November 12, 2008

Federal Housing Finance Agency  
1625 Eye Street, N.W.  
Washington, D.C. 20006  
ATTENTION: Public Comments/RIN 2590-AA04

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Subject: Federal Housing Finance Agency. Interim Final Rule: Affordable Housing Program Amendments: Federal Home Loan Bank Mortgage Refinancing Authority. RIN 2590-AA04.

To Federal Housing Finance Agency:

The Board of Directors (Board) and the Affordable Housing Advisory Council (AHAC) of the Federal Home Loan Bank of Des Moines (Bank) express their appreciation to the Federal Housing Finance Agency (Finance Agency) for publishing the above referenced interim final rule governing the Affordable Housing Program (AHP). The Board and AHAC appreciate the opportunity to provide input into the final rule.

AHAC met and discussed the interim final rule and considered each of the issues on which the Finance Agency requested comment. AHAC also discussed other issues raised in the regulation that the AHAC thought warranted further input.

After reaching a position on each of those issues, AHAC forwarded their positions to the Business Operations and Housing Committee of the Board for its review. The Business Operations and Housing Committee of the Board, and the entire Board, supported the positions suggested by AHAC. Thus, the following comments on the AHP regulations and the proposed amendments are submitted on behalf of the Board, its Business Operations and Housing Committee, and AHAC.

To facilitate review of this comment letter, we begin each section of the letter by referencing the topic name and pertinent section of 12 C.F.R. Part 1291.

### **1. Authority to Establish Mortgage Refinancing Program: 1291.6(f)(1)**

In establishing the authority for the refinancing program, the interim final rule provides that certain provisions of the current affordable housing program will not apply to the refinancing program, including household completion of a counseling program. We recommend including a provision in the final regulation that would require a financial counseling program for homeowners. Current regulation requires homebuyer or homeownership counseling for first-time homebuyers. This counseling helps promote individual financial literacy and helps to build sustainable communities. The previous lack of homebuyer counseling may have contributed to

## Comment #1

the financial distress of the homeowners who may be provided relief under the HOPE for Homeowners Program and to the current mortgage crisis. Not requiring counseling for a recipient of these grant funds is a lost opportunity to enhance the effectiveness of the program.

### **2. Eligible Loans: 1291.6(f)(2)**

The Finance Agency requested comment on whether the rule should authorize the Federal Home Loan Banks to use set-aside funds to assist homeowners refinancing under other programs intended to aid distressed homeowners. The Bank believes that this should be left to the discretion of the Federal Home Loan Banks. Several alternative programs were mentioned in the rule and it is likely more programs will be offered at both federal and state levels.

The Finance Agency also requested comment on standards for these programs to assure the affordability of the housing costs to the borrower and the sustainability of the refinance loan. The Bank recommends that the rule restrict the Federal Home Loan Bank's participation to programs offered by federal or state government, or a government sponsored enterprise, that assist distressed homeowners by refinancing their current mortgage. The Bank recommends that the maximum housing obligations of borrowers provided a refinance loan should not exceed the limits of the applicable government program. This would increase homeowner options for refinance and ensure that loan products will be affordable without the need to define a standard to assure affordability, such as a maximum housing debt ratio.

### **3. Eligible Uses of AHP Subsidy: 1291.6(f)(3)**

In the proposed rule, the Finance Agency includes as an eligible use the reduction of the outstanding principal balance of the household's loan below the maximum loan-to-value ratio under the Hope for Homeownership program as well as FHA-approved loan closing costs. The Bank recommends that the rule be revised to state that eligible loan closing costs include any upfront FHA mortgage insurance premium that will be a required part of the financing. This would better define eligible costs and perhaps help facilitate broader participation by lenders. This is a material cost, 3% of the loan amount, which is typically included in the financing. If it is not subsidized it could increase the amount of the existing mortgage that would have to be extinguished in the transaction to reduce the homeowner's mortgage payment to an affordable amount. If this amount can be reduced, lenders holding the mortgage might be persuaded to participate in the program. The Bank further recommends that if the Federal Home Loan Banks are authorized to use set-aside funds to assist homeowner's refinancing under other programs that these eligible uses are extended to those programs as well.

### **4. Eligible Lender Participants: 1291.6(f)(4)**

The Finance Agency would allow the Banks, at their discretion, to offer the AHP subsidy to members that would then provide the subsidy to non-member FHA-approved lenders. The Bank recommends that if the Federal Home Loan Banks are authorized to use set-aside funds to assist homeowners refinancing under other programs that this rule be extended to include those programs.

### **5. AHP Retention Agreements: Page 61663, Section G, columns 1 and 2**

## Comment #1

The interim rule does not require five-year retention agreements as required under the current AHP regulation. The Finance Agency decided not to include this requirement as the HOPE for Homeowners Program includes a requirement that any appreciation or equity created as a result of a sale or refinancing during the five-year period must be shared between the FHA, the borrower, and subordinate lien holder whose lien was extinguished as part of the refinancing under the Program. However, an eligible use of the subsidy in section 1291.6(f)(3) includes assistance to meet the applicable mortgage debt-to-income ratio requirement, thus enabling a HOPE loan that is less than 90% of the appraised value of the property. This could provide for repayment of a part of the household's current mortgage from the AHP subsidy rather than having the mortgage reduced through debt forgiveness by their current lender. Thus, lenders could be paid equity upon sale of the home that was provided by the AHP subsidy and not through property appreciation as contemplated by the equity sharing agreement. Therefore, the Bank recommends revising the rule to require a Retention Agreement that requires repayment of the pro rata share of any part of the AHP subsidy that is used to reduce the principal amount of a borrower's current mortgage below 90% loan to value.

### **6. Monitoring: 1291.7(b)**

The Bank believes that certain monitoring requirements of the set-aside program are in conflict with the requirements of the HOPE for Homeowners Program. Notably, borrower income eligibility for the set-aside program is determined at the date of enrollment by the member, effectively the date of their application. However in the HOPE program, lenders will need to evaluate the affordability of the borrower's mortgage, and thus their eligibility for the HOPE loan as of March 31, 2008. The FHA may also have different income eligibility guidelines than the Banks. This will potentially create situations where the Bank and FHA will differ on the homeowner's income eligibility, perhaps denying a household eligible for the HOPE program access to the AHP subsidy. This would also create a problem for member banks obtaining Bank reimbursement of set-aside funds they had advanced based on an FHA approval.

For the purpose of avoiding possible conflicts in the qualification of borrowers in the HOPE program or other programs that use set-aside funds to aid distressed homeowners, the Bank recommends that the interim final rule be amended to allow a Bank to rely on the income eligibility guidelines of the eligible loan programs to determine that the subsidy is provided to households with incomes at or below 80% of area median income as of the date of borrower enrollment in the applicable loan program. This provision would revise section 1291.6(c)(2)(i).

Thank you for your consideration of our comments on the interim final rule.

Sincerely,



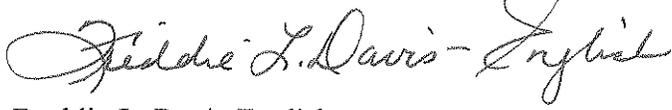
Michael K. Guttau  
Chairman of the Board

Comment #1



Lynn V. Schneider

Chair, Business Operations and Housing Committee



Freddie L. Davis-English

Chair, Affordable Housing Advisory Council