

Federal Housing Finance Agency



# **FHLBank Affordable Housing Program**

## **Webinar Briefing on Final Rule**

December 13, 2018

# OVERVIEW

- I. Notice of Proposed Rulemaking**
- II. Summary of Public Comment Letters**
- III. Final Rule**
  1. Project Selection
    - General Fund
    - Targeted Funds
    - Homeownership Set-Aside Program
  2. Monitoring for Rental Projects
  3. Homeownership Retention Agreements
  4. Remedial Actions for AHP Project Noncompliance
- IV. Effective and Compliance Dates**
- V. Next Steps**

# NOTICE OF PROPOSED RULEMAKING

- Published: March 14, 2018.
- Initial 60-day public comment period, extended 30 days, with comment deadline of June 12, 2018.
- FHFA received 394 public comment letters.



# SUMMARY OF PUBLIC COMMENT LETTERS

## 394 Public Comment Letters

- 251 unique letters expressing original comments and recommendations, and
- 143 form letters (6 variations) and extension requests.

- FHLBanks - 13
- FHLBank Advisory Councils - 9
- Policy and Advocacy Organizations - 37
- Trade Organizations - 31
- State and Local Governments - 30
- Lenders – Commercial banks, Credit unions, CDFIs - 50
- Developers – Nonprofit and For-Profit - 204
- Other - 20

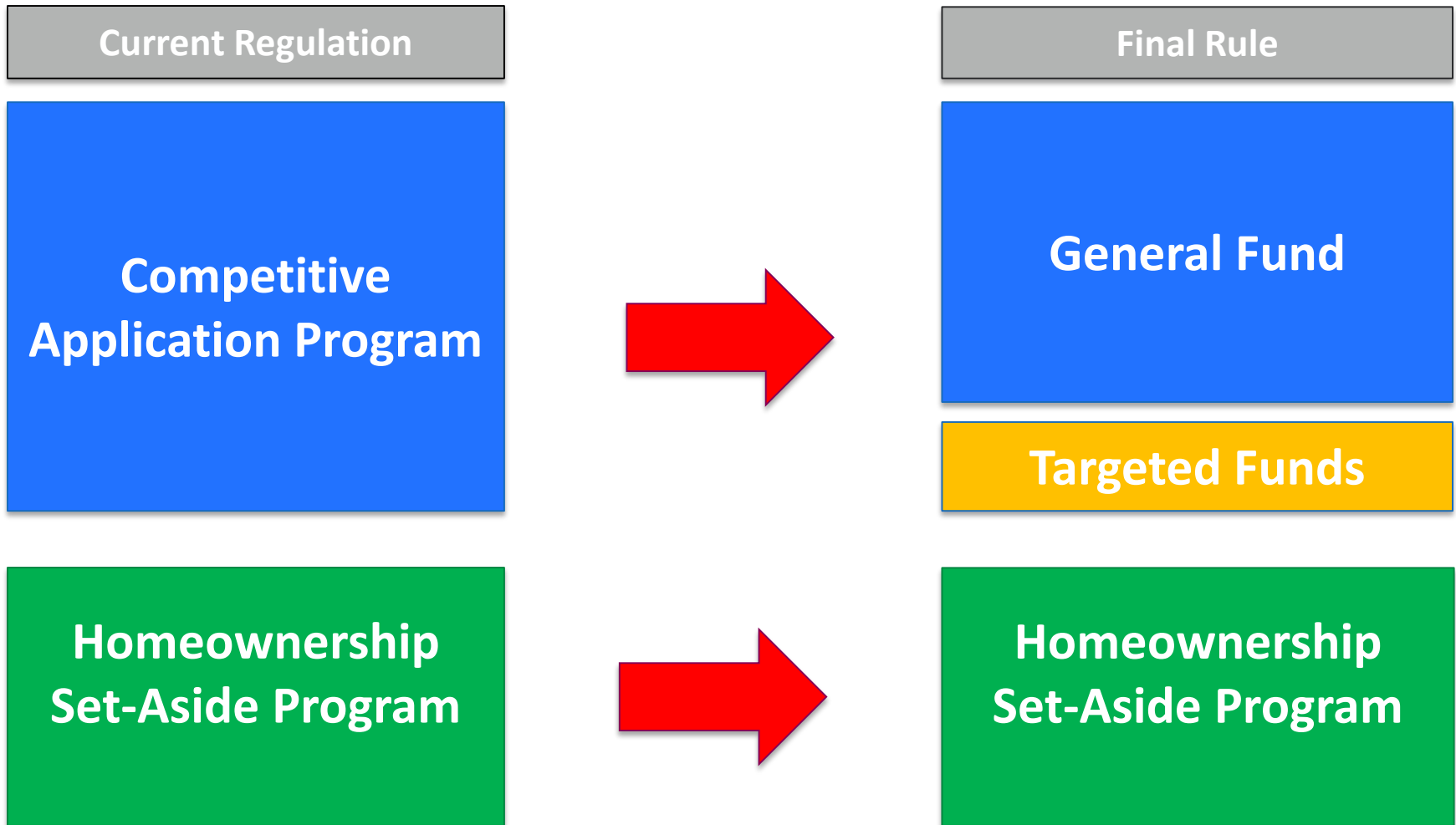
# FINAL RULE

- Posted on FHFA.GOV: November 20, 2018.
- Published in Federal Register: November 28, 2018.



<https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Issues-Final-Rule-Amending-FHLB-AHP-Regulation.aspx>

# AHP FUNDING ALLOCATIONS



# GENERAL FUND: FINAL RULE

- Scoring-based framework consisting of 100 points allocated among mandatory scoring categories.
- Incorporates statutory and regulatory priorities outlined in the proposed rule.

Scoring Priorities	MINIMUM Point Allocations
<b>Priorities: Statutory - Mandatory</b>	
Federal government/donated or conveyed properties	5
Sponsorship – Nonprofit or government	5
Home Purchase	5
<b>Priorities: Regulatory - Mandatory</b>	
Targeting to lower income households °°	20
Underserved communities and populations °°	5
Creating economic opportunity °°	5
Community stability including affordable housing preservation	5
<b>Priorities: FHLBanks - Optional</b>	
FHLBank District Priorities (Identified by FHLBanks)	0

35 point minimum total for regulatory priorities.

50 point minimum total for mandatory statutory and regulatory priorities.

50 point maximum total for District Priorities.

°° Proposed Rule Regulatory Priorities

# GENERAL FUND: REGULATORY PRIORITIES

## UNDERSERVED COMMUNITIES AND POPULATIONS

- Housing for homeless households
- Housing for special needs populations *such as*:
  - Elderly
  - Persons with disabilities
  - Formerly incarcerated
  - Persons recovering from physical, drug, alcohol abuse
  - Victims of domestic violence
  - Persons with HIV/AIDS
  - Unaccompanied youth
  - Visitable housing
- Housing for other targeted populations *such as*:
  - Agricultural workers
  - Military veterans
  - Native Americans
  - Households requiring large units
  - Kinship care

- Rural
- Rental housing for extremely low-income households
- Other as provided by FHFA guidance

## CREATING ECONOMIC OPPORTUNITY

- Promotion of empowerment
- Residential economic diversity
- Other as provided by FHFA guidance

## COMMUNITY STABILITY INCLUDING AFFORDABLE HOUSING PRESERVATION *such as*:

- Preserving affordable housing
- Rehabilitating vacant or abandoned properties
- Housing that is part of an approved community revitalization or economic development strategy
- Other as provided by FHFA guidance



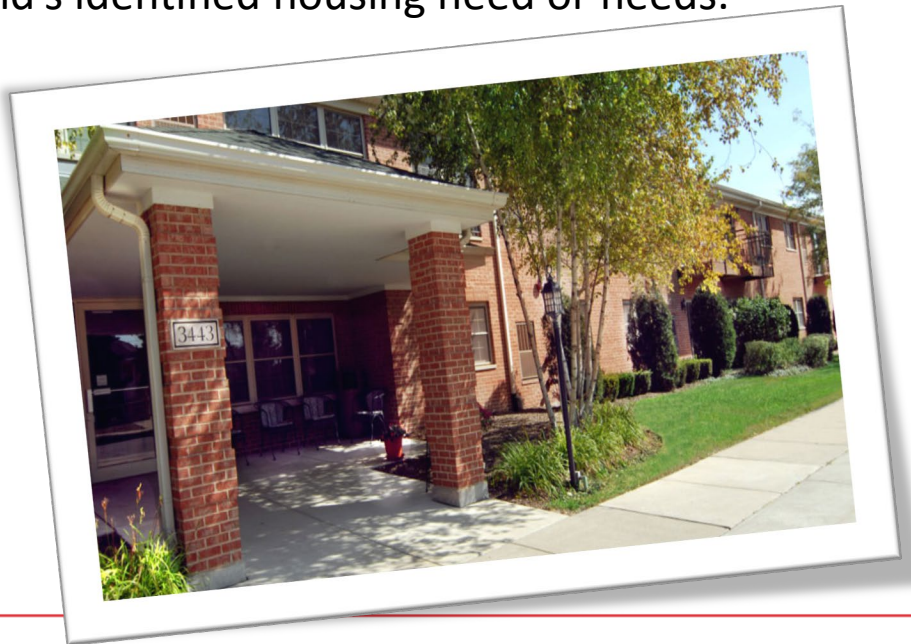
# TARGETING THRESHOLD



- Special needs and homeless targeting thresholds at 20 percent of total project units.
- Twenty percent targeting threshold for other targeted populations.

# TARGETED FUNDS

- Up to 40 percent of total annual AHP funding allocation to a maximum of 3 Targeted Funds.
- Subject to phase-in requirements.
- Each Targeted Fund must include at least 3 different scoring criteria. Points must total 100. Maximum points allocation for any one scoring criterion is 50 points.
- Scoring criteria must allow the FHLBank to select applications that meet the Targeted Fund's identified housing need or needs.



# TARGETED COMMUNITY LENDING PLAN

- Identifies and assesses significant affordable housing needs in FHLBank district to be addressed through the FHLBank's AHP.
- Specifies particular affordable housing needs to be addressed through any Targeted Funds.



- Published at least 90 days prior to opening of application round, unless the Targeted Fund addresses federal- or state-declared disasters.

# PROJECT SPONSOR QUALIFICATIONS

- Evaluate qualifications of the project sponsor, but not the project sponsor's affiliates, team members, or general contractor, at AHP application and at disbursement of AHP subsidy.



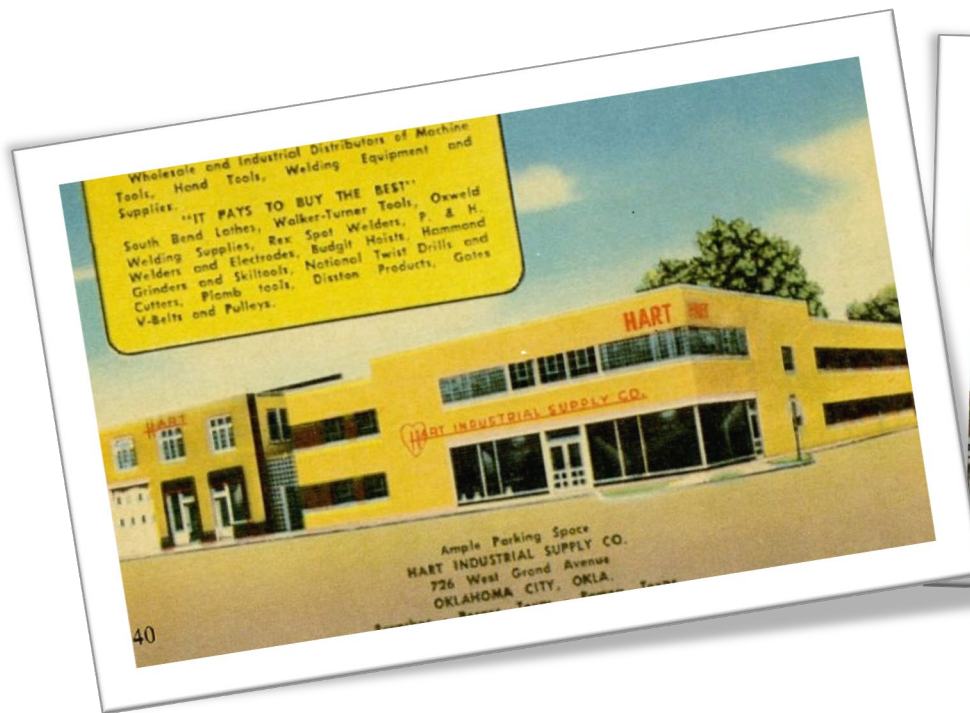
# HOMEOWNERSHIP SET-ASIDE PROGRAM

- Maximum annual funding allocation for the Set-Aside Program remains at the greater of 35 percent of the FHLBank's annual total AHP contribution, or \$4.5 million.
- Maximum grant amount is increased from current \$15,000 to \$22,000 per household, subject to automatic annual upward adjustments based on changes in FHFA's HPI.
- One-third of Homeownership Set-Aside Program funding allocation directed to first-time homebuyers or households for owner-occupied rehabilitation, or combination of both.



# MONITORING: LIHTC PROJECTS

- Removes current requirement for the FHLBanks to review back-up household income and rent documentation at initial monitoring for AHP projects receiving Low-Income Housing Tax Credits (LIHTC).



# MONITORING: PROJECTS WITH GOVERNMENT FUNDS

- Removes current requirement for the FHLBanks to review back-up household income and rent documentation during initial and long-term monitoring for AHP projects that also receive funds from certain government housing programs specified in separate FHFA guidance.
- Initial FHFA guidance will include 4 USDA and HUD programs. FHFA may add or remove federal housing programs.

# MONITORING: NOTICE OF LIHTC NONCOMPLIANCE

- Project owners must notify FHLBanks in the case of material and unresolved noncompliance with LIHTC household income targeting or rent requirements during the AHP 15-year retention period.



# HOMEOWNERSHIP RETENTION AGREEMENTS

- No retention agreements for homeowners receiving AHP subsidy solely for rehabilitation.
- Retention agreements required for purchase, and rehabilitation in conjunction with purchase.
- Applies to Competitive and Homeownership Set-Aside Programs.
- Requires FHLBanks to use net proceeds calculation to determine the amount of AHP subsidy available for repayment.
- Establishes a *de minimis* exception to subsidy repayment where the amount subject to repayment is \$2,500 or less.
- Requires use of proxies, in the absence of actual income documentation, for the exception to AHP subsidy repayment where the subsequent purchaser is low- or moderate-income.

# SUBSIDY RECOVERY CALCULATION

## Calculation of Subsidy Recovery Amount

1. The amount of the original AHP subsidy is reduced on a pro rata basis for each month the household owned the home.

$$\left(1 - \frac{\# \text{ of Months Household Owned Home}}{\text{Retention Period (60 months)}}\right) \times \text{Original AHP Subsidy} = \text{Pro Rata Amount}$$

2. The pro rata amount repaid to the FHLBank cannot exceed what is available from **net proceeds** available from the sale. Under no circumstances can the FHLBank recover more than is available from the net proceeds of the sale.

**Net Proceeds:** Sales price minus outstanding superior debt and any reasonable and customary seller-paid transaction costs.

3. Prior to paying back any subsidy, to the extent documentation is available, the household is permitted to recover its entire investment (downpayment, principal payments on senior debt, reasonable and customary costs paid in connection with the purchase of the unit, and the cost of capital improvements made since purchase) before repaying any portion of the AHP subsidy.
4. Household repays any AHP subsidy from remaining net proceeds.
5. The remainder of the net proceeds are retained by the household.

# SUBSIDY RECOVERY CALCULATION (CONT'D)

- If the pro rata subsidy amount is greater than the net proceeds minus household investment, the AHP-assisted household is not responsible for repaying the difference.

# DE MINIMIS THRESHOLD

- If the household's AHP pro rata subsidy amount is **\$2,500 or less**, the *AHP de minimis* threshold, then the household retains any net proceeds from the sale of the unit. No further action is required of the FHLBank or the household.

# INCOME PROXIES FOR SUBSEQUENT PURCHASERS

- Retains the current exception to the AHP subsidy repayment requirement if the AHP-assisted household sells the home to a low- or moderate-income household during the AHP five-year retention period.
- Upon issuance of FHFA guidance on the use of proxies, the FHLBanks will be required to determine the subsequent purchaser's income using one or more proxies that are reliable indicators of purchaser income, unless documentation demonstrating the purchaser's actual income is available.

# REMEDIAL ACTIONS FOR AHP PROJECT NONCOMPLIANCE

- Establishes sequence of remedial steps in cases of AHP project noncompliance:
  - 1) Project sponsor first makes reasonable efforts to cure the noncompliance within a reasonable period of time
  - 2) FHLBank approves a project modification if the noncompliance could not be cured within a reasonable period of time and the final rule's modification requirements are satisfied
  - 3) FHLBank seeks recovery of AHP subsidy if the noncompliance cannot be eliminated through cure or project modification.

# GOVERNANCE

- Delegation to Board Committee: Quarterly Meetings with Advisory Councils – Retains current authority for FHLBank boards of directors to delegate to a board committee the statutory responsibility to meet quarterly with their Advisory Councils.
- No Delegation for Strategic AHP Decisions: Prohibits FHLBank boards from delegating to a board committee the responsibility to approve General Fund, Targeted Fund, and Homeownership Set-Aside Program policies, the AHP Implementation Plan, and the Targeted Community Lending Plan.

# REORGANIZATION OF REGULATION

- Generally adopts the proposed reorganization of the current regulation.
- Groups provisions governing similar subject matter under new Subpart headings.



# EFFECTIVE AND COMPLIANCE DATES

**Effective Date – December 28, 2018**

**Compliance Date – January 1, 2020  
For Owner-Occupied Retention Agreement  
Requirements**

**Compliance Date – January 1, 2021  
All Remaining Provisions**

**A FHLBank May Choose to Implement Any Set of  
Related Provisions in the Final Rule Before the  
Applicable Compliance Dates \***

\* If a FHLBank does not implement a provision early, it must comply with the current regulatory provision until the applicable compliance date.



# NEXT STEPS

## Anticipated Agency Action Items

- Issuance of the monitoring guidance for the four federal government programs eligible for reduced AHP monitoring.
- Guidance for using proxies to determine subsequent purchaser income in connection with owner-occupied retention agreements.
- Clarifications on the “need for subsidy” determination.
- Rulemaking on sponsor-provided permanent financing, revolving loan funds, and loan pools.

# AFFORDABLE HOUSING PROGRAM

Questions?



# AFFORDABLE HOUSING PROGRAM

## Contacts

<https://www.fhfa.gov/PolicyProgramsResearch/Programs/AffordableHousing/Pages/Affordable-Housing-Home-Loan-Banks.aspx#AHP>

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