

No.: 91-521
Date: October 24, 1991

FEDERAL HOUSING FINANCE BOARD

Acceptance of OTS' Offer of Settlement

WHEREAS, Section 2A(b) of the Federal Home Loan Bank Act, as amended, (12 U.S.C. 1422a(h)(I)) vests the Board of Directors with the management of all affairs of the Finance Board, and section 2B(a) (12 U.S.C. 1422b(a)(3)) empowers it to determine the necessary expenses of the Finance Board, and said provisions grant the Board of Directors discretion to determine, by settlement, the amount of funds that should have been transferred to the Finance Board from the Special Deposit Account of the former Federal Home Loan Bank Board on October 9, 1989 pursuant to section 725 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (103 Stat. 183, 429); and

WHEREAS, the Office of Thrift Supervision (OTS) and the Finance Board have been attempting, since July, 1990, to resolve differences concerning the disposition of assets (and liabilities) of the Federal Home Loan Bank Board (FHLBB) following its abolition under the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law Number 101-73; and

WHEREAS, the Government Accounting Office (GAO) has recently completed an audit in which it decided that the Finance Board would be entitled to \$8,156,000, which amount represents current assets less liabilities of the FHLBB as of August 9, 1989, plus, an additional \$1,528,000, which represents accrued annual leave liability of FHLBB employees as of like date; and

WHEREAS, OTS has objected to GAO's decision concerning the accrued annual leave, and has also asserted its intent to appeal to the Office of Management and Budget (OMB) the issue of Finance Board entitlement to any additional payments; and

WHEREAS, OTS has offered a settlement (in lieu of appealing the matter to OMB) under which it would pay a total of \$8,920,000, representing the base amount of \$8,156,000, plus one half the amount of accrued annual leave; and

WHEREAS, the Board has given consideration to the loss of potential income resulting from further delays; to the inherent risks of resubmitting the matter for "de novo" mediation and resolution; to the comparative levels of adverse exposure versus potential profit; to the complexity and ambiguity of the underlying points of contention; and to the relative strength and merits of the various positions.

NOW, THEREFORE, BE IT RESOLVED, that, the Chairman shall accept the OTS offer concurrently with the execution of mutual releases by both agencies.

By the Federal Housing Finance Board

A handwritten signature in cursive script, appearing to read "Daniel F. Evans, Jr.", written in dark ink.

Daniel F. Evans, Jr., Chairman