



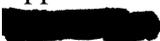
Federal Housing Finance Board

February 27, 1998

MEMORANDUM

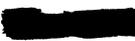
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FROM: Brandon B. Straus 
Senior Attorney-Advisor

SUBJECT: Application Of Median Income Standard By The Federal Home Loan Bank Of  ( Bank)

ISSUE: Whether the  Bank may use a household income limit based upon the applicable median family income under the Mortgage Revenue Bond (MRB) Program to determine household income eligibility for: 1) Affordable Housing Program (AHP) owner-occupied projects approved for funding prior to January 1, 1998, that have not yet received final disbursement of all AHP funds, and 2) households for whom funds were reserved prior to January 1, 1998, under the Bank's 1997 AHP homeownership set-aside program that have not yet received such funds.

CONCLUSION:

The  Bank's proposed practice of using an income limit based upon the applicable family median income under the MRB program (MRB median income standard) as described above is consistent with the revised AHP regulation and the regulation's preamble.

DISCUSSION

I. Background

The Federal Housing Finance Board's (Finance Board) regulation governing the AHP was revised, effective January 1, 1998, to permit a Federal Home Loan Bank (Bank) to choose among several possible standards for the median income for an area, including the median family income applicable under the MRB program, for purposes of determining household eligibility for owner-occupied projects funded by the Bank under its AHP competitive application program and for households funded under the Bank's AHP homeownership set-aside program. See 62 Fed. Reg. 41812,41829 (Aug. 4, 1997) (to be codified at 12 C.F.R. § 960.1). Prior to January 1, 1998, the AHP regulation required household income eligibility to be determined under the

median income standards published annually by the Department of Housing and Urban Development (HUD). See 12 C.F.R. § 960.1(1997)(amended). It is our understanding that in the ██████ Bank's District, the maximum eligible household income determined using the MRB median income standard is up to \$5000 higher than the maximum eligible household income determined using the HUD median income standard, depending on whether a project is located in a rural or urban area.

II. Analysis

Under the revised AHP regulation, a Bank must identify in its AHP Implementation Plan the applicable standard or standards for the median income for the area that will govern household eligibility for AHP projects. See 62 Fed. Reg. 41812, 41829 (Aug. 4, 1997) (to be codified at 12 C.F.R. § 960.1). In its AHP implementation plan for the ██████ Bank identified the applicable median income for the area used under the MRB program as the standard by which household income eligibility will be determined for AHP owner-occupied projects. See ██████ Bank AHP Implementation Plan (█████ P Plan) at 10. Similarly, the ██████ Bank has identified the MRB median income standard as the applicable standard governing income eligibility for its 1998 homeownership set-aside program. See *id.* Att. D.

Furthermore, under the ██████ plan, the MRB median income standard will apply to owner-occupied projects approved for funding prior to January 1, 1998, but which have not yet received final disbursement of all AHP funds from the ██████ Bank. See *id.* According to the staff of the ██████ Bank, there are approximately ██████ such projects. Because these projects were approved prior to January 1, 1998, they involve commitments to provide housing to households qualified under the HUD median income standards. Similarly, the ██████ Bank staff has informed us that there are 100 households for which the ██████ Bank has reserved a total of \$450,000 of AHP funds under its 1997 homeownership set-aside program. In disbursing these funds, the ██████ Bank intends to determine household income eligibility based upon the MRB median income standard.¹

We believe application of the MRB median income standard to determine household eligibility for projects or households approved for: 1) funding under the ██████ Bank's AHP competitive application program, and 2) reservation of funds under its homeownership aside program, respectively, prior to January 1, 1998, but which have not yet been fully funded, is permissible under the revised AHP regulation. Section 960.16 of the revised AHP regulation states, in part:

The requirements of section 10(i) of the Act and the provisions of this part [(the AHP regulation)], as amended, are incorporated into all agreements between Banks, members, sponsors, or owners receiving AHP subsidies. To the extent the requirements of this part are amended from time to time, such agreements are deemed to incorporate the amendments to conform to any new requirements of this part

¹ Households must take disbursement of these funds by March 31, 1998, after which date the reservation of the entire \$450,000 remaining in the ██████ Bank's 1997 set-aside program expires. Any funds not disbursed will be added to the pool of funds available for the ██████ Bank's 1998 AHP competitive application program.

62 Fed. Reg. 41812,41839 (to be codified at 12 C.F.R. § 960.16).

The preamble to the final rule implementing the revised AHP regulation states, in relevant part.

Section 960.16 of the final rule makes clear that the provisions of the final rule apply to all existing AH&assisted projects. Existing agreements between Banks, members, sponsors or owners regarding such parties' AHP obligations may have language that automatically incorporates any changes to the AHP regulation that may be adopted from time to time by the Finance Board. Section 960.16 of the final rule makes clear that where existing agreements do not provide for automatic conformity with AHP regulatory changes, the requirements of section 10(j) of the Act and the provisions of the AHP regulation, as amended, are incorporated into such agreements by operation of law.

See id at 41813.

Based upon the foregoing, the-Bank's practice of using the MRB median income standard as discussed above is consistent with the language of § 960.16 and the preamble to the revised AHP regulation.

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