



# Federal Housing Finance Agency

## REGULATORY INTERPRETATION

2009-RI-02

September 11, 2009

**Subject:** Resident Services Coordinator Expenses in AHP Projects

**Request Summary:** A Federal Home Loan Bank (Bank) has asked whether the Affordable Housing Program (AHP) subsidy may be used to pay for the expenses of employing resident services coordinators in rental housing projects.

**Conclusion:** Under the AHP regulation, AHP subsidy for rental housing may be used only for the purchase, construction or rehabilitation of such housing, and not for a rental project's operating expenses. Accordingly, because the expense of employing a resident services coordinator is an operating expense of the project, it is not eligible for AHP subsidy.

**Background:** Resident services coordinators develop or coordinate services for residents of rental housing projects that allow the residents to improve their living conditions, such as by facilitating or providing links to job training services. The Bank currently treats resident services coordinator expenses as ineligible for AHP subsidy under the assumption that such expenses are not directly related to the purchase, construction or rehabilitation of rental housing, as required by the AHP regulation. *See* 12 C.F.R. § 1291.1 (definition of "rental project").<sup>1</sup>

Nonetheless, the Bank believes that such services support the long-term viability of most affordable rental projects because they may help to lower turnover and vacancy rates and provide on-site supportive services for residents with special needs. Because the services support the viability of the projects, the Bank, with the support of its Advisory Council, contends that the expenses for those services are necessary to the project and thus should be considered as development or operational expenses that are eligible for the AHP subsidy.

The Bank further contends that the eligibility provision of the AHP regulation that requires rental projects to be operationally feasible may be construed to allow the AHP subsidy to be used to pay for resident services coordinator expenses. *See* 12 C.F.R. § 1291.5(c)(4)(ii) (as amended, effective January 1, 2007). The Bank believes that allowing AHP subsidy to be used to pay for such expenses would be consistent with the spirit of the Federal Home Loan Bank Act, which

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<sup>1</sup> The AHP regulation was relocated from part 951 to part 1291 of Title 12 in conjunction with the AHP refinancing rulemaking published in *73 Fed. Reg.* 61660 (Oct. 17, 2008).

recognizes the benefit of coordinating AHP activities with other federal or federally-subsidized affordable housing activities to the maximum extent possible. *See* 12 U.S.C. § 1430(j)(9)(G). The Bank notes that two major housing funding sources in its district require supportive services and the demonstration of sources to pay for those services for certain types of special needs housing, and over 80 percent of the Bank's AHP applications are targeted for housing for special needs populations.

**Discussion:** The AHP regulation makes clear that AHP subsidy may be used only for the purchase, construction or rehabilitation of rental housing. *See* 12 C.F.R. § 1291.1 (definition of "rental project"). This provision has long been interpreted as precluding the use of AHP subsidy for operating expenses because such costs are not directly related to the purchase, construction or rehabilitation of the rental housing. Because the cost of employing a resident services coordinator is such an operating expense, it is not an eligible use of the AHP subsidy, even though the services provided by the coordinator may be viewed as a necessary or customary expense of a particular rental project.

With respect to the contention that the regulatory provision pertaining to operational feasibility could be construed to allow AHP subsidy to be used for these expenses, the Federal Housing Finance Agency finds that the provision cited above precludes that result. Operational feasibility is the ability of a project to operate in a financially sound manner, in accordance with the Bank's project feasibility guidelines, as projected in the project's *pro forma* operating statements. *See* 12 C.F.R. § 1291.5(c)(4)(ii). The Bank notes that resident coordinator services typically meet the needs of the tenants, and that the prior version of the AHP regulation had specifically identified "needs of tenants" as one of a number of relevant factors that a Bank should consider in determining operational feasibility. *See* 12 C.F.R. § 1291.5(b)(2)(iii)(2006). Although a rental project must be operationally feasible in order to receive AHP subsidy, that requirement applies in addition to, not in lieu of, the requirement noted above that AHP subsidy may be used only for expenses that are associated with the purchase, construction or rehabilitation of the rental project.



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A Regulatory Interpretation is subject to modification or rescission by action of the Director of the Federal Housing Finance Agency. *See* 12 C.F.R. part 907.