

No. : 93-54
Date: June 23, 1993

FEDERAL HOUSING FINANCE BOARD

Guidelines for Awarding Affordable Housing Program Funds to
Loan Consortia and Loan Funds

WHEREAS, on December 15, 1992 and March 24, 1993 the Federal Housing Finance Board ("Finance Board") approved the award of Affordable Housing Program ("AHP") funds to several loan funds and a loan consortium with the condition that the loan funds and the loan consortium comply with guidelines to be developed by the staff of the Housing Finance Directorate and approved by the Finance Board:

WHEREAS, the Finance Board has determined that loan consortia involving members of the Federal Home Loan Banks ("FHLBank") and loan funds offer valuable services to nonprofit sponsors of affordable housing projects and offer an opportunity for lenders to share the risk of providing financing for affordable housing projects:

WHEREAS, the issues raised by the use of AHP by loan consortia and loan funds and the responsibilities applicable to FHLBank members that apply for AHP funds on behalf of loan consortia and loan funds are substantially more complex than the issues applicable to applications involving single housing projects: and

WHEREAS, the Finance Board has reviewed a recommendation by staff that additional guidance on the use of AHP funds by loan consortia and loan funds be provided:

NOW, THEREFORE, BE IT RESOLVED, that the Finance Board hereby approves the following Policy Guidelines for Awarding Affordable Housing Program Funds to Loan Consortia and Loan Funds:

POLICY GUIDELINES FOR AWARDING AFFORDABLE HOUSING PROGRAM FUNDS
TO LOAN CONSORTIA AND LOAN FUNDS

A Federal Home Loan Bank ("Bank") may recommend that the Federal Housing Finance Board approve funding of applications under the Affordable Housing Program ("AHP") submitted by member institutions on behalf of loan consortia and loan funds to use AHP funds to assist a number of individual housing projects over a specified period as long as the applications meet the following requirements:

1. LOAN FUND AND LOAN CONSORTIUM. An eligible loan fund is a nonprofit or for-profit organization that (1) is not a federally regulated financial institution; (2) aggregates capital from public and private sources; (3) provides financing for housing activities including those that benefit low- and moderate-income households; and (4) has demonstrated management, lending, investment and technical assistance capabilities.

An eligible loan consortium is (1) a nonprofit or for-profit corporation jointly held by Bank members that funds housing loans, including loans that benefit low- and moderate-income households, through the participation by members in those loans, or a group of financial institutions, some of which are Bank members, that have entered into a legal agreement with each other to fund housing loans, including loans that benefit low- and moderate-income households; and (2) the Bank member or members that apply for AHP funds execute an AHP subsidized advance or direct subsidy agreement with the Bank and agree to undertake required monitoring responsibilities.

2. APPLICATION SCORING AND PROJECT CHARACTERISTICS. The application must be scored by the Bank based on the criteria that the loan consortium or loan fund proposes to use to select projects that will be financed with AHP assistance. To the extent practicable, each project must meet all of the minimum criteria specified in the application that formed the basis upon which the application was scored, including the priorities, targeting, retention, effectiveness, community involvement, empowerment and innovation. Approved applications are subject to the same modification procedures that apply to all other AHP awards.

3. SUBSIDIZED ADVANCE OR DIRECT SUBSIDY. A loan consortium or loan fund may access, through a financial institution that is a member of a Bank, both direct subsidies and loans available from subsidized advances (including zero interest rate advances). Except as provided in paragraph 13, a direct subsidy received by a loan consortium or loan fund may not be provided to a project in the form of a loan but must be provided as a direct subsidy to a project or used as an interest rate subsidy on a loan provided

by the loan fund or loan consortium to a project from sources other than AHP.

4. INDIVIDUAL PROJECT APPROVAL. Each loan or direct subsidy provided to a housing project by a loan consortium or loan fund must be reviewed by the Bank member that applied to the Bank for the AHP award and by the Bank to assure that the funded project meets the requirements of the Program and the criteria upon which the loan consortium or loan fund application was approved for AHP funds. Project pro forma, operating budget, and affordability analysis must be reviewed by the member and the Bank to assure each project is feasible and not over-subsidized.

5. REASONABLE CHARGE ON SUBSIDIZED ADVANCE. If the loan consortium or loan fund is provided AHP funds through a member that borrowed a subsidized advance, the total value of the interest rate subsidy must be passed on to the housing project or individual household borrower: however the member institution and the loan consortium or loan fund may charge the borrower a reasonable spread above the subsidized advance rate and may determine between themselves what proportion of the spread the member and the loan consortium or loan fund will share. A total spread of 250 basis points would be considered reasonable.

6. CALCULATION OF AND CHARGE FOR DIRECT SUBSIDY. If the loan consortium or loan fund receives AHP funds as a direct subsidy, except as provided in paragraph 13, the loan fund or loan consortium may not charge any fee, or interest rate spread solely for providing the direct subsidy to the project. The loan consortium or loan fund may charge an interest rate spread and fees for providing financing in addition to the direct subsidy. When direct subsidies are used to subsidize the interest rate on a loan provided by the loan consortium or loan fund to a project, to the extent practicable, the subsidy calculation must be consistent with the procedure used by the Bank for calculating the amount of AHP subsidy needed for a subsidized advance, taking into account the source of funds used by the loan consortium or loan fund for its loans, and the rate that normally would be charged for a loan of the type and term that is provided to the project.

7. REPAYMENT OF AHP FUNDS. When a loan consortium or loan fund receives AHP funds through a subsidized advance, the application must specify a time, (typically at the end of the term of the advance) when the loan provided to the loan consortium or loan fund through a subsidized advance will be repaid to the member institution.

8. RECAPTURE OF AHP FUNDS. If a housing project financed with AHP funds does not use all of the AHP funds committed to it, or does not initially or subsequently comply with the income occupancy and other criteria upon which the application for AHP

funds was approved, the loan consortium or loan fund must recapture from the project the full amount of unused funds or the pro-rata share of the AHP subsidy that is consistent with the time period remaining in the agreed upon retention period. Funds provided through a subsidized advance that are recaptured may be reloaned during the term the advance is outstanding. At the end of the term of the loan that was provided to a loan fund or a loan consortium through a subsidized advance, all funds must be repaid to the member institution. A recaptured direct subsidy must be repaid immediately to the member institution. The member institution must repay to the Bank the recaptured funds.

Once AHP funds have been loaned or awarded to a project, if the project is out of compliance with the law and the criteria upon which the AHP funds were approved, the Bank may provide a reasonable period of time to cure any non-compliance prior to recapture or the exercise of any other remedy. In the case of non-compliance, AHP funds must be repaid only to the extent that the funds may be recaptured from the project owners or that a determination has been made by the member and the Bank that subsequent to foreclosure, there is or will be value remaining in the property after the satisfaction of prior liens. In the case of evidence of waste, fraud, or abuse by the loan consortium, loan fund or project, AHP funds (to the extent they can be recaptured) must be repaid by the member to the Bank.

9. 12 MONTH USE. AHP funds must be committed to a housing project or an eligible household within 12 months of an AHP award or the issuance of these guidelines, whichever is later. A loan consortium or loan fund must disburse AHP funds in conformance with AHP regulations and Bank policies established to assure timely use and reuse of the funds.

10. INCOME EARNED ON AHP FUNDS AND AHP REPAYMENTS. During the period that a loan consortium or loan fund is using AHP direct subsidies or loans from subsidized advances, income other than de minimis amounts earned on AHP funds or AHP fund repayments during the time they are not being utilized by a project or an eligible household that is in excess of the direct subsidy award or the amount needed to repay any interest on amounts borrowed from a Bank member ("excess income") must either be (i) used to provide additional funds for projects meeting the criteria upon which the loan consortium or loan fund application was approved or (ii) returned through the member to the Bank. Upon repayment of AHP funds to the member by the loan consortium or loan fund, any remaining subsidy and all such excess income earned on it must be returned to the Bank.

11. ACCOUNTING FOR AHP FUNDS. If a loan consortium or loan fund receives AHP funds from separate competitive funding rounds, the use of funds must be reported separately. If funds from one AHP round are combined with funds from another AHP round in a single

multifamily project, the loan fund or loan consortia should require the project to follow the requirements for the use of AHP funds from the round that is more restrictive as to AHP program criteria. A loan consortium or loan fund must report to the member institution any new loans provided from the repayments of AHP funds. This information must be reported to the FHLBank which must forward the information to the Federal Housing Finance Board.

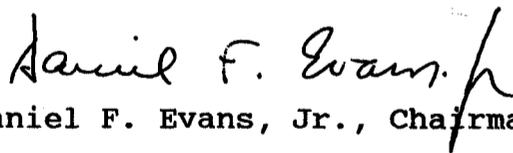
12. MONITORING. During the time period that is specified in the AHP application for the retention period for income eligibility, affordability and adherence to the commitments made in the approved application, the housing projects funded by the loan consortium or loan fund must be monitored annually for continued compliance with AHP program requirements. The member institution must monitor the loan consortium or loan fund and report to the Bank; and the Bank must monitor the member institution for such compliance.

13. CONDITIONED AWARDS. Notwithstanding paragraph 3, for any award approved on or prior to the effective date of these guidelines conditional upon the compliance with these guidelines that provides for the lending of AHP direct subsidies, the loan fund or loan consortium must specify (i) the period during which the loan fund or loan consortium will continue to lend AHP direct subsidies, and (ii) at the end of the specified period, must provide the direct subsidy as direct subsidy awards to individual housing projects or income eligible homeowners or must return the direct subsidy to the Bank through the member. In the case of these conditioned awards, a reasonable interest rate spread and reasonable fees may be charged by the loan consortium or loan fund for using direct subsidies to provide these loans.

14. APPLICABILITY OF GUIDELINES. These guidelines are applicable to any award approved by the Finance Board (1) on December 16, 1992 or March 24, 1993 that was conditioned upon compliance with these guidelines and (2) on or after the effective date of these guidelines.

15. EFFECTIVE DATE. These guidelines are effective on June 23, 1993.

By the Federal Housing Finance Board



Daniel F. Evans, Jr., Chairman