

# 2022 AFFORDABLE HOUSING PROGRAM IMPLEMENTATION PLAN AND POLICIES

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# **FEDERAL HOME LOAN BANK OF BOSTON**

## **2022 AFFORDABLE HOUSING PROGRAM IMPLEMENTATION PLAN AND POLICIES**

### **I. Purpose**

The primary purpose of this document is to effect the timely and proper operation of the General Fund of the Federal Home Loan Bank of Boston's (Bank) Affordable Housing Program (AHP) and the homeownership set-aside Equity Builder Program (EBP) for participating member financial institutions (members), development sponsors (developers), and owners.

The second purpose is to ensure that AHP funds are used in projects that demonstrate need and are used in compliance with the enabling statute 12 U.S.C. 1430 (j), the Federal Housing Finance Agency's (FHFA) AHP Regulation 12 CFR Part 1291, et seq., as amended from time to time (AHP Regulation), related FHFA Advisory Bulletins and Regulatory Interpretations, and the Bank's Policies and Procedures.

The third purpose is to ensure the appropriate and effective advice and counsel of the Bank's Advisory Council and appropriate review and oversight of the AHP by the senior management and the board of directors of the Bank, particularly through and by the directors who are members of the board's Housing and Community Development Committee.

### **II. Scope:**

Section 1291.13(b) of the AHP Regulation requires that the Bank develop an implementation plan detailing the administration of the AHP, including the General Fund and any Targeted Fund, if applicable. The regulation provides that the Bank's board of directors, after consultation with its Advisory Council, shall adopt a written implementation plan that addresses certain criteria as detailed in the regulation.

The AHP Implementation Plan and Policy covers the AHP and EBP processes and management, including application, disbursement transactions, compliance, and affordability retention.

### **III. Policy Statement: Affordable Housing Program Overview**

#### **A. Plan Elements**

1. The applicable median income standards adopted by the Bank consistent with the definition of median income for the area.

Income eligibility for recipient households in both owner-occupied and rental projects shall be based on median income standards for the area, as published annually by HUD, adjusted for family size, in effect at the time the household is qualified.

For applications submitted in the General Fund application round, the Bank will use the HUD Income Limits in effect on the opening day of the round.

For initiatives funded with housing tax credits, the income eligibility for recipient households in those projects shall be based on Multifamily Tax Subsidy Program (MTSP) median income standards for the area, as published annually by HUD, adjusted for family size.

In addition, the median income for an area, as determined by the Federal Financial Institutions Examination Council, will also be used in determining eligibility for the Economic Diversity scoring category (see Attachment B).

2. The requirements for the General Fund established by the Bank pursuant to § 1291.20(a), including the Bank's scoring methodology, its scoring tie-breaker policy adopted pursuant to §§ 1291.25(c) and 1291.28(c), and any policy on approving AHP application alternates for funding pursuant to §§ 1291.25(c)(6) and 1291.28(b).

The Bank's requirements for the General Fund are included in this section and in Attachment A and B.

3. The requirements for each Targeted Fund established by the Bank, if any, pursuant to § 1291.20(b), including the Bank's scoring methodology for each Targeted Fund, its scoring tie-breaker policy adopted pursuant to §§ 1291.25(c) and 1291.28(c), and any policy on approving AHP application alternates for funding pursuant to §§ 1291.25(c)(6) and 1291.28(b), and the parameters adopted pursuant to § 1291.20(b)(2).

The requirements for Targeted Funds are not currently applicable. The Bank does not have any Targeted Funds.

4. The Bank's policy on how it will determine under which Fund to approve an application for the same project that is submitted to more than one Fund at the Bank in a calendar year and scores high enough to be approved under each Fund, pursuant to § 1291.28(d)

Determination of which Fund to approve is not applicable. The Bank has only a General Fund.

5. The requirements for any homeownership set-aside programs, pursuant to 1291.40, adopted by the Bank.

The Bank's requirements for a homeownership set-aside program are included in this plan as Attachment D.

6. The retention requirements for projects and households under the General Fund and any Bank homeownership set-aside programs.

The General Fund retention requirements can be found in Attachment C and the homeownership set-aside retention requirements can be found in Attachment D.

7. The Bank's standards for approving a relocation plan for current occupants of rental projects pursuant to § 1291.23(a)(2)(ii)(B).
8. Any optional Bank district eligibility requirements adopted by the Bank pursuant to § 1291.24(c). The requirements for funding revolving loan funds, adopted by the Bank, can be found in Attachment E.

The Bank has opened the Affordable Housing Program up to eligible revolving loan funds requesting initial AHP subsidy funds for a specific project. Please see Attachment E for more information.

9. The Bank's requirements for funding revolving loan funds, if adopted by the Bank pursuant to § 1291.31
10. The requirements for funding loan pools, if adopted by the Bank.

The requirement for funding a loan pool is not applicable. The Bank is not adopting the funding of loan pools at this time.

11. The Bank's requirements for monitoring under its General Fund and any Targeted Funds and Homeownership Set-Aside Programs pursuant to §§ 1291.50 and 1291.51.
12. The Bank's requirements, including time limits, for re-use of repaid AHP direct subsidy in the same project, if adopted by the Bank pursuant to § 1291.64(b).

At this time, the Bank does not allow for re-use of repaid AHP direct subsidy in a project unless approved as a Revolving Loan Fund Initiative under Attachment E, or in certain General Fund application ownership initiatives where the land is held by a land trust or similar mechanism and where the AHP subsidy funds were used in conjunction with construction or development of the housing.

Additional plan elements are included below with individual headings or as attachments to this document and are used in conjunction with the AHP Regulation.

## **B. Funding Allocation and Schedule**

Funds available from the Bank's annual contribution, based on applicable net income from the prior year and other sources, to the Affordable Housing Program will be allocated as follows:

- Homeownership Set-Aside Program – Fifteen percent, with one-third of the 15 percent allocated to first-time homebuyers. In no case, will the contribution to the Set-Aside Program be greater than 35 percent of the total funds available.

AHP General Fund – The remaining amount, after the calculation for the Homeownership Set-Aside Program, will be allocated to the General Fund.

Any additional recovered or deobligated funds from the AHP General Fund will be split equally and placed in the current AHP General Fund and EBP fund pools, at the sole discretion of the Bank, in order to ensure that the funds are appropriately allocated in a timely manner. First, an exception is required for previously-awarded AHP initiatives that are withdrawn as a result of receiving an award in a subsequent round; this deobligated subsidy will be placed in the AHP General Fund only and used in that subsequent round. Second, exceptions will be made to prioritize awards for current AHP alternates before splitting the funding. Third, exceptions will be made during the June through December time period, based on the amounts of recovered and/or deobligated subsidy and the Bank's projections about the likelihood of utilization through either the current year AHP General Fund and EBP fund pools.

The Bank will conduct one General Fund application-funding round. The schedule for the General Fund Application Program will be:

Application Round Opens:	Monday, June 6, 2022
Applications Due:	Thursday, July 28, 2022
Member Application Review Complete:	Thursday, August 4, 2022

A committee of the Bank's board of directors will review and recommend, and the full board will approve the applications at the December meetings.

Applications will be approved in descending order, starting with the highest scoring application, until remaining AHP funds are insufficient to fund the next highest scoring application. In the last round of each year, the next highest scoring application may be funded with partial funds from the following year to ensure compliance with AHP Regulation.

In addition, the next four highest scoring applications will be approved as alternates and may be approved for funding prior to the application deadline for the next General Fund offering, if previously committed AHP subsidy funds become available. Funding of any alternates is at the sole discretion of the Bank.

In the event the Bank has uncommitted funds from the AHP contribution, pursuant to CFR § 1291.10 (a)(b), meaning no AHP alternates, no pending applications to the Homeownership Set-Aside Program, no project modification requests for AHP subsidy increases, and no carryover for insufficient amounts, 90 percent of the unused or uncommitted amount shall be deposited by the Bank in an Affordable Housing Reserve Fund established and administered by the FHFA. The remaining 10 percent of the unused and uncommitted amount retained by the Bank will be fully used or committed by the Bank during the following year, and any remaining portion shall be deposited in the Affordable Housing Reserve Fund.

In years when no amendments are made to the Plan, the Bank's board of directors will approve the dates of any subsequent funding rounds.

### **C. Additional District Eligibility Requirements Adopted by the Bank**

The regulation allows a Bank to require that a project receiving AHP subsidies meet one or more additional eligibility requirements adopted by the Bank's board of directors and included in the AHP Implementation Plan after consultation with the Advisory Council. The optional requirements include AHP subsidy limits, i.e. limits on maximum amount of AHP subsidy available per member each year, or per member, per project, or per project unit in a single funding round, or home-buyer or home-owner education/counseling, i.e. a requirement that a household complete a homeownership education/counseling program.

The Bank has established the following additional eligibility requirements for access to AHP subsidy:

1. There is no limit on the number of applications that a member may submit in any one round. However, in an individual round of the AHP General Fund, a member may not be awarded more than the greater of 25 percent of the total available AHP subsidy (rounded to the nearest 100 dollars). Funds will be awarded only to those individual project applications in which the AHP subsidy requests will be fully funded within each member's limit. If a scored application falls in a position in the scoring ranking where the AHP subsidy request would only be partially funded due to the overall member award eligibility, that application and all other lower scoring applications for that member will be ineligible.
2. For any one project in the 2022 General Fund round, no more than a total of \$650,000 in subsidy can be requested. The subsidy can be used as either a direct subsidy for acquisition, construction, or rehabilitation costs or as an interest rate subsidy to support a long-term, permanent AHP subsidized advance, or a combination thereof.
3. Homeownership applicants may not request more than \$40,000 per unit in AHP subsidy funds for any homeownership unit. An exception to this limit is made for revolving loan fund applications for use in a revolving loan fund project or program.

In addition, under the homeownership set-aside program, and General Fund program for applications seeking the First-Time Homebuyer points, the Bank requires that each household receive homeownership education/counseling. Although a minimum is not required, the Bank recommends a minimum of eight hours of home buyer education with a counseling component.

### **D. Project Cost, Feasibility, and Scoring Guidelines (Introduction)**

The Bank has established guidelines for the review of a project's cost, financial feasibility, and need for AHP subsidy. These guidelines will be applied at the time of application, prior to the disbursement of approved AHP subsidies, in the course of any requested project modifications, and upon project completion. Application of these guidelines will determine the actual amount



of subsidy awarded, funded, and remaining in an approved project. The Bank will consider appropriate exceptions to these guidelines on a case-by-case basis substantiated by information and documentation justifying need to the satisfaction of the Bank for such exception. Project cost and feasibility/need for subsidy guidelines are included in this plan as Attachment A.

The Bank's scoring guidelines adopted are consistent with the regulation and are included in this plan as Attachment B.

#### **E. Use and Restrictions on Use of AHP Subsidy Funds**

Program funds may be used only for the direct costs of purchasing, constructing, or rehabilitating affordable housing. Uses include acquisition, construction, rehabilitation costs, related soft costs, interest-rate buy-downs, down payment and closing-cost assistance, and matched-savings programs. Only those units that are affordable, as defined by the AHP Regulation, are eligible for funding.

Qualifying affordable housing is defined as follows:

- Homeownership housing for households with incomes at or below 80 percent of the median income for the area. Examples of eligible uses include single-family homes, cooperatives, condominiums, down-payment and closing-cost assistance, and in certain cases, mobile-home parks and/or mobile-home units.
- Rental housing in which at least 20 percent of the units are for households with incomes that do not exceed 50 percent of the median income for the area. Examples of eligible uses include multifamily rental housing, single-room-occupancy (SRO) housing, mobile home parks, and mutual housing.
- Note that depending on the use of the AHP subsidy funds, a mobile home park may be considered either rental or homeownership. For more information, please contact a member of the HCI staff.

The development sponsor must pass the full benefits of the AHP funding (subsidy and advance principal) through to the initiative and/or end beneficiary. The developer/sponsor cannot retain any portion of the AHP funds as profit or for the purpose of additional development (excluding approved developer fees), for capitalized reserves or periodic deposits to reserve accounts, operating expenses, or supportive services expenses. AHP funds cannot be used for nonresidential space and may only be "recycled" in initiatives approved under the revolving loan fund parameters.

Commercial space associated with a development is ineligible for AHP funding.

AHP subsidies cannot be used to pay prepayment fees imposed by the Bank on a member in connection with the prepayment of a subsidized advance, unless:

- A. The project is in financial distress that cannot be remedied through a project modification pursuant to Section 1291.29 of the AHP Regulations,
- B. The prepayment of the subsidized advance is necessary to retain the project's affordability and income targeting requirements,
- C. Following such prepayment, the project will continue to comply with the terms of the application for the AHP subsidy, as approved by the Bank, and the AHP Regulations for the duration of the original retention period,
- D. Any unused AHP subsidy is returned to the Bank and made available for other AHP projects or households, and
- E. The amount of AHP subsidy used for the prepayment fee may not exceed the amount of the member's prepayment fee to the Bank.

AHP subsidy shall not be used to pay for cancellation fees and penalties imposed by the Bank on a member for a subsidized advance commitment that is cancelled. AHP subsidy also shall not be used to pay for processing fees charged by members for providing direct subsidies to a project.

AHP subsidy can be used to pay for homeownership education/counseling costs where such costs are incurred in connection with education/counseling of homebuyers who actually purchase an AHP-assisted unit and where the cost of education/counseling has not been covered by another funding source, including the member.

AHP funds cannot be used to pay predevelopment costs (defined as costs to determine whether a proposed initiative is feasible) prior to receipt of all funding commitments.

This section (Section E.) applies to AHP subsidized advance principal and subsidy as well as AHP direct subsidy.

#### **F. Financing Costs of Loans Made in Conjunction with AHP Subsidy**

The rate of interest, points, fees, and any other charges for all loans that are made to the project in conjunction with the AHP subsidy shall not exceed a reasonable market rate of interest, points, fees, and other charges for loans of similar maturity, terms, and risk.

In addition, all members should adhere to the Bank's Anti-Predatory Lending Policy when entering into transactions under the AHP. The policy can be found on the Bank's web site at [www.fhlbboston.com](http://www.fhlbboston.com)

### **G. Time Limits on Use of AHP Subsidies**

Some or all of the AHP subsidies must be likely to be drawn down or used by the project to procure other financing commitments within 12 months of the date of approval of the application for subsidy funding the project to meet regulatory requirements. All funding must be committed 12 months from application approval. In addition, it is expected that the property will be purchased and zoning approvals will be obtained within the 12 months.

One additional six month may be granted on a case-by-case exception basis, at the Bank's sole discretion, if in the Bank's judgment, sufficient evidence is provided documenting progress toward project funding and completion.

Accommodations beyond 12/18 months may be granted for a particular circumstance such as extended timeline to resolve a NIMBY ("not in my back yard")/zoning challenge or address an ownership or other issue.

Projects not meeting the above standards are subject to cancellation by the Bank of AHP subsidy commitments.

### **H. Verification of Compliance at Disbursement, Modification, Reporting, and Completion**

Compliance is verified and reviewed at various points in the lifecycle of the project. For more information, please see Attachment C.

### **I. Increases in AHP Subsidies**

All increases in AHP project subsidies, unless they are due to interest rate adjustments as provided in the AHP regulation, must be submitted through the competitive round process. The application should be submitted requesting the higher subsidy amount, not to exceed the per unit subsidy limit (for ownership applications) or the application subsidy limits for all applications in effect in the round in which the new award is made. If the new application is recommended for funding during the AHP application review, an amount equal to the prior subsidy for any approved applications that are resubmissions for an increase in AHP subsidy will be included in the total available pool amount for that round. This ensures that all funds that have been allocated to the program for the year are fully awarded.

Once the new application is approved with the new subsidy amount, and the award acceptance letter is returned, the original award will be withdrawn. The new award will be the effective award in all respects including, but not limited to, the Qualifying Characteristics, file number, and reporting and all other aspects of the transaction, including AHP retention.

### **J. Advisory Council-Related Requirements and Policies**

#### **1. Solicitation and Appointment of Advisory Council Members**

The Bank's Advisory Council (Council) will consist of up to 15 members, at least two of whom will be appointed from each of the six states within the Bank's District and at least two will be appointed on a rotating basis from key leadership positions (or their designee) in the six state housing finance agencies or the six state departments of housing and/or community development within the Bank's district. Key leadership positions are defined as executive directors, chief housing officers, chief operating officers, or chief financial officers.

Each year, nominations for open Council positions (if any) will be solicited from the Bank's board of directors, member institutions, past and present Council members, and community and not-for-profit organizations.

The membership of the Council will be appointed by the board of directors of the Bank. In making appointments to the Council consideration will be given to the size of the Bank's District and the community-lending needs and activities within the District. Council members will be appointed from persons who reside in the Bank's District and are drawn from community, for-profit, and not-for-profit organizations actively involved in providing or promoting low- or moderate-income housing or community lending in the District.

## 2. Terms

Members of the Council will be appointed for staggered three-year terms to provide continuity in experience and service to the Advisory Council. Advisory Council members are initially appointed to serve for one 3-year term with one option to be reappointed for a second 3-year term. Council members may be appointed to serve for terms of one or two years solely for purposes of reconfiguring the staggering of the three-year terms. Reappointments will be at the sole discretion of the Board. No Advisory Council member may be appointed to serve more than two consecutive 3-year terms.

## 3. Election of Officers

The members of the Advisory Council will annually elect from among their membership a chairperson and vice chairperson.

## 4. Duties

Council members will meet once each quarter with representatives from the Bank's board of directors. Council members will advise the board on ways that the Bank can better carry out its housing finance and community-lending mission, but not limited to, advice on the low- and moderate-income housing and community-lending programs and needs in the Bank's District, and on the use of AHP subsidies, Bank advances, and other credit products for these purposes.

By May 1 of each year, the Council will report to the Finance Agency the Council's analysis of the community-lending activities of the Bank. Within 30 days after the date the

Advisory Council's annual analysis is submitted to the Finance Agency, the Bank shall publish the analysis on its publicly available website.

Advisory Council members may receive a stipend for serving on the Council. Council members will be reimbursed for travel expenses, including transportation and subsistence, for each day devoted to attending meetings with representatives of the board of directors of the Bank and meetings requested by the Finance Agency.

The Advisory Council's advice to the board of directors and the Bank shall include recommendations on:

- The amount of AHP subsidies to be allocated to the Bank's General Fund and any Targeted Funds and any Bank homeownership set-aside programs, including how the set-aside funds should be appointed under the one-third funding allocation requirements of the applicable Finance Agency regulation;
- The AHP Implementation Plan and any subsequent amendments thereto;
- The Bank's scoring methodologies, related definitions, and any additional optional District eligibility requirements for the General Fund and any Targeted funds;
- The eligibility requirements and any priority criteria for any Bank homeownership set-aside program;
- Appointments of independent directors to the Bank's board of directors; and
- The Bank's Targeted Community Lending Plan and any subsequent amendments thereto.

The Bank shall comply with requests from the Advisory Council for summary information regarding AHP applications from prior funding rounds.

A Bank's board of directors shall not delegate to Bank officers or other Bank employees the responsibility to appoint persons as members of the Advisory Council, or the responsibility to meet with the Advisory Council at the quarterly meetings required by the Act (12 U.S.C. 1430(j)(11)).

#### **K. Board of Directors-Related Requirements and Policies**

The Bank's board of directors, after consultation with its Advisory Council, shall be responsible for:

- Adoption of the AHP Implementation Plan and related policies required pursuant to § 1291.13 of this part; and

- Approving or disapproving the applications for AHP subsidy pursuant to §1291.28(e) of this part.

Prior to adoption of the Bank's Implementation Plan, and any subsequent amendments thereto, the Bank will provide the Advisory Council an opportunity to review the plan and any subsequent amendments and the Advisory Council shall provide its recommendations to the Bank's board of directors.

**The Bank's board of directors shall not delegate to Bank officers or other Bank employees its responsibilities as set forth in the AHP Regulation** or the responsibility for adopting its homeownership set-aside program policies, which can be found in Attachment D.

Other duties include, but are not limited to:

- Appointment of the Advisory Council members.
- Quarterly meetings with the Advisory Council to solicit advice on ways in which the Bank can better carry out its housing finance and community-lending mission, as noted in the previous section.
- Approval, or disapproval, of modifications involving increases in subsidy. The authority to approve or disapprove of such requests shall not be delegated to Bank officers or other Bank employees.

#### **L. General**

The Bank will submit amendments of its AHP Implementation Plan to the Finance Agency within 30 days after the date the Bank's board of directors approves such amendments.

The Bank shall publish its current AHP Implementation Plan on its publicly available website and shall publish any amendments to the AHP Implementation Plan on the website within 30 days after the date of their adoption by the Bank's board of directors.

The Bank will provide such reports and documentation concerning the AHP as the Finance Agency may request from time to time.

The Bank has developed (and will continue to develop) policies and procedures to both administer this plan and the remaining portions of Section 1291 of the Code of Federal Regulations, as amended. The policies and procedures are available upon request.

#### **M. Conflicts of Interest**

The Bank's board of directors has adopted a written policy regarding conflict of interest. The policy applies to Bank directors, employees, and Advisory Council members.

During the AHP application review, employees will recuse themselves from reviewing any member applications for which they have or appear to have a conflict of interests. The Community Development Advance Manager will maintain a record of such recusals and their respective reasons as part of the master file for each round.

#### **N. Fraud Reporting Requirements**

The Bank has established policies and is committed to implementing and maintaining processes and controls to discover fraud. Participating parties in the AHP programs are expected to support the Bank's efforts in addressing fraud by immediately providing written notification of any suspected fraudulent activity in relation to their dealings with the Bank. The Bank will require all participating parties to commit in writing to (i) notify the Bank immediately if they discover or suspect an instance of fraud related to a Bank business transaction, which may include any material misstatement, misrepresentation, or omission, and (ii) to provide the Bank with all information, documentation and assistance reasonably requested by the Bank in response to the Bank's receipt of any such notice from such participating party.

### **IV. Administration:**

#### **A. Roles and Responsibilities**

1. Owner: The Senior Vice President/Director of Housing and Community Investment shall be the Owner of this Policy, responsible for maintaining (including reviewing and updating) this Policy.
2. Authorized Approver: The Bank's Board of Directors shall be authorized to approve all changes to this Policy, following recommendation by the Advisory Council.

#### **B. Governance**

1. Re-Adoption Frequency. The Owner of this Policy will be responsible for presenting this Policy, as updated, for re-adoption by the Authorized Approver at least once every year. The Owner will also present this Policy for re-adoption by the Authorized Approver at any time that the Owner determines that a change is appropriate.
2. Review Frequency: The Owner of this Policy is expected to review and update this Policy on at least an annual basis, and to revise/update this policy (for re-adoption by the Authorized Approver) whenever the Owner deems such a revision/update to be necessary or appropriate.

#### **C. Exception Management/Policy Interpretations**

1. Approval of Exceptions. All exceptions under this Policy must be approved by the Senior Vice President/Director and/or HCI Operations Manager of Housing and Community Investment of the Bank and reported to the Authorized Approver.

2. Responsibility for Interpretations. Senior Vice President/Director and/or HCI Operations Manager of Housing and Community Investment of the Bank are responsible for all interpretations of this Policy.

**V. Compliance Monitoring:**

The Senior Vice President/Director and/or HCI Operations Manager of Housing and Community Investment shall be responsible for setting up and maintaining procedures designed to monitor compliance with this Policy.

**VI. Applicable Laws Regulations and Guidance:**

The following provisions of the Federal Home Loan Bank Act and FHFA regulations are applicable to this Policy:

- 12 USC 1430(j)
- 12 CFR Part 1291
- 12 CFR Part 1233
- FHFA Advisory Bulletins and Regulatory Interpretations related to the AHP and EBP programs are also applicable to this Policy.

**VII. Related Policies; Procedures:**

The following Procedures have been adopted to implement this Policy:

- Affordable Housing Program Procedures
- Equity Builder Program Procedures

The following Bank policies cover subject matter that is related to this Policy:

- Products and Solutions Guide

**VIII. Glossary/Definitions:**

The following defined terms are used in this Policy:

***Builder's Overhead:*** Builder or general contractor's main office overhead. This is a builder's allowance for costs associated with a new construction or rehabilitation project that does not include the direct cost of wages or materials, (*i.e.*, office staff, rent, utilities, corporate legal, accounting, employee benefits and payroll taxes, job site supervision, tools and equipment, mileage, general liability insurance, etc.) Bond premium and building permits are not included in this category.



**Builder's Profit:** Profit charged by builder or general contractor. Bond premium and building permits are not included in this category.

**Co-sponsor:** A not-for-profit or for-profit organization or public entity that is partnering or affiliated with the lead sponsor for the purpose of developing and/or operating a rental or homeownership housing initiative. Generally, in a rental initiative, the co-sponsor entity has site control or an ownership interest in the land, building, or property(ies) or other interest, such as exercising control over the planning, development, or management of the initiative. Generally, in a homeownership housing initiative, the co-sponsor may have site control or an ownership interest in the land, building, or property(ies) or otherwise be integrally involved in the initiative, such as exercising control over the planning, development or management of the initiative, or by qualifying borrowers and/or providing or arranging financing for the homebuyers or owners of the units.

**First-time Homebuyers:** First-time homebuyers are defined as (from 42 U.S.C. § 12704(14)) "...an individual and his or her spouse who have not owned a home during the three-year period prior to purchase of a home, except that —

(a) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse;

(b) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse; and

(c) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such three-year period, a dwelling unit whose structure is—

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

(ii) not in compliance with state, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.”

**General Requirements:** Builder or general contractor's on-site overhead. (*i.e.*, superintendent or project supervision, construction office and storage trailers, temporary utilities, equipment rental, clean up, dumpsters, closeout documentation, personnel, facilities, travel expenses, or safety, etc.). Bond premium and building permits are not included in this category.

**Initiative and Project:** Are synonyms used interchangeably throughout the document to refer to the subject application or approved application.

**Owner-occupied unit:** A dwelling unit occupied by the owner of the unit as the owner's primary residence. Eligible units include a one -to four-family property, a condominium or cooperative housing unit, manufactured housing and/or mobile homes. For manufactured housing or mobile homes to be eligible they must meet HUD or Fannie Mae guidelines and be anchored to the ground on property owned by the borrower.

**IX. Policy History Log:**

<b>Date Approved</b>	<b>Purpose</b>	<b>Author</b>	<b>Approved by</b>
06/29/2012	<i>Synchronization of AHP and EBP Policies and AHP Implementation Plan into one document and removal of procedures into separate documents.</i>	M. E. Jutras	Board of Directors
07/20/12	Revised to remove Revolving Loan Fund application threshold which was not presented or approved by Board (Attachment E, Section B).	M.E. Jutras	n/a
12/21/12	Revised to incorporate changes for the 2013 Equity Builder and Affordable Housing Programs	M.E. Jutras	Board of Directors
03/22/13	Revised to incorporate final changes for the 2013 Equity Builder and Affordable Housing Programs	M.E. Jutras	Board of Directors
12/20/13	Revised to incorporate changes for the 2014 Equity Builder Program and partial changes for the 2014 Affordable Housing Program.	M.E. Jutras	Board of Directors
03/21/14	Revised to incorporate changes for the 2014 Affordable Housing Program.	M.E. Jutras	Board of Directors
06/27/14	Revised to incorporate implementation of the Advisory Bulletin (AB-2013-08).	M.E. Jutras	Board of Directors
12/19/14	Revised to incorporate changes for the 2015 Equity Builder Program and partial changes for the 2015 Affordable Housing Program.	M.E. Jutras	Board of Directors
03/20/15	Revised to incorporate changes for the 2015 Affordable Housing Program.	M.E. Jutras and T. Noell	Board of Directors

<b>Date Approved</b>	<b>Purpose</b>	<b>Author</b>	<b>Approved by</b>
12/18/15	Revised to incorporate changes for the 2016 Affordable Housing Program.	M.E. Jutras/T. Noell	Board of Directors
03/18/2016	Revised to incorporate changes for the 2016 Affordable Housing Program.	M.E. Jutras/T. Noell	Board of Directors
12/16/2016	Revised to incorporate changes for the 2017 Affordable Housing Program.	M.E. Jutras/T. Noell	Board of Directors
12/15/2017	Revised to incorporate changes for the 2018 Affordable Housing Program.	M.E. Jutras/T. Noell	Board of Directors
03/16/2018	Revised to modify the timeline for the 2018 competitive Affordable Housing Program funding round.	M.E. Jutras/T. Noell	Board of Directors
12/14/2018	Revised to incorporate changes for the 2019 Affordable Housing Program.	M.E. Jutras/T. Noell	Board of Directors
6/21/2019	Revised to modify allocation schedule for 2019 Equity Builder Program.	M.E. Jutras/T. Noell	Board of Directors
12/13/2019	Revised to incorporate changes for the 2020 Affordable Housing Program, including updates from the November 2018 Revised AHP Regulation.	M.E. Jutras/T. Noell	Board of Directors
3/20/2020	Revised to incorporate additional changes to the 2020 Affordable Housing Program, including updates to Long-Term Monitoring, site visits, COVID-19 response for AHP subsidized advances, and other items.	M.E. Jutras	Board of Directors
6/26/2020	Revised to incorporate additional changes to the 2020 Affordable Housing Program.	T. Noell	Board of Directors
12/11/2020	Revised to incorporate changes for the 2021 Affordable Housing Program.	L. Bourque/ T. Noell	Board of Directors

<b>Date Approved</b>	<b>Purpose</b>	<b>Author</b>	<b>Approved by</b>
7/23/21	Revised to include Subsidized Advances	L.Bourque	Board of Directors
12/9/21	Revised to incorporate changes to the 2022 Affordable Housing Program	LBourque/ TNoell/ KMulhern	Board of Directors

## **X. Attachment A —**

### **2022 Affordable Housing Program Project Cost and Feasibility Guidelines**

The Federal Home Loan Bank of Boston's (Bank) Housing and Community Investment department will evaluate the Affordable Housing Program (AHP) applications, modifications to any project or its approved qualifying characteristics, requests for the disbursement of AHP subsidy funds, and the Closeout Monitoring of a project at completion using the following guidelines. These guidelines are benchmarks and will be used as the basis for rejecting or disqualifying an application, or other request, or reducing the amount of subsidy requested.

Review of AHP applications includes, first, a scoring review, and second, a feasibility analysis to determine overall program eligibility, sponsor capacity, regulatory compliance, and to select applications for award and alternate status. Following a preliminary scoring run, the Bank reserves the right to review the applications that score high enough to be awarded funding or alternate status, plus the next five to ten highest ranked applications. At the discretion of the Bank, the remaining applications may not be reviewed for scoring or feasibility analysis.

The feasibility review will encompass the qualifying characteristics of the application, the financial information contained in the application, the relevant exhibits, and the information submitted to support a disbursement request or to answer a Bank inquiry. The application's initial and subsequent sources and uses information, development budget, detailed construction budget, operating pro forma, market analysis, and the need for the requested subsidy will be reviewed. Additionally, the Bank will review the readiness of the project to proceed, the completeness of the project's development program and its financing arrangements.

The experience of the sponsor and its development team to undertake, construct and operate the project are key and will also be considered. As part of that consideration, the Bank will review the previous experience of the member and the sponsor in complying with the requirements of the Bank's AHP. Such experience will be an indication of the performance of the sponsor and member in complying with such requirements on any new application(s).

The Bank reserves the right to review all project costs, related expenses, and fees, whether or not the items are listed as part of these guidelines. An application or disbursement request may be rejected or disqualified for unexplained or excessive costs or fees. Projects that vary from the guidelines will be evaluated further to establish the reasonableness of the variation. The Bank expects all data and documentation provided with the AHP application to be generally consistent with the information provided to all other funders and proposed funders. The Bank reserves the right to discuss this AHP application with other funders and proposed funders. Substantive differences in information and documentation presented to the Bank and other funders may result in the disqualification of the application.

Furthermore, applications will be reviewed as submitted at the close of the application funding round. While clarifications may be accepted, any significant changes or revisions occurring during the funding round will not be considered and may result in disqualification.

As it relates to the guidelines that follow, all determinations made by the Bank with respect to any application or modification thereto, disbursement or other request, or monitoring of a project shall be in the Bank's sole discretion.

**Please note: Any application outside of any of the guidelines outlined in this section will require an explanation of the variance. Explanations must be quantifiable in relation to the amount by which the guideline is not met. The Bank will consider appropriate exceptions to these guidelines on a case-by-case basis substantiated by information and documentation justifying need to the satisfaction of the Bank for such exception. Acceptance of any variations will be accepted at the sole discretion of the Bank.**

Following the review of all applications, under certain circumstances, approvals may be conditionally granted. Conditions can include completion of prior initiatives, verification of member funding of homeowner mortgages in an ownership initiative, and/or verification of member funding in Habitat for Humanity initiatives. These conditions will be included in the AHP award documentation and are reviewed and must be satisfied prior to disbursement of any AHP subsidy funds.

**For all applications and disbursement requests:**

<b>Item</b>	<b>Range/Guideline</b>
<b>Consideration as a Project</b>	<p>The Bank determines, in its sole discretion, what constitutes a “project.” Factors the Bank may consider include the ownership structure of the project, how the final legally enforceable retention agreement is secured to the real property, how other funders are defining a project, the presence or absence of immediately contiguous “projects” with the same sponsor(s) or owner(s), and how costs are allocated and accounted for (e.g. one cost certification).</p> <p>For example, but not limited to these examples, any of the following may affect consideration of an initiative as an AHP project. If an initiative:</p> <ul style="list-style-type: none"><li>• Has more than one owning entity separately owning parts of the project;</li><li>• Is located in more than one state; or</li><li>• Is part of a larger project where both pieces are viewed and funded by other funders as one project?</li></ul> <p>Once approved, the project owner, the project sponsor, and the member financial institution must promptly report to the Bank’s Housing and Community Investment department any material changes in the financial structure of the project, including but not limited to, any new sources of funds, failure to receive other project-related funds and compensated tax credit utilization, or any other material changes in the project’s scope and terms. Any of these may affect the consideration as an AHP project, its approval, or maintenance of its approval.</p>
<b>Eligible Affordable Housing Initiatives or Projects</b>	<p>An initiative must be either an owner-occupied or a rental project as follows:</p> <ul style="list-style-type: none"><li>• <b>Homeownership housing</b> for households with incomes at or below 80 percent of the median income for the area, where the housing is to be used as the household’s primary residence.</li><li>• <b>Rental housing</b> in which at least 20 percent of the units are for households with incomes that do not exceed 50 percent of the median income for the area.</li></ul> <p>Note that depending on the use of the AHP subsidy funds, a mobile home park may be considered either rental or homeownership. For more information, please contact a member of the HCI staff.</p>

## Eligible Households

Using the Bank's standard income calculation guidelines:

- **Homeownership:** A household must have income meeting the AHP income targeting commitments made in the AHP application at the time that it is qualified by the project sponsor for participation in the project.
- **Rental:**
  - For projects that are not occupied, a household must have an income meeting the income targeting commitments in the AHP application upon initial occupancy of the unit.
  - For projects that are occupied,
    - A household must have an income meeting the income targeting commitments at the time of application to the Bank for AHP subsidy; or
    - If the project has a relocation plan for current occupants approved by one of its federal, state, or local government funders, or a plan approved by the Bank, a household may have an income meeting the income targeting commitments upon initial occupancy of the rental unit after completion of the purchase or rehabilitation; or
    - If a relocation plan is not a requirement of another funding source, then the relocation plan must be approved by the Bank and meet the following minimum standards:
      - A minimum 90-day notice of the displacement to the residents.
      - Relocation needs assessment, which include general and one-on-one meetings with residents as needed;
      - Eligibility for relocation services, relocation counseling and advisory services to support tenants in choosing their best option, and working through the challenges associated with relocation;
      - Accommodation (financial reimbursement, moving assistance, or both) measures to execute the relocation to comparable units. Payments to the tenants should reimburse reasonable expenses such as movers, food, utilities, advisory or support services, storage of personal belongings, transportation, security, etc.;
      - Planning for temporary displacement such as where tenants will go, where personal property will be stored, and the timing expectations of moving and re-occupancy;
      - What accommodation(s) will be made, if any, if an occupant elects permanent relocation;
      - A budget categorizing the line item relocation costs in total and an anticipated average cost per household;



Item	Range/Guideline
<b>Displacement</b>	<ul style="list-style-type: none"><li>• General assumptions articulating how the relocation costs estimates were determined should be narrated within the relocation plan;</li><li>• Other components as required state or local regulation or 49 CFR 24.2 (a)(22) when applicable.</li></ul> <p>For occupied homeownership or rental initiatives without a relocation plan, a current rent roll on the Bank’s template is required showing household incomes for the occupied units. At its discretion, the Bank may request and review the income documentation for current residents to confirm the targeting commitments made at the time of application.</p> <p>Initiatives should make every attempt not to displace low- or moderate-income households, or if such displacement will occur, assure that such households will be assisted to minimize the impact of such displacement. In the event displacement of residents will occur, the sponsor must submit a plan for the temporary or permanent relocation for affected residents, which meets applicable Bank standards or applicable federal, state, or local laws.</p>
<b>Sources and Uses of Funds</b>	<p>The project’s estimated uses of funds must equal its estimated sources of funds, as reflected in the development budget. An initiative’s sources of funds must include:</p> <ol style="list-style-type: none"><li>a. Any cash contributions by the sponsor, any cash from sources other than the sponsor, and estimates of funds the project sponsor has obtained, or intends to obtain, from other sources, including funds which have not yet been committed to the initiative (attach any commitment letters received as part of the application);</li><li>b. A project’s cash uses are the actual outlay of cash needed to pay for materials, labor, and acquisition or other costs of completing the project. Cash costs do not include in-kind donations, voluntary professional labor or services, or sweat equity.</li><li>c. Schedules for housing development and operating costs. The sources and uses budgets of an application are required to document the costs for the housing proposed. AHP funding cannot pay for ineligible costs, commercial space, social, or other non-housing services;<ol style="list-style-type: none"><li>1. Both a housing-only and a total development sources and uses budget are required of both homeownership or rental initiatives when the initiative includes commercial or other non-residential space, separate from the AHP-eligible residential space. For rental initiatives, a fifteen-year housing-only and total operating pro forma is also required. In the housing-only budget and operating pro forma, do not include income generated by social services provided, commercial income, or other revenue sources, unless</li></ol></li></ol>

Item	Range/Guideline
	<p>they pay for housing development or operating costs, and if they do, include only the portion paying housing costs;</p> <p>2. The Bank expects all data and documentation provided with the AHP application to be generally consistent with the information provided to all other funders and prospective funders. At the time of application, those applications which have received commitment for funding from a major funder are expected to submit the development sources and uses which are consistent with the information reviewed by the major funder.</p> <p>d. In the case of homeownership projects where the sponsor extends permanent financing to the homebuyer, the Bank reserves the discretion to include the estimated market value of in-kind donations and voluntary professional labor or services (excluding the value of sweat equity) in both the total development budget sources and uses.</p> <p>In addition, the sponsor’s cash contribution shall include the present value of any payments the sponsor is to receive from the buyer, which shall include any cash down payment from the buyer, plus the present value of any purchase note the sponsor holds on the unit. If the note carries a market interest rate commensurate with the credit quality of the buyer, the present value of the note equals the face value of the note. If the note carries an interest rate below the market rate, the present value of the note shall be determined using the market rate to discount the cash flows. (See the section titled “For all ownership applications and disbursement requests.”)</p>
<b>Developmental Feasibility and Need for Subsidy</b>	Developmental need for subsidy is defined as the difference between the project’s sources of funds, excluding AHP subsidy, and uses of funds.
<b>Initiative Costs</b>	In general, project costs (or uses) reflected in the development budget must be reasonable, in accordance with these feasibility guidelines.
<b>Cost of Property and Services Provided by a Member</b>	The purchase price of property or services, as reflected in the development budget for the initiative, sold to the project by a member providing AHP subsidy to the project, or, in the case of property, upon which the member holds a mortgage or lien, may not exceed the market value of such property or services as of the date the purchase price for the property or services was agreed upon. In the case of real estate owned property sold to the initiative by a member that is sold to a sponsor for this initiative by the member providing AHP subsidy to an initiative, or property sold to the initiative upon which the member holds a mortgage or lien, the market value of such property deemed to be the "as-is" value of the property or “as-rehabilitated” value of the property, whichever is appropriate. The value

Item	Range/Guideline
<b>Operational Feasibility and Need for Subsidy</b>	<p>should be as reflected in an independent appraisal of the property performed by a state certified or licensed appraiser, as defined in 12 CFR 564.2(j) and (k), within six months prior to the date the Bank disburses AHP subsidy to the project.</p> <p>The initiative must be operationally feasible, in accordance with the feasibility guidelines, based on relevant factors including, but not limited to, applicable financial ratios, income and expense trending factors, geographic location, needs of residents, and other nonfinancial application characteristics.</p> <p>The requested AHP subsidy must be necessary for the financial feasibility of the initiative, as currently structured, and the rate of interest, points, fees, and any other charges for all loans financing the application shall not exceed a reasonable market rate of interest, points, fees, and other charges for loans of similar maturity, terms, and risk.</p> <p>If there are excess cash flows, the initiative shall show how the cash flow is used and describe how it is controlled.</p> <p>In general, the initiative should not show any annual operating deficits during the fifteen-year operating period; in such event, the operating proforma should show how sufficient cash flow or reserves make up any deficits.</p>
<b>AHP Subsidized Advances and Other Member Loans</b>	<p>The rate of interest, points, fees, and any other charges for all loans financing the application, including AHP subsidized advances, shall not exceed a reasonable market rate of interest, points, fees, and other charges for loans of similar maturity, terms, and risk.</p> <p>In addition, instances in which the member lends the AHP Subsidized Advance to another financial intermediary that will be the permanent lender, the Bank will review each loan and at no point will the individual or combined loans exceed the standard market rate of interest, points, fees, spreads, and other charges for loans of similar maturity, terms, and risk.</p> <p>All loans funded by the AHP Subsidized Advance – whether member or financial intermediary – must be match funded to the AHP Subsidized Advance.</p> <p>For more information on AHP subsidized advances, please see <b>Subsidized Advance Subsidy Calculation</b> on page 16 of this Attachment A.</p>

Item	Range/Guideline
<b>Useful Life</b>	The project must be feasible for a useful life that is at least as long as the retention period. The initial development work along with repair and replacement reserves must support the physical asset through the appropriate period.
<b>Out of District Initiatives</b>	For any applications submitted for initiatives located outside of the First District (New England) the submitting member(s) may be requested to perform additional monitoring and/or certifications as required by the Bank to ensure compliance with Bank policies/procedures and the AHP Regulation.
<b>Projects Completed or In Construction at Time of Application</b>	If an application is received from an initiative that is complete with a funding gap or will be completed during the round or shortly after the round, additional documentation will be required to substantiate the current development cost. Documentation such as AIA Form G702 – Architect’s and Contractor’s Certificate of Payment or certified schedule of values, or other cost documents.
<b>Pass-through of AHP Subsidy</b>	<p>The member shall pass the full amount of the AHP funding through to the initiative and the end users. The developer/sponsor may not retain any portion of the AHP funds as profit or for the purpose of additional development other than the approved developer fees. Evidence of the actual use of the subsidy will be required once the initiative has been completed.</p> <ul style="list-style-type: none"><li data-bbox="602 1213 1300 1352">(i) Owner-occupied initiatives. The full amount of AHP funding should pass directly through to the targeted end user. This benefit should be demonstrated in the application specifically by unit/house type.</li><li data-bbox="602 1373 1260 1478">(ii) Rental initiatives. The full amount of AHP funding and/or reduced interest should pass directly through to the rental development.</li></ul>
<b>Market Analysis</b>	<p>Describe the need for the type of development and the units proposed. For rental projects this information should include market rental, occupancy, turnover, and absorption data for the geographic location. For homeownership projects this information should include comparable housing prices and occupancy data for the geographic location. For both types of projects this data must relate directly to the affordability targets, the needs of the tenants, and demonstrate feasibility.</p> <p>Existing and occupied rental properties may be exempt from the additional market data requirement when the application confirms that the subject property(ies) are occupied with residential tenants and that the property(ies) will continue to be operated in its current residential use. If as a result of</p>

Item	Range/Guideline
	<p>this application, the residential purpose of the property(ies) is changing from the current use, evidence of the need for the type of development and the units is required, however.</p>
	<p>Applications from owner-occupied initiatives will be exempt from the additional market data requirements when the sponsor can confirm that income-eligible households have been selected for all the AHP-eligible units; in the case of owner-occupied rehabilitation initiatives, the sponsor must confirm that income-eligible homeowners have been selected for all the AHP units.</p>
<b>Fair Housing</b>	<p>The initiative, as proposed, must comply with applicable federal and state laws on fair housing and housing accessibility including, but not limited to, the Fair Housing Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Architectural Barriers Act of 1969, and must demonstrate how the initiative will be affirmatively marketed and identify the responsible party (or parties).</p>
<b>Readiness of Project:</b> <u>Time Limits</u>	<p>Must input development schedule timeline dates that demonstrate the ability of the project to be completed, including the use of all AHP funds, within 36 months of the award. Occupancy is expected within a reasonable time after completion. Exceptions will be considered at the Bank's sole discretion.</p>
<b>Readiness of Project:</b> <u>Funding Commitments</u>	<p>At the time of application, the project must demonstrate that all funds will be committed within 12 months of the award for all funding sources, including investors for tax credits and bonds. Acceptability of commitments is determined at the discretion of the Bank.</p>
<b>Readiness of Project:</b> <u>Zoning</u>	<p>At the time of application, input dates that demonstrate that the project complies or will comply with current zoning within 12 months of the AHP award.</p> <p>If the project is undergoing challenges to a grant of zoning relief, the Bank may secure the necessary documentation and make a determination whether the project meets this benchmark. This benchmark does not apply to owner-occupied rehabilitation projects.</p>

Item	Range/Guideline
<b>Readiness of Project:</b> <u>Site Control</u>	<p>Site Control pertains to all land and buildings included in this initiative and is a mandatory threshold requirement. The Bank reserves the right to set aside any application which fails to fully demonstrate site control.</p> <p>At the time of application, the Sponsor (or ownership entity in which the sponsor has an “ownership interest”) must demonstrate site control of 100 percent of the location(s), including land and buildings, through:</p> <ol style="list-style-type: none"><li>1. Deed;</li><li>2. Executed purchase contract or current option to purchase;</li><li>3. Executed lease or current option to lease for a term of at least 20 years;</li><li>4. Resolution from the local government or other organization that is committing to transfer the property describing the terms of the commitment, the transfer price, and the location of the property; or</li><li>5. In the case of acquisition of properties vacant due to foreclosure, the sponsor must provide an executed and notarized agreement with the owners of such properties that the sponsor will be allowed to acquire properties in the areas identified and at the acquisition costs identified in the application within six months after project approval.</li></ol> <p>Documentation to confirm affiliation and control between the ownership entity, Sponsor, and/or Co-Sponsor(s), as applicable, will also be required.</p> <p>If site control is documented other than by a deed, the documentation, including any executed extensions, must be effective at least through the calendar yearend of the AHP application and the purchase is expected within 12 months of the AHP award. This document must also indicate the sales/acquisition price.</p> <p>The Bank will review the documentation to confirm the ownership interest, the legal names and affiliations of the parties (e.g. seller and buyer, Sponsor, Co-Sponsor(s) or other parties to the AHP initiative), legal addresses, price, and effective date or duration of the option.</p> <p>The Site Control requirements do not apply to mortgage financing programs, down payment/closing cost assistance programs, owner-occupied rehabilitation initiatives, or program-related Revolving Loan Fund applications.</p>
<b>Sponsor and Development Team Qualifications and Capacity</b>	<p>A project sponsor must be qualified and be able to perform its responsibilities as committed to in the AHP application. As part of the application, the sponsor must be able to certify that it meets the project sponsor criteria established by the Bank and is not engaging in, any covered misconduct defined in the Federal Housing Finance Agency’s</p>

**Item**

**Range/Guideline**

Suspended Counterparty program regulation (12 CFR 1227) and any and all corresponding policies and procedures as defined and established by the FHLBank Boston.

Development and organizational capacity on the part of the sponsor and the related development team is vital for successful AHP development. For rental initiatives, this includes property management expertise. The Bank will review and make determinations at its sole discretion.

Review includes but is not limited to:

- The staff's expertise
- The sponsor and their related development team's record on successful similar developments
- The sponsor's current proposed development pipeline.
- An assessment of all team members' participation in previous AHP developments and satisfaction that their AHP projects are in compliance with the regulation and that all required reports have been submitted.

In addition, the following will be required:

1. Organization must provide resumes and/or summarize the experience of key staff.
2. Current (within two months of the opening of the AHP funding round) Certificate of Good Standing from its state of formation, or its equivalent (as determined in the Bank's sole discretion) for each sponsor. In Connecticut, this is the Certificate of Legal Existence issued by the Secretary of State. In Massachusetts, this is the Certificate of Good Standing issued by the Secretary of the Commonwealth. Maine, New Hampshire, Rhode Island, and Vermont each use a Certificate of Good Standing issued by the applicable Secretary of State's office.
3. For each sponsor, submission of Bank-supplied statement on the sponsor's letterhead, signed by the sponsor's board chair, dated no more than two months before the opening of the AHP funding round. In the case of a for-profit sponsor that does not have a board of directors, the statement may be signed by the chief executive officer of the organization. Statement will include status of current obligations and verification of compliance with all major funders including loan and tax payments.

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4. Most recent financial statement (audited if applicable).

If a sponsor's most recent audit report is qualified by an opinion of "going concern" disclosure, the sponsor and application are not eligible for the AHP scoring for funding until the financial condition that resulted in the "going concern" disclosure is resolved.

5. Organization documentation appropriate to the type of organization is required, including 501(c)(3) nonprofit certificate, articles of incorporation (housing authorities), or other as requested by the Bank.

In addition, financial statements, IRS tax returns, and other information may be requested by the Bank.

New or Inexperienced Development Sponsors must partner with a Known or Experienced Development Sponsor organization that is willing to co-sponsor their AHP application.

New or Inexperienced Development Sponsors are defined as a sponsor entity which has not successfully developed, leased, and/or operated income-restricted ("affordable") housing, does not have experienced staff, and/or cannot demonstrate satisfactory, ongoing compliance with other federal or state subsidizing funding sources, including those providing operating subsidy. This includes both rental and homeownership housing. Known or Experienced Development Sponsors are defined as a sponsor entity which, at a minimum, has a proven seven-year track record of development and operating income-restricted ("affordable") housing (rental or homeownership). This includes demonstration of satisfactory, ongoing compliance with the Bank's AHP program and/or other federal or state subsidizing funding sources, including operating subsidy.

New or Inexperienced Development Sponsors will be expected to provide a fully executed memorandum of understanding (MOU) or Letter of Agreement (LOA) with a Known or Experienced Development Sponsor as co-sponsor. The MOU must be on the lead sponsor's letterhead, executed by both organizations, dated within six months of the opening of the AHP round, and attached to the Sponsor Registration. The MOU or LOA must have a minimum term lasting through physical completion of the initiative and AHP Closeout Monitoring Review. The Bank recommends, but does not require, that the term extend through the AHP retention period (five years for homeownership, 15 years for rental initiatives) to ensure successful project completion and regulatory compliance.



Item	Range/Guideline
	<p>For those inexperienced in affordable housing development, if an AHP award is made, all parties agree to be co-sponsors on the AHP Agreement for the full retention period. In addition, their MOU or LOA must address:</p> <ul style="list-style-type: none"><li>• How the experienced and inexperienced organizations plan to partner, including which will be the lead sponsor;</li><li>• How each organization will be compensated financially (developer fee, management fee, or other arrangement);</li><li>• How the ownership interest will be structured;</li><li>• Who will manage the completed project.</li></ul>
	<p>Sponsors who are experienced in operating affordable housing, but without development experience, may be required to engage an experienced development consultant who will remain with the project throughout the closeout management review.</p>
	<p>If sponsor/owner is not experienced in property management, the Bank will require that an experienced property manager be engaged.</p>
	<p>The Bank retains the right, in its sole discretion, to make the determination of "new/inexperienced" or "known/experienced" based on the information and documentation presented with the application.</p>
<b>Identity of Interest</b>	<p>All members and sponsor developers/owners will disclose any relationships involved in the development of the initiative. The information will identify the relationship, if any, of all persons who will benefit financially from the proposed development. When an identity of interest exists, the Bank reserves the right to evaluate the cost reasonableness of that service and/or work to be performed and accept or reject the item or the application.</p>
<b>Submission/calculation errors</b>	<p>Calculations in the application, exhibits, and disbursement requests are to be free of errors and consistent throughout. Applications with submission errors, omissions, or inconsistencies that result in an incomplete feasibility analysis will not be scored at the department's discretion.</p>

Item	Range/Guideline
<b>Construction/ Rehabilitation Cost</b>	<p data-bbox="602 346 1479 525">Using industry construction cost data, typically RS Means, portfolio or round data, the reasonability of costs on a per square foot or per unit basis will be determined by the Bank. When using RS Means' data, an adjustment factor may be applied at the Bank's sole discretion to account for the additional costs of building affordable housing.</p> <p data-bbox="602 567 1425 632">If initiative involves rehabilitation and a capital needs analysis has been performed, it should be included with the application.</p> <p data-bbox="602 674 1474 1071">If using a square foot construction cost comparison for new construction or substantial rehabilitation initiatives, the per square foot construction cost is not to exceed the limits on a gross residential square footage basis, unless an acceptable explanation is provided. Square footage is calculated using a building's first level footprint square footage and adding the square footage of other levels (except basements and attics), to determine total square footage. Portions of basements, attics, and cantilevered sections used for living space shall be included (attic living areas are measured from knee wall to knee wall and gable end to gable end, where applicable). Square foot construction cost is determined by dividing the total hard costs by the project's square footage.</p>
<b>Refinancing</b>	<p data-bbox="602 1113 1430 1178">Additional information will be available from the Bank and posted on the web site on or before the opening date of the round.</p> <p data-bbox="602 1186 1468 1251">Refinancing is any new financing (loan or grant), the proceeds of which are used to pay off all or part of an existing loan or loans.</p> <p data-bbox="602 1293 1468 1654">A competitive application/project may use AHP subsidies (AHP subsidized advance or direct subsidies/grant) to refinance an existing single-family or multifamily mortgage loan, provided that the refinancing produces equity proceeds equal to at least the amount of the AHP used for refinancing and such equity proceeds at least up to this same amount of AHP subsidy shall be used only for the purchase, construction, or rehabilitation of housing units meeting the eligibility requirements of the AHP Regulation. The Bank cannot count the amount of AHP used to refinance the loan toward purchase, construction or rehabilitation costs if these costs are not being paid by the owner's equity taken out as a result of the refinancing.</p> <p data-bbox="602 1696 1468 1869">The regulatory basis for allowing an AHP-assisted refinance is to free up the owner's equity to use as a source of funds for eligible costs, resulting in the purchase, construction, or rehabilitation of AHP-eligible housing, and not to allow the sponsor to liquidate equity or to reduce the sponsor's debt service.</p>

Item	Range/Guideline
<b>Submitting Member Financial Institution</b>	<p>The regulation requires that applications can only be accepted from financial institutions that are members of the Bank at the time that the application is submitted to the Bank.</p> <p>However, if the member were to be subject to a merger, receivership, or other similar circumstance prior to the application's approval, the Bank would allow the sponsor opportunity to find and commit another member.</p>
<b>Member Underwriting</b>	<p>Member underwriting/analysis/evaluation is required whether a subsidized advance or a direct subsidy (grant) is being requested. It is expected that the member's senior management will review and approve the AHP application. Similarly, the member has the responsibility to evaluate and be satisfied with the sponsor's and/or borrower's:</p> <ul style="list-style-type: none"><li>• Credit standing,</li><li>• Development experience, and</li><li>• Performance track record.</li></ul> <p>The evaluation should include the above items as well as an analysis that the initiative is financially and physically feasible. In evaluating the project's financial feasibility and viability, the member should indicate its analysis relative to compliance or deviation with its underwriting standards of the project's:</p> <ul style="list-style-type: none"><li>• Debt service coverage ratio,</li><li>• Loan-to-value,</li><li>• Loan-to-cost ratios, and</li><li>• Operating income and expenses.</li></ul> <p><b><u>A copy of the underwriting/analysis/evaluation should be included with the term letter or application.</u></b></p> <p>The Bank will neither perform nor be responsible for the underwriting of the application for the member or the evaluation of the credit record or track record of the sponsor or borrower for the member.</p>

### **Subsidized Advance Subsidy Calculation –**

Amortizing subsidized advances (loans) with terms of 10 years or greater, up to a term of 20 years with an amortization of 30 years are available. AHP Advance Subsidy is used to write down the Federal Home Loan Bank of Boston's (Bank's) cost of funds on the loan to the member. Subsidy is not used to write down the member's cost of funds. AHP subsidized advances are lent to the member, who adds a spread and lends to the project.

At application, the Bank uses a calculated forward cost of funds to determine the amount of subsidy necessary to provide the interest rate as requested in the application. The rate on the loan from the Bank to the member cannot be less than zero percent. The rate used to calculate the subsidy is based on an anticipated draw down 18 months from AHP approval.

Following approval, two options are available: either a rate guarantee with a mandatory take down, or if a mandatory take down cannot be committed to, there will be no interest guarantee, but the amount of interest subsidy will remain available, provided progress is acceptable. Rate, principal, and term may be adjusted.

To estimate the approximate amount of subsidy funds that will be committed to a specific AHP advance, the following calculation may be done on a Hewlett Packard 12C, equivalent, or spreadsheet. These procedures apply only to an amortizing AHP advance, and they yield only an estimate of the subsidy associated with the advance. Please note that these instructions are provided for your information only. All actual calculations will be done automatically in the online AHP application.

**Example (this example is an approximation and continues on the next page):** Assume an amortizing AHP advance of \$500,000 at 3.0 percent for 20 years (with a 20-year amortization period) is being requested by the member. Assume the 18-month (in the application we will use a 22-month rate to accommodate the application and review period) Community Development advance forward-calculated rate for a 20-year amortizing advance is 4.17 percent.

Using HP-12C	Enter:	500,000	PV (advance amount)
Calculator	Enter	240n	(term in months)
	Enter:	.250000i	(advance rate of 3.0 percent expressed as a monthly rate)
		[3.0,12]	
	Enter:	PMT	(= -2.722,987989)
	Enter:	.347500i	(CDA rate of 4.17 percent expressed as a monthly rate)
		[4.17,12]	

**Item**

**Range/Guideline**

Enter: PV (present value = 450,910.2555)  
Enter: 500,000- (advance amount)  
Enter: CHS (change sign)  
**Answer: \$49,089 (rounded interest subsidy associated with requested AHP amortizing advance)**

*Current Federal Home Loan Bank of Boston rates are available at the Bank's web site, [www.fhlbboston.com](http://www.fhlbboston.com). Forward rate indications are available upon request. For assistance with the estimated calculation, contact Housing & Community Investment staff at 1-888-424-3863.*

**For all rental and co-operative ownership applications and disbursement requests:**

<b>Item</b>	<b>Range/Guideline</b>
<b>Acquisition Costs</b>	<p>Acquisition costs for all AHP initiatives must be clearly substantiated and cannot exceed the appraised value, as documented by an independent appraisal from a state licensed or certified appraiser. Such appraisal must be dated within six months prior to the date of closing/transfer.</p> <p>The Bank pays particular attention to acquisition costs as they relate to turnkey, acquisition-only, non-arm's-length/related-party, tax credit recapitalization, high-cost or other initiatives.</p> <p>In initiatives where the sponsor is using LIHTC to recapitalize and rehabilitate the property, the Bank will review the transaction and the proceeds from the sale to determine what is appropriate for distribution and what is available for reinvestment in the initiative to be eligible for any AHP subsidy.</p> <p>Other documentation, such as AIA Form G702 – Architect's and Contractor's Final Certificate of Payment, Certified Public Accountant's Final Cost Certification, contractor's final and certified schedule of values, or other final cost documentation, may be considered at the sole discretion of the Bank.</p> <p>The Bank reserves sole discretion to review acquisition costs at application and during AHP monitoring, and to request additional documentation as needed, to determine the acceptability of costs and fees, and whether or not the project qualifies to receive any AHP subsidy notwithstanding the proposed use of AHP subsidy.</p>
<b>Soft construction cost</b>	Typically, 15 to 30 percent of total development cost.
<b>Hard cost contingency</b>	Typically, 5 to 10 percent of hard construction cost for new construction.  7.5 to 15 percent of hard construction cost for rehabilitation.

Item	Range/Guideline
<b>Developer fee</b>	<p>Typically, the developer’s fee includes any developer overhead, fee and development consultant costs, the total of which shall not exceed 12.5 percent of total development cost, net of fee. However, if a primary funding source (such as the Low Income Housing Tax Credit program or HUD) allows a higher fee or requires a lower fee amount, the allowed amount of the developer fee of the AHP shall be the same, net of fee. In such case, any allowed developer fee in excess of 12.5 percent, net of fee, must be loaned back into the development, treated as equity or paid out of surplus cash flow in reasonably even installments, as available, over the 15-year retention period, at a market rate of interest. In any other case, whenever the amount of developer fee proposed is in excess of 12.5 percent, net of fee, the developer fee and the requested subsidy amount will be proportionately reduced.</p> <p>On acquisition-only initiatives, the developer fee is limited to five percent of the total development cost, net of fee.</p>
<b>Builder’s overhead, profit and general requirements</b>	<p>Typically, maximum of 16 percent of hard construction costs, net of builder’s overhead, profit, and general requirements and net of hard cost contingency. See <a href="#">Section VIII. Glossary/Definitions</a> for definitions of builder’s overhead, builder’s profit, and general requirements.</p>
<b>Tax credit sale (LIHTC)</b>	<p>The Low Income Housing Tax Credit (LIHTC) yield should reflect the current market conditions and the credit of the project. Required: 1) yield; 2) whether the yield provided is based on the tax credit application or the syndicator’s letter of intent/partnership agreement; 3) name of syndicator; and 4) date the letter of intent or partnership agreement was signed.</p>
<b>Income and Expense Trending</b>	<p>Income should trend between 1 to 3 percent annually; expenses should trend between 2 to 4 percent annually; expenses should trend at least 1 percent greater than income, annually. All deviations should be explained and acceptability of explained deviations will be at the sole discretion of the Bank.</p>
<b>Vacancy rate (residential)</b>	<p>Typically, 5 percent (with Section 8), up to 10 percent depending on the market.</p>
<b>Housing operating cost</b>	<p>Typically, \$4,000 to \$8,000 per unit per year, excluding resident services and management fees.</p>
<b>Replacement reserve</b>	<p>Typically, \$250 to \$650 per unit per year.</p>

Item	Range/Guideline
<b>Operating reserve</b>	Typically, no more than six months of operating expenses including debt service and replacement reserves. Also required: 1) Source(s) utilized to fund the reserves, 2) the purpose of the reserve, 3) if the reserve is required, and if so, by whom, 4) anticipated draws on the reserve, and 5) reserve balance at Year 15.
<b>Management fee</b>	Typically, 5 to 8 percent of rents, net of vacancy reserves, for 50 plus unit projects.  Typically, \$30 to \$75 per unit/per month for 1 to 50-unit projects.
<b>Debt service coverage ratio</b>	Typically, 1.0:1 up to 1.30:1 with the replacement reserves being treated as an expense, and the funding of operating reserves being treated as income (but identified separately on the proformas). The funding of operating reserves should not be reflected in the Net Operating Income (NOI) or in the calculation of the debt service coverage ratio and be set-aside from the cash flow.  The 1.0:1 up to 1.30:1 range is for hard debt only. Soft debt will not be considered in the calculation. Hard debt is defined as any debt requiring repayment, regardless of the payment terms.
<b>Cash flow</b>	Project shows positive cash flow over the retention period.
<b>Excess Cash Flow Per Unit</b>	Reviewed in conjunction with the number of units in the project as compared to overall excess cash.
<b>Net Cash Flow as a percent of Effective Gross Income</b>	Typically, up to 13 percent. This test provides an alternative measure for projects where the debt service coverage ratio is skewed, where the loan to value ratio is less than 50 percent.
<b>Distribution of Net Cash Flow to Sponsor/Owner Treatment of Operating Reserves</b>	Explanation of cash flow in excess of 15 percent net operating income.  The determination of project financial feasibility will be calculated without the benefit of including an operating reserve as either a source of revenue or expense to the project. In the event, during the retention period, a project has a negative cash flow, a separately established operating reserve may be used to cover the deficit.
<b>Initiative Ownership Structure</b>	For initiatives other than those with a fee simple ownership structure, an organizational/deal chart outlining the ownership structure is required. This chart should include the sponsor organization and the owner of the property at a minimum.



<b>Item</b>	<b>Range/Guideline</b>
<b>Total Development Cost Per Unit</b>	Reviewed for the overall cost per unit and in comparison to similar projects and other projects in the round

**For all ownership housing applications and disbursement requests:**

<b>Item</b>	<b>Range/Guideline</b>
<b>Mortgage term</b>	A reasonable term to ensure household affordability, typically, not less than a 15-year term with an interest rate which is demonstrated to be affordable.
<b>Developer fee</b>	Typically, the developer's fee includes any developer overhead, fee and development consultant costs, the total of which shall not exceed 12.5 percent of total development cost, net of fee. The sponsor of a mortgage financing program may not receive a developer fee, including overhead, fee and development consultant costs in excess of one percent of the proposed total amount of mortgages to be issued in the initiative, net of fee. Whenever the amount of developer fee proposed is in excess hereof, the fee and the requested subsidy amount will be proportionately reduced.
<b>Builder's overhead, profit and general requirements</b>	Typically, maximum of 16 percent of hard construction costs, net of builder's overhead, profit, and general requirements and net of hard cost contingency. See <a href="#">Section VIII. Glossary/Definitions</a> for definitions of builder's overhead, builder's profit, and general requirements.
<b>Sales Price and Mortgage Amount</b>	The sales price cannot exceed the total development cost less the AHP contribution to construction or rehabilitation or any other grants or the value of in-kind donations or volunteer professional labor or services contributed to the construction/rehabilitation. The mortgage amount cannot exceed the sales price less the homebuyer's contribution and any AHP subsidy or other grants contributed to down payment or closing-cost assistance.
<b>Total Development Cost Per Unit</b>	Reviewed for the overall cost per unit and in comparison to similar projects and other projects in the round.

**Low or zero interest rate first mortgages, with in-kind donations (Habitat)**

In the case of homeownership projects where the sponsor extends permanent financing to the homebuyer, the sponsor's cash contribution shall include the present value of any payments the sponsor is to receive from the buyer, which shall include any cash down payment from the buyer, plus the present value of any purchase note the sponsor holds on the unit. If the note carries a market interest rate commensurate with the credit quality of the buyer, the present value of the note equals the face value of the note. If the note carries an interest rate below the market rate, the present value of the note shall be determined using the market rate to discount the cash flows, as defined below.

The sources and uses of funds must equal, excluding donated materials and labor, and in the case of a zero percent mortgage after the discounted value of the mortgage is added in as a source of funds.

The rate used for the calculated discounted value of these mortgages will be determined based upon a standard Federal Home Loan Bank of Boston 10-year regular advance rate as of open date of the round application period, with a spread of 350 basis points to reflect the characteristics of this type of loan.

## XI. Attachment B —

### 2022 Affordable Housing Program Scoring Guidelines

The Federal Home Loan Bank of Boston (Bank) will score only those applications that in its judgment meet the eligibility requirements of the AHP Regulation. Points awarded in the various criteria will be either fixed or variable. Variable-point criteria have been determined to have varying degrees to which an application can satisfy the criterion. The application(s) that, in the judgment of the Bank, best achieve(s) each variable-point criterion shall receive the maximum point score available for that criterion. An application meeting a fixed-point criterion shall be awarded the total number of points allocated to that criterion. Points awarded become the application's "Qualifying Characteristics."

Applications that are missing required exhibits will be considered as incomplete and will not be scored. AHP applications will also be determined to be ineligible and not scored if submitted by members or sponsors that are involved in previously funded AHP applications currently on the Watch List or are more than 60 days delinquent in submitting required Semiannual Progress Reports, Annual Compliance Certifications, Periodic Monitoring Reports, or closeout monitoring review (initial monitoring at physical completion). AHP sponsors with previously awarded AHP initiatives will be deemed ineligible if they cannot demonstrate the capacity to simultaneously complete the projects. Final determinations will be at the sole discretion of the Bank.

As it relates to the guidelines that follow, all determinations made by the Bank with respect to any application or modification thereto, disbursement or other request, or monitoring of a project shall be in the Bank's sole discretion.

#### **Tie-Breaker Policy**

In the event two or more AHP applications have identical scores in the same funding round and there is insufficient subsidy to approve each of the tied applications, the Bank will apply the following tie-breaker policy. This methodology shall be used solely to break a scoring tie and does not affect any other aspects of the application review.

Step 1: The application with the most combined points in the following Bank District Priorities will receive the AHP award funds:

- Member Financial Participation;
- Inclusion of Minority- or Women-owned Business Enterprises in the Development Team; and
- Effectiveness.

If two or more applications are still tied after Step 1, continue to the criteria outlined in Step 2.

Step 2: The application with the most combined points under Community Stability will receive the AHP award funds.

If two or more applications are still tied after Step 2, continue to Step 3.

Step 3: The application with the most combined points in the Underserved Communities and Populations section scoring will receive the AHP award funds.

Step 4: In the event two or more applications remain tied, the application requesting the least amount of AHP subsidy will receive the AHP award funds.

A tied application that does not prevail under this methodology, including having requested more subsidy, shall be approved as an alternate for funding.

## Scoring Criteria

### A. Use of Donated Government Property or Other Properties

The creation of housing opportunities using a significant proportion (at least 20 percent) of:

Land or units conveyed at market value by the federal government or any agency or instrumentality thereof; or

Land or units donated or conveyed by the federal government or any other party for an amount significantly below the fair market value of the property.

*Note: "Federal government or any agency or instrumentality thereof" refers to the United States government and does not include state, county, or other local governments or their related agencies or instrumentalities.*

#### **5 points Variable**

Any combination of the following up to a maximum of five points total:

**One point** for land or units conveyed at market value by the federal government or any agency or instrumentality thereof; or

**Up to five points** for land or units donated or conveyed by the federal government or any other party for an amount as defined below.

- 1) Standard donation for no or nominal cost. Nominal is defined as generally meaning insignificantly small, in relation to the value of the property. If donated, an appraisal is not required.
- 2) Conveyed or purchased at an "amount significantly below fair market value" is defined as the property was or will be transferred for 50 percent or less of the fair market value, as documented by an independent appraisal from a state licensed or certified appraiser and may be accompanied by modest expenses. The appraisal must be no older than six months prior to the date of closing/transfer, is required, and must be included.

*If the property was purchased within five years prior to the opening of the AHP funding round and an appraisal was not required to be obtained, the market value may be based*

*on the tax assessment value at the time of purchase. Documentation of tax assessment value at the time of purchase must be provided with the executed settlement statement, Closing and Seller Disclosures, or other evidence of the purchase.*

*If the property is not transferred at the time of the AHP Application due date and an appraisal has not been ordered, the market value may be based on the tax assessment value at the time of the purchase agreement, option to purchase, or other purchase agreement or extension of the purchase agreement. Documentation of tax assessment value at the time of the purchase agreement must be provided with the purchase agreement. Price and value at the time of the sale will be reviewed if the purchase price differs from the original purchase agreement.*

3. Long-term, nominal-cost leases may qualify for the points. Nominal is defined as generally meaning insignificantly small, in relation to the value of the property or the lease, at the sole determination by the Federal Home Loan Bank of Boston.
4. Transactions ineligible for points in this category include the following:
  - a. Transactions which have occurred more than five years before the opening of the AHP round;
  - b. Donated properties from which, prior to the AHP application, the sponsor has generated income or derived other benefit; and
  - c. Non-arm's length transactions as determined at the sole discretion of the Federal Home Loan Bank of Boston.

Points awarded are based on the percent of total units or square footage of the land in the project/program meeting the above criteria. Points will be allocated by using the greater of the ratio of donated or conveyed units or land square footage to the comparable total units or square footage of the land. For the points to be awarded, at least 20 percent of the units or square footage of the land must be donated or conveyed.

The agency or other party involved and the specific properties owned by that agency or party that are being donated or conveyed must be identified. The application must state if the member or sponsor has or had any ownership interest in the property. Donations or conveyances are considered for points only for arm's length transactions, defined as transactions between parties that are not affiliated through co-sponsorship of the AHP Application, ownership, or control.

*Supporting evidence of the transaction must be submitted for points to be awarded. Evidence includes executed and recorded deed(s); or letter from donating party committing to the donation or sale at a reduced price, with dollar amount if applicable; or other official documentation from donating entity.*

## **B. Sponsorship By a Not-for-profit Organization or Government Entity**

**5 points Variable**

Points will be awarded based on the following criteria:

- Rental applications

**One point** for rental applications sponsored by a not-for-profit organization, a state or political subdivision of a state, a state housing agency, a local housing authority, a Native American tribe, an Alaskan Native Village, or the government entity for Native Hawaiian Home Lands, where the sponsoring organization has an ownership interest (including any partnership interest or a controlling interest) in a rental project;

**An additional four points** for those rental applications in which the qualifying sponsor organization, or wholly-owned or substantially-controlled subsidiary, or substantially-controlled affiliate, evidences a controlling ownership interest through the entire AHP retention period of fifteen years from the completion of the initiative.

- Homeownership applications

**Five points** for ownership applications sponsored by a not-for-profit organization, a state or political subdivision of a state, a state housing agency, a local housing authority, a Native American tribe, an Alaskan Native Village, or the government entity for Native Hawaiian Home Lands, where the sponsoring organization is integrally involved in an owner-occupied project by exercising control over the planning, development, or management of the project, or by qualifying borrowers and providing or arranging financing for the owners of the units.

- Revolving Loan Fund Applications

**Five points** for applications sponsored by a not-for-profit organization, a state or political subdivision of a state, a state housing agency, a local housing authority, a Native American tribe, an Alaskan Native Village, or the government entity for Native Hawaiian Home Lands, where the sponsoring organization is a revolving loan fund applying for AHP subsidy funds to be used in a revolving loan fund.

## **C. Home purchase by Low- or Moderate-Income Households**

**5 points Variable**

Up to 5.0 points, based on the total AHP units that are newly constructed or rehabilitated, meeting the minimum threshold for rehabilitation costs of \$15,000 per unit, will be awarded for the construction or financing of ownership initiatives (interest-rate buy-downs, down-payment and closing-cost assistance, and matched-savings programs) that specifically designate AHP units for low- to moderate-income, first-time homebuyers. The maximum award is \$40,000 in AHP subsidy for an ownership unit.

Points will be awarded under this category to projects that provide financing for first-time homebuyers that result in new construction or rehabilitation (meeting the minimum threshold for rehabilitation costs of \$15,000 per unit).

Homebuyer(s) will be required to complete a homebuyer or homeowner education/counseling program provided by a nonprofit or other organization recognized as experienced by the Bank. The education/counseling should follow accepted industry standards regarding the purchase and ownership, including maintenance, of the home. Although a minimum is not required, the Bank recommends a minimum of eight hours of home buyer education with a counseling component.

Applicants will be required to identify which homeownership education/counseling agency(ies) that they anticipate their borrower(s) will utilize. A list of education/counseling agencies approved by the Citizens Housing and Planning Association's Massachusetts Homeownership Collaborative (CHAPA), National Industry Standards for Homeownership Education and Counseling (NISHEC), or HUD-certified homeownership education/counseling agencies is included in the online application.

Homeownership education/counseling curricula/documentation will not be required unless the application is utilizing an education/counseling provider that is not listed. The applicant may enter a new agency with the appropriate homeownership education/counseling curriculum.

Points are awarded based on the percentage of total AHP units in the application that are new units or are units that meet the minimum rehabilitation threshold of \$15,000.

**Note:** Limited-equity cooperatives and lease-purchase initiatives are treated as rental applications for AHP scoring, feasibility review, and retention requirements and are not eligible for points under this category. However, cooperative initiatives that demonstrate the conveyance of ownership to residents within 24 months, and are scored as an owner application, are eligible for points under this category.

#### **D. Targeting**

The extent to which a project creates or maintains housing for very low- and low- or moderate-income households. The number and percent of the total units of housing or mortgages that will be targeted to households with incomes at or below 80 percent of the area median income (AMI) must be specified. If units are targeted below 50 percent of AMI, the percentage of total units being targeted and the number of units must be specified.

*For purposes of this scoring criterion, applications for owner-occupied initiatives and rental developments will be scored separately. The Bank's web site provides the current HUD Income Guidelines for each of the six New England states. In other states, it is available at <http://www.huduser.org/datasets/il.html>.*

A household must have an income meeting the income targeting commitments in the AHP application upon initial occupancy of the unit, or for ownership units, at the time that it is qualified by the project sponsor for participation in the project.



For projects involving the purchase or rehabilitation of rental housing that already is occupied, a household must have an income meeting the income targeting commitments at the time of application to the Bank for AHP subsidy.

A household may have an income meeting the income targeting commitments upon initial occupancy of the rental unit after completion of the purchase or rehabilitation, when:

- The project has a relocation plan for current occupants approved by one of its federal, state, or local government funders or
- The project has a relocation plan approved by the Bank, which meets the minimum standards as outlined in Attachment A.

For occupied initiatives without a relocation plan, a current rent roll on the Bank's template is required showing household incomes for the occupied units. At its discretion, the Bank may request and review the income documentation for current residents to confirm the targeting commitments made at the time of application.

For projects involving the rehabilitation of owner-occupied housing in which the homeowners/households and locations have been identified and qualified by the project sponsor for participation, the participating household must have an income meeting the income targeting commitments at the time of application to the Bank for AHP subsidy. At its discretion, the Bank may request and review the income documentation for current homeowners to confirm the income targeting commitments made at the time of application.

For determination of eligibility and calculation of points, the Bank will not round the percentage of total units in the various applicable income categories.

## **20 points Variable**

- **Homeownership Applications**

Applications for owner-occupied initiatives and mortgage programs will be awarded points as follows:

- 1) The maximum number of points available under this scoring criterion will be awarded if 60 percent or more of the total units in the development are reserved for occupancy by households with incomes at or below 60 percent of the area median income (AMI).
- 2) Homeownership applications with less than 60 percent of the total AHP units reserved for occupancy by households with incomes at or below 60 percent of AMI will be awarded points on a declining scale based on the percentage of total units reserved for households with incomes at or below 60 percent AMI, and on the percentage of the remaining units reserved for households with incomes at or below 80 percent AMI.

The remaining applications will be scored with the following scale:

- a. Percent of total units targeted to households earning less than or equal to 60 percent of the area median income multiplied by 20.
- b. Percent of total units targeted to households earning between 61-80 percent of the area median income multiplied by 18.

Total score is either 1 or the sum of 2a and 2b as applicable.

- **Rental Applications**

For a rental application to be eligible, a minimum of 20 percent of the units must be targeted to households at or below 50 percent of the area median income.

- 1) The maximum number of points available under this scoring criterion will be awarded if 60 percent or more of the total units in the development are reserved for occupancy by households with incomes at or below 50 percent of the area median income (AMI).
- 2) Rental applications with less than 60 percent of the total units reserved for occupancy by households with incomes at or below 50 percent AMI will be awarded points on a declining scale based on the percentage of total units reserved for households with incomes at or below 50 percent AMI, and on the percentage of the remaining units reserved for households with incomes at or below 80 percent AMI.

These applications will be scored with the following scale:

- a. Percent of total units targeted to households earning less than or equal to 50 percent of the area median income multiplied by 20.
- b. Percent of total units targeted to households earning between 51-60 percent of the area median income, multiplied by 14.
- c. Percent of total units targeted to households earning between 61-80 percent of the area median income, multiplied by 8.

Total score is 1 or the sum of 2a, 2b, and 2c as applicable.

**Examples:**

Disclaimer: the examples below are for illustration purposes only to show how the points are calculated and do not constitute a promise to award points based on income targeting percentages or subsidy per unit ranges as identified. Points are calculated and awarded during each round based on the applications received which satisfy the AHP eligibility requirements to the satisfaction of the Bank.

*Rental Example:*

The following table presents four hypothetical projects to illustrate how the income targeting points are calculated. We have used ten units in each example to illustrate the variations.

	Project 1	Project 2	Project 3	Project 4
<b>Total Units</b>	10	10	10	10
<b>&lt;=50 % AMI</b>	6	5	2	2
<b>51-60 % AMI</b>	0	5	8	0
<b>51-80 % AMI</b>	4	0	0	0
<b>&gt;80% AMI (Market)</b>	0	0	0	8
<b>Total points</b>	<b>20.0000</b>	<b>17.0000</b>	<b>15.2000</b>	<b>4.0000</b>
% VLI units (<=50%)	60%	50%	20%	20%
% 51-60 %AMI units	0%	50%	80%	0%
% 61-80 %AMI units	40%	0%	80%	0%
% Market units	0%	0%	0%	80%

*Ownership Example:*

The following table presents four hypothetical projects to illustrate how the income targeting points are calculated. We have used ten units in each example to illustrate the variations.

	Project 1	Project 2	Project 3	Project 4
<b>Total Units</b>	10	10	10	10
<b>&lt;=50 % AMI</b>	4	0	2	0
<b>51-60 % AMI</b>	2	5	0	0
<b>Subtotal: &lt;=60 % AMI</b>	6	5	2	0
<b>61-80 % AMI</b>	4	5	8	10
<b>Total points</b>	<b>20.0000</b>	<b>19.0000</b>	<b>18.4000</b>	<b>18.0000</b>
% 60% AMI units	60%	50%	20%	0%

There are two substantive differences between the income targeting examples for rental and homeownership projects presented above. First, targeting points for rental projects are based on the percentage of units for households earning at or below 50 percent of the area median income. For owner-occupied projects, the points are based on the percentage of units for households earning at or below 60 percent of the area median income.

Second, per the AHP regulation, unrestricted or market rate units are excluded from the calculation of percentages of total units for homeownership projects. Market-rate units are included in the unit percentages for rental projects.

**E. Underserved Communities and Populations**

**1. Housing for Homeless Households**

The financing of rental housing, excluding overnight shelters, reserving at least 20 percent of the units for homeless households, the creation of transitional housing for homeless

households permitting a minimum of six-months occupancy, or the creation of permanent owner-occupied housing reserving at least 20 percent of the units for homeless households. Points will be awarded based on the percentage of units in the project reserved for homeless households above and including the 20 percent minimum.

**5 points Variable**

*Minimum Eligibility Considerations*

- At least half of the total units to be developed in this initiative are new construction or currently vacant.
- A minimum of 20 percent of total units must be reserved for homeless households.
- Minimum six-months occupancy for rental initiatives or permanent housing for owner-occupied initiatives.
- The application must present a specific outreach plan for recruiting and serving the homeless, which includes any applicable operating subsidy and supportive services.
- A reservation of operating subsidy is not required for this category.
- **Applications receiving points in this category are not eligible for points in the Rental Housing for Extremely-Low Income Households category.**

<b>Tiers</b>	<b>Points</b>
At least 20 percent to 24.99 percent of the total units are reserved for homeless households	3.0 points
At least 25 percent of the total units are reserved for homeless households	5.0 points

**Points will be awarded to applications with such units that are set aside for and serve homeless households, who can be certified as such by a third-party agency or sponsor specializing in homeless services.**

Overnight shelters are eligible for AHP funding, but do not qualify as providing housing for the homeless, and therefore do not qualify for points in this category. The Bank’s definition of homeless is based on the definition from the McKinney-Vento Homeless Assistance Act amended by the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (24 CFR Parts 91, 582, and 583, Final Rule dated December 5, 2011) and as amended with the definition of chronic homeless (12 CFR Parts 91 and 578, Final Rule dated December 4, 2015).

In General- For purposes of this Act, the terms ‘homeless’, ‘homeless individual’, and ‘homeless person’ means—

- (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- (i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
  - (ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low income individuals); or
  - (iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;
- (2) An individual or family who will imminently lose their primary nighttime residence, provided that:
- (i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
  - (ii) No subsequent residence has been identified; and
  - (iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;
- (3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
- (i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
  - (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
  - (iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and

(iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

(4) Any individual or family who:

(i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

(ii) Has no other residence; and

(iii) Lacks the resources or support networks, e.g., family, friends, and faith based or other social networks, to obtain other permanent housing.

For purposes of this definition, the term "homeless" or "homeless individual" does not include any individual imprisoned pursuant to an Act of the Congress or a State law.

*Chronically homeless* means:

(1) A "homeless individual with a disability," as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who:

(i) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and

(ii) Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;

(2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility,

for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or

(3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

### **Documentation Requirements**

At the time of initial monitoring, the Bank will require documentation confirming that the specified units have been reserved for homeless households meeting the Bank's definition. This documentation must include: 1) evidence that the households were referred to the project by an established organization or agency that has been providing services to the homeless, and 2) such certification from the homeless services provider that the person or household referred meets the definition of "homeless households" included in this plan.

For transitional housing where the Sponsor is also the homeless services provider, documentation may include an intake form, signed by both the head of household and the Sponsor, which verifies that the household met the Bank's definition of homeless household at move-in.

## **2. Housing in Rural Areas**

### **5 points Fixed**

Points will be awarded to initiatives financing housing located in rural areas.

Defined rural locations can be obtained from the following site:  
<http://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do>

To receive the points, all addresses in the initiative must be identified and must qualify as rural under the USDA definition. However, for countywide initiatives where specific street addresses are not yet known, the entire county must qualify as rural. Statewide initiatives do not qualify.

## **F. Creating Economic Opportunity**

### **1. Promotion of Empowerment**

Points will be awarded to projects providing housing in combination with a service program available to all residents (absent any other program eligibility requirements or criteria) offering workforce readiness and employment opportunities, homeownership readiness and economic stability, healthcare and general resident services, or resident involvement/decision making training. Services must lead to economic empowerment of the residents.

#### **Documentation requirements:**

To receive points in this category, the applicant must select the services to be offered to residents or homebuyers of this initiative from the list below and document the service(s) by one or more of the following options:

- (1) If services are being provided by an organization other than the sponsor, the FHLBank Boston **Agency** Letter of Commitment Template must be executed and attached to the application. The Letter of Commitment must be on the service provider's letterhead/stationery, dated within six months of the opening of the AHP funding round, list all services to be offered to all residents, and be signed by both the sponsor and the service provider each with handwritten signatures.
- (2) If services are being provided by the sponsor directly, either through the sponsor's own staff, or via independent contractors, the FHLBank Boston **Sponsor** Letter of Commitment Template must be executed and attached to the application. The Letter of Commitment must be on the sponsor's letterhead/stationery, dated within six months of the opening of the AHP funding round, list all services to be offered to all residents, and be signed by the sponsor with a handwritten signature.
- (3) If services are being provided by or coordinated through a resident services coordinator (RSC), the FHLBank Boston **Resident Service Coordinator** Letter of Commitment must be executed and attached to the application. The Resident Services Coordinator Letter of Commitment must be on the sponsor's letterhead/stationery, dated within six months of the opening of the AHP funding round, and be signed by the sponsor with a handwritten signature. In addition, this executed Resident Services Coordinator Letter of Commitment must include the following information and/or documentation to confirm the eligible services to be offered to all residents:
  - (a) Identify and list the eligible services to be provided to all residents.
  - (b) For each eligible service, list the locally-available service provider(s) which will be providing said service. The RSC should be listed as the service provider when the RSC will be providing the service directly.
  - (c) A detailed written summary of the RSC's role and contract confirming the RSC's duties to conduct outreach and service coordination as well as any direct service provision listed above.
    - (i) This job description should explain whether the RSC is a staff member or independent contractor hired by the sponsor or contracted through a separate third-party agency.
    - (ii) In addition to this written summary, a separate letter of intent or executed contract with the RSC may be provided as an addendum to the Letter of Commitment.

Only services listed in the following service groups qualify for points under this category. Services or programs must be of a regular ongoing nature and be available to all residents or homebuyers.

**Alternative documentation cannot be accepted for points in this category.**



Services or programs must be available beginning within six months of the project's completion date.

**8 points     Variable**

Two points for each service provided, up to a maximum of eight points. Services may be selected from any of the service groups. Only one option from "Resident Involvement and Decision Making" may be selected. Sponsors may propose **one** "Other" service that is not among the options listed.

**Workforce Readiness and Employment Opportunities**

Prepares an individual for employment based upon possession of necessary work skills, social competence, job seeking, interview skills, family obligations, etc.

- High school equivalency test (e.g. HiSet or TASC)
- ESL or other literacy programs
- Employment training (including but not limited to home-employment training, training for daycare providers, job re-training or re-education programs)
- Job readiness (including but not limited to resume writing and interview skills)
- Micro-business lending program or incubator
- Job placement or employment opportunities (option requires actual job placement)
- Daycare services, allowing the resident to pursue economic opportunities
- After-school, weekend, and summer youth programs, allowing the resident to pursue economic opportunities
- Adult day health services (for adult dependents of the resident), allowing the resident to pursue economic opportunities
- Welfare to work programs

**Homeownership Readiness and Economic Sustainability**

Homeownership Readiness and Sustainability prepares a homebuyer, or prospective homebuyer for the purchase of a home, including the purchase process and the long-term ownership and maintenance, and/or, it assists a current homeowner in revisiting the long-term ownership and maintenance of the home.

- Homebuyer or homeownership education/counseling provided by a nonprofit or other organization recognized as experienced and approved by the Bank. The education/counseling should follow accepted industry standards regarding the purchase and ownership, including maintenance, of the home. Although a minimum is not required, the Bank recommends a minimum of eight hours of home buyer education with a counseling component.
- Financial planning and budgeting
- Credit counseling and fraud avoidance
- Sweat equity
- Landlord training for homebuyers of multifamily homes

**Healthcare and General Resident Services**

Healthcare and general resident services as part of a program offered to all residents that supports the resident’s ability to find or sustain employment, be self-sufficient or maintain independent living.

- On-site primary health care services or maintenance programs, such as vaccination programs, foot clinics, blood pressure clinics, health screening programs
- Substance abuse programs
- Mental health counseling
- On-site medication management
- On-site nursing services (beyond health clinics above)
- Healthcare administrative case manager/financial advocate (healthcare budgeting, accessing cost-saving benefits, managing co-payments and prescription costs, etc.)
- Meals, housekeeping, or other daily living activities, as appropriate for the residents
- Transportation services, when provided through the initiative by the sponsor or formal agreement with the service provider
- Formal family self-sufficiency program

**Resident Involvement and Decision Making** *(only one of the following may be selected)*

Resident involvement and organizational decision making encourages tenants and homeowners to be actively involved in the operation of the initiative and prepares and develops some residents as leaders, taking a more active role in their communities.

- Resident participation on resident council or house meetings, with demonstrated involvement in operational decision making (for rental initiatives only)
- Participation in a homeowners’ association
- Participation in a mutual or cooperative form of housing, where the tenants have clear legal authority for operation of the development

**Other** (max of one proposed “other” service; approval at sole discretion of FHLBank Boston)

- Describe the service and how it relates to resident empowerment

**2. Resident Economic Diversity**

**5 points      Fixed**

Projects will be awarded points for the creation of housing that is part of a strategy to end isolation of very low-income households by providing economic diversity through mixed-income housing in low- or moderate-income neighborhoods, or providing very low- or low- or moderate-income households with housing opportunities in neighborhoods or cities where the median household income equals or exceeds the median income for the larger surrounding area -- such as the city, county, or Primary Metropolitan Statistical Area — in which the neighborhood or city is located.

Points will be awarded for an initiative located in a census tract where the median income is no more than 80 percent of the Metropolitan Statistical Area/Metropolitan Division (MSA/MD)

median income and in which at least 20 percent of the total units are market-rate units, or for an initiative located in a census tract where the median income is at least 100 percent of the Metropolitan Statistical Area/Metropolitan Division (MSA/MD) median income and in which at least 20 percent of the total units are reserved for very low-, low-, or moderate-income households.

For both options, the Bank will compare the median family incomes of the census tract in which the project is located (based upon the project address or addresses) to the median family income of the Metropolitan Statistical Area/Metropolitan Division (MSA/MD). The median family incomes will be obtained using the Federal Financial Institutions Examination Council's Geocoding/Mapping and Census Report System, which can be found at [www.ffiec.gov](http://www.ffiec.gov). To receive the points, all addresses in the initiative must be identified and must qualify. County-wide initiatives and state-wide initiatives do not qualify.

Points will not be awarded for the "un-intended" unit diversity as a result of targeting changes for occupied units.

## **G. Bank District Priorities**

### **1. Member Financial Participation**

#### **12 Points Variable**

Points are awarded for member financial participation (excluding the pass-through of AHP direct subsidy grant funds) in the initiative, including loans, investments, supporting bond purchases, the provision of concessionary rates, fee waivers, or donations. To be considered for points, a minimum term of six months is required for all construction financing and/or lines of credit. Only funds provided by the listed member(s) submitting the AHP Application will be considered for points in this category. The member's financing must clearly flow through to the initiative, and the residential uses, to demonstrate the member's direct participation in the initiative. If there is prior, existing financing in place from the member for the same project in this application, it may be considered at the sole discretion of the Bank based on the remaining term of the loan(s).

The first 10.0 points will be awarded, multiplying the points times the ratio of member financial participation to the amount of AHP subsidy that is requested for the initiative. Member's funds must be explicit and well-documented in the AHP and Member Funding section of the online application. Up to a maximum of 10.0 points will be awarded to rental and owner-occupied applications that make use of member financial participation in this initiative, including Bank advances, AHP subsidized advances, loans, investments, or grants in proportion to the amount of AHP subsidy requested.

Up to an additional 2.0 points will be awarded to initiatives making use of member-provided, long-term, fixed-rate financing (AHP and non-AHP) with a principal amount equal to or greater than the value of the AHP subsidy requested for the initiative, with the full 2.0 points going to initiatives using member financing with terms of 15 years or greater and 1.0 points going to

initiatives using member financing with terms of five years or greater, with projects falling between these two benchmarks receiving a proportionate share of the points.

For those long-term loans with variable/adjustable interest rates, we will use the term for which the interest rate is fixed (prior to adjustment). The project's pro forma should clearly evidence the potential shock to the interest rate anticipated to occur during the appropriate adjustment year(s). In addition, the member will be required to provide supporting documentation for their decision to offer a variable rate of interest and conclude what impact this type of financing will have on the feasibility of the project.

*No points (of the 2.0 additional points) will be awarded for terms less than two years. For applications with multiple long-term loans, the principal and terms of the long-term financing will be aggregated for the comparison using a weighted average for both the principal and the term. If the loan principal of the longest-term loan exceeds the direct subsidy plus the advance subsidy, the points will be awarded based only on the term of that loan. Grants from the member will have an implied term equal to the retention period for the initiative type (five years for ownership and fifteen years for rental).*

Letters or documentation of firm and/or conditional commitment must be included with the application. In lieu of a conditional commitment, letters of intent and term sheets may be accepted. The amount of the member's involvement and all costs associated with it must be clearly accounted for in the application's feasibility and sources and uses sections, as well as the detailed development budget. The costs must flow through, as appropriate, in a rental project into the Rental Subsidy Calculation or in an owner-occupied initiative into the Ownership Subsidy Calculation. (If a Habitat application, these costs must flow through, as appropriate, into the Habitat screens.)

**Required:** Member underwriting/analysis/evaluation is required whether a subsidized advance or a direct subsidy (grant) is being requested. It is expected that the member's senior management will review and approve the AHP application. Similarly, the member has the responsibility to evaluate and be satisfied with the sponsor's and/or borrower's credit standing, development experience, and performance track record.

It is expected that the evaluation will include those items as well as an analysis that the initiative is financially and physically feasible. In evaluating the project's financial feasibility and viability, the member should indicate its analysis of the project's debt service coverage ratio, loan-to-value, loan-to-cost ratios, and operating income and expenses relative to compliance or deviation with its underwriting standards. **A copy of the underwriting should be included with the term letter or application.** The Federal Home Loan Bank of Boston will neither perform nor be responsible for the underwriting of the application for the member or the evaluation of the credit record or track record of the sponsor or borrower for the member.

**2. Inclusion of Minority- and Women-owned Business Enterprises on the Development Team**

**5 Points Variable**

It is widely documented and known that there are racial inequities throughout the entire ecosystem of affordable housing from development, financing, and ownership to the very beneficiaries that live or purchase the housing. We saw a “housing need” to incentivize the inclusion of MBE/WBEs in the development of such housing as part of an overall shift in the way that developments are conceived and built.

Within this category, points will be awarded when one or more MBEs or WBEs are serving on the project development team for the rental or owner-occupied housing initiative. Eligible development team roles include: project owner/sponsor, general contractor, lead architect, attorney, accountant, property management firm or disabled-owned and veteran-owned. Project Owner/Sponsor refers to being the lead development entity as sponsor of rental initiative with ownership interest in the property or general partner in the case of a Low Income Housing Tax Credit initiative. Project Owner/Sponsor refers to the role as lead sponsor/developer of a homeownership entity. Separately, if no development team roles are filled by MBE or WBE, points may be awarded based on the lead sponsor’s diversity/inclusion plan to partner with diverse business enterprises on the development team for this affordable housing initiative. Plan elements should include, but not be limited to, the following elements:

- A commitment to diversity by the lead sponsor and its MBE/WBE business participation goals;
- A statement directly addressing the approach to enhancing diversity in assembling the team for this project, including a clear description of each working relationship, and in its overall business practices;
- Consideration and creativity in assembling a diverse project development team and which development roles are to be provided in-house or by hiring diverse firm(s);
- Identify the appropriate qualified diverse firms (e.g. architect, development consultancy, property manager, or other role) and the appropriate opportunities/roles; and
- Identify a minimum participation goal of diverse firms in the development team and explain how this is an expansion beyond current practice.

<b>Tiers</b>	<b>Points</b>
At least three (3) of the five (5) eligible development team roles are performed by an MBE or WBE	5.0
Two (2) of the eligible development team roles are performed by an MBE or WBE	3.5
One (1) of the eligible development team roles are performed by an MBE or WBE	2.0
Or	

Diversity & Inclusion Plan to assemble a diverse project development team meeting the criteria above.	1.5
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**3. Effectiveness (Subsidy per Unit)**

An application is scored on the extent to which it proposes to use the least amount of AHP subsidy funds (direct subsidy and/or interest-rate subsidy requested to support a subsidized advance) per AHP-targeted unit. In the case of an application for an initiative financed by a subsidized advance, the total amount of AHP subsidy used by the project will be estimated based on the amount of direct subsidy requested plus the advance subsidy determined by the Bank's calculated forward cost of funds at intake necessary to provide an initiative an 18-month guarantee of the rate requested in the application.

**5 points Variable**

*For purposes of this scoring criterion, applications for owner-occupied initiatives and rental initiatives will be scored separately.*

Five points will be awarded to the rental and ownership application(s) respectively that request less than or equal to the minimum subsidy per unit based on the rental and owner-occupied subsidy per unit ranges. Applications in which the requested subsidy per unit falls within the rental and owner-occupied subsidy per unit ranges will receive a pro rata amount of the points. Applications in which the requested subsidy per unit equals or exceeds the maximum subsidy per unit based on the rental and owner-occupied subsidy per unit ranges will receive zero points. The range for owner-occupied applications is \$15,000 to \$40,000. The range for rental applications is \$5,000 to \$65,000.

**Formula:**

$$\frac{(\text{MAX} - \text{REQUESTED})}{(\text{MAX} - \text{MIN})} \text{ times 5 points} = \text{Points (rounded to four decimals)}$$

**Examples:**

*Disclaimer:* the examples below are for illustration purposes only to show how the points are calculated and do not constitute a promise to award points based on income targeting percentages or subsidy per unit ranges as identified.

*Ownership Example:*

The following is a hypothetical example to illustrate how the points are awarded.

Homeownership Example with AHP of \$22,150 per unit:

$$\frac{(\$40,000 - \$23,000)}{(\$40,000 - \$15,000)} = \frac{\$17,850}{\$25,000} = .7140 \text{ times 5 points} = 3.5700$$

*Rental Example:*

The following is a hypothetical example to illustrate how the points are awarded:

Rental Example with AHP of \$40,000 per unit:

$$\frac{(\$65,000 - \$40,000)}{(\$65,000 - \$5,000)} = \frac{\$25,000}{\$60,000} = .416667 \text{ times } 5 \text{ points} = 2.0833$$

#### **H. Community Stability, including Affordable Housing Preservation.**

Points will be awarded to projects to the extent that they promote community stability through affordable housing preservation, smart growth, and sustainability and climate resiliency.

##### **Documentation Requirements - At Application and Initiative Completion**

The documentation requirements for Preservation, Reuse, or Rehabilitation (category 1) are separate from those for Smart Growth and Sustainability and Climate Resiliency (categories 2 and 3 respectively).

There are three (3) options for documentation for the Smart Growth and Sustainability/Climate Resiliency categories. Choose and follow one option.

1. Applications that achieve Enterprise Green Communities or LEED certifications will automatically earn all 15 points from the Smart Growth and Sustainability and Climate Resiliency categories, unless otherwise noted.
2. Applications that achieve ENERGY STAR® and Passive House certifications will earn an automatic 5.5 points in the Efficient and Healthy Building operations component of the Sustainability and Climate Resiliency category (subcategory 3B below).
  - a) These applications achieving ENERGY STAR and Passive House certifications must separately document the remaining items in the Preservation, Smart Growth, and Sustainability and Climate Resiliency categories, if applicable, to obtain points within those areas.
  - b) If an application is pursuing ENERGY STAR Homes certification, the application must also incorporate Indoor AirPlus with WaterSense for Indoor and Outdoor Water-Use Reduction and maintain appropriate documentation, as applicable.
3. In lieu of formal certifications, letter documentation is required. This letter documentation must clearly list each element for which points are requested. Applications using the letter documentation option agree to provide the elements based on the standards and terms in the Community Stability category. Supporting documentation may be required as indicated in the specific elements identified below.

##### **Documentation Standards**

- Architect's letter documentation must meet the following standards to qualify for points in this category: (a) must be on appropriate letterhead/stationary, (b) at time of application must be dated within six months of the opening of the AHP funding round,

- (c) at completion must be dated with a current date(s) and (d) must be signed with a handwritten signature.
- At application, initiatives must provide a letter of intent from the design team member (e.g. architect, engineer, green building consultant, property manager or other design team member) meeting the above requirements and which enumerates the intended certification and/or the specific applicable elements for which points are requested.
  - At disbursement, initiatives must confirm progress towards completion of the certification and/or all applicable elements.
  - At time of FHLBank Boston's Closeout Monitoring Review (initial monitoring at physical completion), satisfactory formal documentation (e.g. certifications, letter documentation) must confirm and certify to the completion of the respective certification or elements consistent with representations made in the approved application must be provided.
  - Applications using the letter documentation option agree to provide the elements based on the standards and terms in the Community Stability category.

**20 Points Total     Variable**

- 1.     Preservation, Reuse, or Rehabilitation, up to 5.0 points**
  - 2.     Smart Growth, up to 5.0 points**
    - 2a. Location and Site, 2.0 points
    - 2b. Density, 1.5 points
    - 2c. Transit Access and Services, 1.5 points
  - 3.     Sustainability and Climate Resiliency, up to 10 points**
    - 3a. Sustainable Development, 2.5 points
    - 3b. Efficient and Healthy Building Operations, 5.5 points
    - 3c. Resilience, 2.0 points
- 
- 1.     Preservation, Reuse, or Rehabilitation (Up to 5 points)**

Applications may select **one** of the three options below. Scoring and documentation requirements are noted below.

**a) Preservation, 5.0 points (Variable):**

Rehabilitation of units with existing affordability restrictions or covenants which through acquisition or redevelopment would otherwise be lost as affordable housing stock and/or converted to market-rate units. Evidence of the existing affordability restriction/covenant must be provided. Preservation is defined as affordable units with one of the following characteristics:

- 1) With use restrictions expiring within 24 months before or after the opening of the AHP funding round.
- 2) Section 8 units where owners can terminate or opt out of contracts; or



- 3) Units due to physical distress or foreclosure that may not continue to remain affordable without new capital or ownership. Distress is defined as units at risk of loss due to physical condition including probable condemnation within four years, significant code/safety issues which present risks to tenants and long-term viability and affordability of the property, or extensive capital needs which threaten the long-term viability and affordability of the property.

The percentage of points is calculated based on the number of units preserved divided by the total number of original restricted units times five (5) points. Evidence must be provided of existing affordability restrictions. Evidence of distress or foreclosure must be provided for option (c) in addition to evidence of existing affordability restrictions.

**b) Revolving Loan Fund-Owner-Occupied Housing, 2.5 points (Fixed):**

Use of a revolving loan fund program-based initiative for owner-occupied rehabilitation or new construction. Points will be awarded to AHP applications from a sponsor that is a revolving loan fund applying for AHP subsidy funds to be used in a program-based revolving loan fund. Applications for project-specific revolving loan funds are not eligible for the points. The Bank reserves the right to make final determination of program-based versus project-specific initiatives.

**c) Reuse of Existing Building(s) or Historic Rehabilitation, 2.5 points (Fixed):**

Reuse is defined as reuse of an existing building(s) or is an adaptive re-use of an existing non-residential structure, where the existing building is attached and is at least fifty percent of the total development. Current copy, within six months of the opening of the AHP funding round, of tax assessor or other similar municipal records confirming the existence of the structure and/or its square footage must be included. No hand or electronic annotations will be accepted. Other documentation may be accepted at the sole discretion of the Bank.

Historic rehabilitation is defined as the repair/renovation of income-producing buildings that are state- or federal-designated historic structures. The proposed rehabilitation of the structure(s) must not cause the site to lose the historic designation. A copy of the state or federal historic designation and a letter from a member of the project design team confirming that the proposed scope of work will not result in the loss of the historic designation is required to document historic rehabilitation.

**2. Smart Growth, (Up to 5 points)**

**2a. Location and Site, up to 2.0 points.** Applicants may select from among the five options below to obtain points.

**i. Site Selection, 1.0 point.**

- (a) Document that the site does not have any of the following sensitive land elements:

      - 1) Located in a floodplain;
      - 2) Located on prime farmland;
      - 3) Encroaches on aquatic ecosystems;
      - 4) Encroaches on threatened or endangered species; or
    - (b) If the site is located in or does impact one of the above sensitive land features, document either:

      - 1) That this development will meet the applicable building code or local flood plain management regulations, or the National Flood Insurance Program Requirements; and/or
      - 2) That this sponsor will prepare the applicable Ecological Resource Protection Zone and Plan and develop the site according to Enterprise Green Communities 2020 Mandatory Criteria: Sensitive Sites, including but not limited to Ecological Resource Protection Zone and Plan.
  - ii. **Brownfield Site Redevelopment, 1.0 point.** Can be obtained if the proposed development is being developed on a federal- or state-designated brownfield site. Initiatives pursuing letter documentation must include documentation from the authority with jurisdiction confirming the brownfield designation.
  - iii. **Infill Development, 1.0 point.** Can be obtained via two options:

**Option 1:** The proposed development site is served by existing roads, water, and sewer service and is previously developed.

**Option 2:** The proposed development site is an infill site with at least 25 percent of the site perimeter is contiguous with previously or currently developed sites.

Infill is defined as new development that is sited on vacant or undeveloped land within an existing community, and that is enclosed by other types of development.
  - iv. **Bicycle Facilities, 1.0 point.**

Document the provision of protected, long-term storage with a minimum of one space for each housing unit. *Please note: Detached, single-family, owner-occupied housing initiatives are not eligible for this point.*
  - v. **Location near Diverse Resources, 1.0 point.**

Letter documentation from the design team member must indicate the location of at least four diverse community resources with the applicable rural or non-rural distances specified. The letter documentation must list or itemize each diverse resource and the distance from the proposed development. Each resource must be from a different use type. Use types refer to the catalog of uses in either the **LEED for Homes V4 Credit Location and Transportation: Community Resources**, or the **Enterprise Green Communities 2020 Criteria – Community Resources Table**.

**Rural Locations:** Must evidence at least four (4) resources/uses within 5 miles.

**Non-rural Locations:** Must evidence at least four (4) resources/uses within a 1/2-mile walking distance OR at least seven (7) resources/uses within a 1.0-mile walking distance.

**2b. Density, up to 1.5 points.** Can be obtained by housing initiatives with the following densities based on location and building type:

**Rural Locations:**

- Single family: Minimum 5 dwelling units/acre
- Low-rise (1-2 story) and Townhouse multifamily: Minimum 10 dwelling units/acre
- Multifamily 3-story or greater: Minimum 15 dwelling units/acre

**Non-rural Locations:**

- Single family: Minimum 8 dwelling units/acre
- Low-rise (1-2 story) and Townhouse multifamily: Minimum 12 dwelling units/acre
- Multifamily 3-story or greater: Minimum of 20 dwelling units/acre

Density is calculated by dividing the total units into the parcel's total acreage or square footage. Land legally reserved or permanently restricted for conservation, including wetlands, may be excluded from the total parcel size. When opting to use letter documentation, the legal restriction must be clearly identified, indicating the purpose and the acreage or square footage of the area to be excluded from the density calculation. If the initiative is a scattered site development, each lot must be densely developed. If any of the lots are contiguous, then the lots can be aggregated for the density calculation, utilizing the most restrictive density requirement among the subject properties. For determination of points in this category, the Bank will not round the calculation of units per acre or square feet.

For initiatives opting to use letter documentation, the Bank will only accept letter documentation from either the architect, municipal planning official, surveyor, or public engineer. Supplemental documentation such as site plans may be submitted as an addendum to the standard letter documentation to substantiate eligibility for points in this category.

**2c. Transit Access and Transportation Services, up to 1.5 points.** Can be obtained by housing initiatives with access to transportation services based on rural or non-rural locations.

**Rural Locations:**

- Locate the project within a 1/2-mile walking distance of public transit services (including bus, light or heavy rail, or ferry) that offer daily service.
- OR locate the project within 5.0 miles of regional services offering daily service, including any of the following: regional transportation service, a vehicle share program, a park-and-ride, or employer vanpool program.
- OR offer a direct low- or no-cost transportation service with direct service to the site.

**Non-rural Locations:**

- Locate the project within a 1/2-mile walking distance of public transit services (including bus, light or heavy rail, or ferry) that offer daily service.

**Alternative Documentation – Acceptable Map.** Provide both a map indicating the location of the transit services (bus stop, station) and showing the walk distance, and transit schedules to confirm daily service, when choosing to document transit access without relying on a green certification. The map should be via Google or MapQuest only and should confirm the distance from the housing address as provided in the application to the transportation service. The map must be legible, display or calculate the distance from the housing to the transportation service location (e.g. bus or subway stop) and have a clear scale (if available). Driving or walking directions must be shown from the housing address to the transportation service location.

**Alternative Documentation – Acceptable Transit Provider Letter.**

Acceptable letter documentation should confirm both the locations and distance from the proposed housing to the transportation service (e.g. bus or subway stop, on-site para transit, or other). If the application includes multiple locations, the letter should address the location and distance of the transportation service to the multiple locations. The letter must meet the letter standards defined above, reference this initiative by name, and confirm that daily weekday service is provided.

**3. Sustainability and Climate Resiliency, (Up to 10 points)**

Initiatives pursuing letter documentation to earn points in this section must meet the letter standards established previously in this category and the following definitions detailed below.

**3a. Sustainable Development, (Up to 2.5 points)** Applicants may select from among the four options below to obtain points for this subcategory.

- i. Materials – Regional Sourcing, 0.5 points.** Housing initiatives that use building materials and products that are extracted, processed and

manufactured within 500 miles of the project site. Eligible materials and products include framing materials, aggregate, cement, and drywall/interior sheathing. At least 90 percent of the material for the product category, measured by weight, volume, cost or surface area (whichever is most appropriate for the product), must meet the requirement.

- ii. **Materials – Recycled Content, 1.0 point.** Housing initiatives that use building materials and products that contain at least 25 percent post-consumer OR 50 percent pre-consumer content. Project must include at least two qualified recycled content products or materials. At least 70 percent of the material for the category, measured by weight, volume, cost or surface area (whichever is most appropriate for the product), must meet the requirement.
- iii. **Materials – Building Re-use, up to 1.0 point.** Housing initiatives that reuse existing buildings or structures.
  - For existing housing: Retain and re-use at least 50 percent of the existing structure and envelope (excluding windows) in a renovation plan. (0.5 point);
    - This includes initiatives earning points in Section 1 above for Preservation of existing affordable housing or Re-use (separate from adaptive re-use); or
  - For adaptive re-use of an existing non-residential structure or building(s) into housing: Retain and re-use at least 50 percent of the existing structure and envelope (excluding windows) in the adaptive re-use plan. (1.0 point)
- iv. **Passive Solar Design, 1.5 points.** New construction projects must meet each of the requirements below to qualify. Rehabilitation and adaptive re-use projects need only meet requirements 3 and 4.
  - 1. Orient buildings so that the longer side faces within 15 degrees of south (or north).
  - 2. Glazing area: south-facing façade glazing area is at least 30 percent greater than the sum of the glazing areas on the other three facades (east, west, north).
  - 3. Glazing type: all windows are ENERGY STAR certified and rated for the ENERGY STAR climate zones for windows.
  - 4. Shading: At least 50 percent of the south-facing glazing (by area) must be shaded on June 21.

**3b. Efficient and Healthy Building Operations, (Up to 5.5 points)** Applicants may select from among the eight options below to obtain points for this subcategory.

**i. Better Building Envelope, 1.5 points.** Initiatives must meet the following:

Design and construct a highly efficient air sealed building envelope using higher levels of insulation for roofs, walls and floors; lower U-factor windows; and air sealing:

1. Follow the requirements of the applicable ENERGY STAR certified homes program for the project type and location (Homes V3 or V3.1, Multifamily V1, 1.1, or 1.2).
2. If the project will not be Energy Star certified, meet or exceed the prescriptive path requirements for insulation levels, windows and air sealing.

**ii. High-Efficiency Heating and Cooling, 1.0 point.** Initiatives must meet one of the following:

Design and install properly sized, high efficiency heating and cooling equipment:

1. Follow the requirements of the applicable ENERGY STAR certified homes program for the project type and location (Homes V3 or V3.1, Multifamily V1, 1.1, or 1.2).
2. If the project will not be Energy Star certified, meet or exceed the prescriptive path requirements for insulation levels, windows and air sealing.

**iii. HERS rating or Commissioning, 1.5 points.** Can be obtained by those initiatives that meet either of the following elements:

**Single-family and Multifamily Buildings- HERS/Energy Star:** Must have a qualified HERS rater conduct inspections, testing, and modeling to provide a final HERS rating post-construction.

**Multifamily Commissioning:** Conduct Fundamental Systems Commissioning for central heating, cooling and ventilation systems.

**iv. Improved Ventilation, 1.0 point.** Can be obtained by those initiatives that meet the following requirements:

1. Meet the requirements of ASHRAE 62.2 for single family homes, townhouses and apartments in multifamily buildings.
2. Meet the requirements of ASHRAE 62.1 for non-apartment spaces in multifamily buildings.
3. If the ventilation strategy includes a whole-house/balanced approach, install an Energy Recovery Ventilator or Heat Recovery Ventilation system.

**v. Indoor Water Use Reduction, 1.0 point.** Can be obtained by project developments that reduce indoor water use by at least 20 percent and

specify WaterSense qualified fixtures for showerheads, lavatory faucets and toilets as well as WaterSense qualified dishwashers and clothes washers, if installed.

- vi. Outdoor Water Use Reduction, 1.0 point.** Can be obtained by project developments that will reduce outdoor water use by at least 30 percent, using an available water calculator. Do not include identified invasive planting materials in the landscaping.
- 3c. Resilience (Up to 2 points).** Applicants may select from among the four options below to obtain points for this subcategory.
- i. Stormwater Management, 1.0 point.** Can be obtained by installing a combination of green infrastructure (GI) and low impact development (LID) measures to minimize the amount of stormwater leaving the site. Use LEED for Homes V4 for guidance. See Resources below.
- ii. Heat Island Mitigation, 1.0 point.** Can be obtained by project developments that reduce the heat island impact of roofs and hardscapes by installing a combination of high-reflectance materials and vegetation-covered hardscapes. Must meet a minimum of two elements below.
- ENERGY STAR qualified roofing materials
  - Paving with a 3-year aged Solar Reflectance (SR) value of  $\geq 0.28$  or an initial SR of  $\geq 0.33$
  - Vegetated roofing
  - Open or engineered grass pavers (counting only the vegetated element, not the pavers)
- iii. Broadband and Internet Access, 1.0 point.** Can be obtained by housing initiatives that have broadband service available at the project location and provide access in all units and in common areas. Must provide a minimum download speed of 25 megabits per second and upload speed of 3 megabits per second. If broadband service is not available in rural locations, must make the project "broadband ready". Acceptable documentation includes either the appropriate green certification or letter documentation from a design team member.
- iv. Assessment and Planning, 2.0 points.** Can be obtained by housing initiatives that conduct a Vulnerability Assessment and develop a Disaster Prevention and Mitigation Plan. Acceptable documentation includes either the appropriate green certification or letter documentation from the design team member addressing this assessment and planning effort.

*Vulnerability Assessment:* The vulnerability assessment must be based on the guidance identified in the Resources list below and include how the assessment will or has influenced project design.

*Disaster Prevention and Mitigation Plan:* Develop a disaster prevention and mitigation plan for the project, aligned with the vulnerabilities identified in the vulnerability assessment and based on the guidance listed in the Resources section.

**Resources/References:**

- Enterprise Green Communities 2020 Criteria
- LEED for Homes V4
  - Includes Green Infrastructure (GI) and Low Impact Development measures to minimize the amount of stormwater leaving the site. Standards may include: Achieve at least 65 percent site permeability or Manage on-site rainfall from a 95th percentile rain event.
  - Examples of GI/LID measures include:
    - Bioretention--rain gardens, tree boxes, planters;
    - Vegetated swales;
    - Native vegetation landscaping;
    - Green roofs;
    - Capture, retention and infiltration systems; or
    - Permeable pavement.
- ENERGY STAR certified homes program for the project type and location (Homes V3 or V3.1, Multifamily V1, 1.1, or 1.2).
- Water usage and reduction can be calculated using tools available at
  - INDOOR: <https://www.usgbc.org/resources/leed-v4-indoor-water-use-reduction-calculator>
  - OUTDOOR: <https://www.epa.gov/watersense/water-budget-tool>
- Resilience -Assessment and Vulnerability:
  - Vulnerability Assessment – Sources for guidance include the USGBC LEED Pilot Credits for Resilient Design (PCs 98, 99, 100), Enterprise Green Communities 2020 Criterion 1.6.: Resilient Design, and/or a local or state climate vulnerability assessment, if available.
  - Disaster Prevention and Mitigation Plan – Sources include the Enterprise Green Communities website (for example, Ready to Respond), the Red Cross, and FEMA.



## **XII. Attachment C —**

### **2022 Affordable Housing Program Compliance Monitoring Policy**

The Federal Home Loan Bank of Boston's (Bank) Housing and Community Investment Department will monitor projects that receive funding under the Affordable Housing Program (AHP), in accordance with the Bank's compliance monitoring program. The compliance monitoring program will provide reasonable assurance that each funded project is in compliance with respect to the use of AHP funds, eligibility of beneficiaries, compliance with the approved AHP application and Qualifying Characteristics, compliance with the Federal Housing Finance Agency (FHFA) AHP regulations, and subsequent amendments and interpretive rulings, and compliance with the Bank's AHP Policies and Procedures. Included in Attachment C:

#### **A. Program Timeline and Stages**

AHP Award Letters or notifications are mailed or emailed following approval by the Bank's board. If an Award Letter is sent, it must be signed by the member and returned to the Bank within 45 days. Notifications do not require signatures.

- AHP Agreement is executed and returned to the Bank within 12 months or prior to AHP disbursement.
- Disbursement of AHP grant or subsidized advance funds.
- Pass through of AHP Subsidy to the sponsor or owner within 90 days of disbursement.
- Initial Monitoring. During development, the online Semiannual Progress Report (SAPR) (June/December).
- Closeout Monitoring Review. Within 12 months of the last home sale of an ownership initiative or 16 months of construction completion of a rental initiative, the Bank will conduct a full review to ensure that the project has fulfilled its AHP application commitments.
- Long-Term Monitoring. For rental projects only, this includes online Annual Compliance Certifications (ACC), and Periodic Monitoring Reports (PMR) for selected projects based on the risk associated with the project as determined by the Bank. Not required for documented LIHTC initiatives (June/December).
- AHP Subsidy and Affordability Retention Period. Five years for homeownership projects and 15 years for rental projects from the date of completion (as defined by the Bank).

#### **B. Award Notifications and One-Time Extensions**

Following approval by the Bank's board of directors, the AHP award notification is mailed or emailed along with a sample draft AHP Agreement to the Chief Executive Officer of the member and the project sponsor. The award is valid for 12 months from the date of approval.

At application, readiness includes 100 percent site control and the expectation that all funding and zoning will be obtained within 12 months from AHP approval so that development can begin within 18 months and be completed within 36 months from approval.

The review with the Semiannual Progress Report at six months will include an evaluation of progress towards funding commitments, purchase of the property, zoning, and construction start and completion based on the benchmarks in the development schedule provided at application.

Along the same SAPR schedule noted above, at the 12-month mark, the review will include an assessment/determination primarily of the regulatory requirement that AHP funds be disbursed or used to procure additional funding commitments has been achieved. The actual regulatory requirement is: "Some or all of the AHP subsidies must be likely to be drawn down by the project or used by the project to procure other financing commitments within 12 months of the date of approval of the application for AHP subsidy funding the project." If the regulatory requirement has been satisfied/evidenced, then progress towards 100 percent of funding commitments will be reviewed. It is expected that all funding will be committed within 12 months from application approval. In addition, all projects will be reviewed for progress towards property purchase (expected within the 12 months), zoning (expected within the 12 months), and construction start and completion based on the benchmarks in development schedule provided at application.

An additional six months may be granted on a case-by-case exception basis, at the Bank's sole discretion, if in the Bank's judgment, sufficient evidence is provided documenting progress toward project funding and completion.

Accommodations beyond 12 (or 18 in the case of a one-time extension) months may be granted for a particular circumstance such as extended timeline to resolve a NIMBY ("not in my back yard")/zoning challenge or address an ownership or other issue.

Projects not meeting these requirements are subject to deobligation of their AHP awards. Deobligated AHP funds are returned to the AHP pool and will be made available to other AHP-eligible projects or households. The Bank reserves the right to make exceptions and extensions at its sole discretion.

### **C. Affordable Housing Program Agreement**

To ensure each party understands its responsibilities and those of the other parties taking part in the AHP, the Bank prepares an AHP Agreement to be signed by the member institution, project sponsor and/or owner(s), any co-sponsor(s) (as applicable), and the Bank. A draft of the AHP Agreement is included with the award letter. An executed AHP Agreement is expected within 12 months and is required prior to the first disbursement of AHP subsidy.

The AHP Agreement is binding upon each party and any successor party. The executed AHP Agreement sets forth the respective duties and obligations of all parties to the AHP Agreement as established in the AHP Regulation 12 CFR 1291, including but not limited to the provisions

identified in 12 CFR 1291.15. This includes all terms and conditions that govern the approval and funding of the application, all representations made in the application, including fulfillment of the AHP Qualifying Characteristics, and requirements for owner-occupied and rental retention agreements.

The Qualifying Characteristics summarize the scoring elements of the application and project, upon which, in part, it was approved for subsidy. The AHP Qualifying Characteristics is an integral part of the AHP Agreement and is included as an attachment to the AHP Agreement.

The AHP Agreement will require that the project sponsor provide a certification at each and every disbursement that the project sponsor meets the project sponsor qualifications criteria established by the Bank and that the project sponsor has not engaged in, and is not engaging in, covered misconduct as defined in the Federal Housing Finance Agency's Suspended Counterparty Program Regulation (12 CFR part 1227) and any and all corresponding policies and procedures as defined and established by the FHLBank Boston. Changes to the terms and conditions of the AHP Agreement are not allowed, other than proper identification of the member, sponsor, and owning entity as part of the final ownership structure. ***An authorized signatory of the member financial institution, pursuant to its current user entitlements on file with the Bank, and an authorized representative for the project sponsor/owner are required to sign the AHP Agreement.*** The signature(s) represent full understanding, acceptance, and compliance with the terms and conditions in the AHP Agreement.

Once the Bank receives the AHP Agreement, a disbursement of AHP funds may be requested (see note regarding disbursements for mortgage-financing programs). Therefore, it is imperative that the member and sponsor review the AHP Agreement thoroughly to ensure their understanding of the document.

#### **D. Modifications (Changes) to Initiative and the Application Qualifying Characteristics**

The AHP Regulation requires that if the requirements for a modification are satisfied, the Bank may approve the modification request, unless the request is for an increase in AHP subsidy. An application receiving AHP funds must be modified if there are changes that impact the original score in the AHP application. The Qualifying Characteristics (QC) form is incorporated into the award letter and AHP Agreement.

Before the Bank may approve a modification request, it must first request the project sponsor or owner to make a reasonable effort to cure any AHP non-compliance within a reasonable period of time. Good cause requires that there be a satisfactory reason for a modification approved by the Bank and the Bank's analysis and justification for the modification must be documented in writing. Remediation of project non-compliance is not, in itself, good cause for a modification. Written analysis and justification for good cause must include why a cure of non-compliance was not successful or attempted.

Reasonable justification may include change in market conditions, loss of committed funding to subsidize project rents or loss of major employer in the community that makes it difficult to fund households at the incomes committed to in the project AHP Application.

The AHP Regulation stipulates three criteria to approve any modification:

1. The project incorporating any such changes would meet the eligibility requirements.
2. The application, reflecting such changes, continues to score high enough to have been approved in the funding round in which it was original scored and approved; and
3. There is good cause for the modification.

Because applications are approved based on the score that the application received at the time of the award, the AHP policies require that the QC be maintained throughout the retention period. Thus, any changes to the QC that affect the score will result in a modification to the project application. The request for a modification should be submitted in writing to the Community Investment Manager who will work with the member and sponsor to ensure that a proper modification is completed and approved for the project. The process may take up to ten business days from the date of submission for approval. A modification requested in connection with a disbursement request and its approval might take longer than the ten business days.

The Bank will evaluate modifications to any project or its approved qualifying characteristics using the AHP Project Cost and Feasibility Guidelines found in Attachment A of this document. The guidelines will be used as benchmarks and may be used as the basis for rejecting or disqualifying a project or for reducing the amount of subsidy requested.

Modifications for remaining AHP subsidy (tailings) on AHP subsidized advances following commitment or disbursement will not be scored or reviewed for feasibility, but will be entered into the system as a formal modification.

For interest-rate write-downs: In cases where AHP direct subsidy has been approved prior to closing to reduce the principal amount or the interest rate on a loan to a project (and an interest rate assumption was made in determining the amount of subsidy needed at the time of approval), the final amount of subsidy awarded may be subject to change due to interest rate changes.

For subsidized advances: If the amount of subsidy required to maintain the debt service cost for the loan decreases from the amount of subsidy initially approved by the Bank due to a decrease in applicable market interest rates between the time of approval and the time the lender commits to the interest rate to finance the project, the Bank shall reduce the subsidy amount accordingly. Such subsidy shall be returned to the AHP fund for other AHP-eligible projects or households.

Modifications involving any other increase in AHP subsidy will be approved or disapproved by the Bank's board of directors. The authority to approve or disapprove such requests will not be delegated to Bank officers or other Bank employees.

#### **E. AHP Subsidy and Affordability Retention Mechanism (Mortgage and Note)**

The AHP Regulation requires that a mortgage, or other legally enforceable mechanism, such as a deed restriction, be used to secure the obligations contained in the AHP Agreement. This mechanism will secure the entire AHP Agreement including, but is not limited to, its affordability provisions. The Bank's standard mortgage documents for a variety of project types are available on the Bank's web site. If a member is not using the standard documents, approval of the documents is required by the Bank in advance of funding. *Note that failure to use the Bank's standard documents will require additional time for review, which might delay funding approval. Please allow sufficient time for review and approval of any non-standard AHP retention documents.*

The AHP Regulation permits sponsors to lend AHP subsidies to a project (as in the case of LIHTC projects or tax-exempt bonds issuance), provided any principal or interest payments are paid to the Bank. For these situations, legal retention language for the notes and mortgages have been developed defining the term of loan to be the AHP retention period plus one day and permitting deferral of all principal and interest (P&I) payments. This legal language is available upon request.

##### Retention Documents for Owner-Occupied or Homeownership Initiatives

Each AHP-assisted household which has received AHP subsidy for purchase or purchase in conjunction with rehabilitation of an owner-occupied unit must have an AHP mortgage and note that extend for five years (the AHP retention period) from the date of closing.

At a minimum, the AHP mortgage and note will establish requirements for:

- Notice – the Bank (or designee) shall be given notice of any sale, transfer, assignment of title or deed, or refinancing of the unit by the household occurring during the AHP five-year retention period;
- In the case of a sale, transfer, assignment of title or deed, or refinancing of the unit by the household during the retention period, the calculated amount of AHP subsidy shall be repaid unless one of the following exceptions applies:
  - The subsequent purchaser, transferee, or assignee is a low- or moderate-income household, as defined by the FHFA AHP Regulation, will be waived. This is determined by using the HUD Home Investment Partnership Program (HOME) and the Housing Trust Fund (HTF) value limits of the subject property's location. The limits are posted annually on the HUD website and will be available on the FHFA website. HCI will confirm the subject property address against the HOME and HTF value limits prior to the sale, determining whether the recapture process will need to be fully executed. This is the only proxy to determine whether the recapture of the grant will be waived;
  - If the calculation results in a repayment amount of \$2,500 or less, or

- Following a refinancing, the unit continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism.
- Calculation methodology of any applicable AHP subsidy repayment: the Bank shall be repaid the lesser of:
  - The AHP subsidy, reduced on a pro rata basis per month, until the unit is sold, transferred, or its title or deed transferred, or is refinanced, during the AHP five-year retention period; or
  - Any net proceeds from the sale, transfer, or assignment of title or deed of the unit, or the refinancing, as applicable minus the AHP-assisted household's investment.
- Termination of subsidy repayment obligations after any event of foreclosure, transfer by deed-in-lieu of foreclosure, an assignment of a Federal Housing Administration first mortgage to HUD, or death of the AHP-assisted homeowner.

The applicable pro rata repayment methodology including calculation based on net proceeds and household investment is detailed in Attachment D, Section F Homeowner Post-Closing.

Owner-occupied or homeownership initiatives using AHP funds to pay for the construction or rehabilitation of homes are required to submit two mortgages or retention mechanisms:

1. *Interim AHP Mortgage and Note:* between the member and sponsor to secure the properties benefiting from AHP funds during the development phase;
2. *Subordinate AHP Mortgage and Note:* between the member and/or sponsor and the income-eligible homebuyers, securing the AHP funds to the property being purchased.

As the sponsor sells developed units, the first mortgage (1) may be released and replaced by the subsequent mortgage (2).

These provisions may also apply to the development of cooperatives and lease purchase programs. Because these initiatives pose unique issues concerning retention, members and sponsors should discuss these issues with their Community Investment Manager well in advance of drawing AHP funds.

#### Retention Documents for Rental Initiatives

Rental projects must execute and record an AHP mortgage and note securing the AHP subsidy and ensuring compliance for the 15-year AHP retention period after project completion.

*Retention Documents for AHP Subsidized Advances*

For AHP Subsidized Advances, the Bank provides a mortgage rider to be used in conjunction with the member's standard note and mortgage. The standard rider can be found on the Bank's website as noted above.

At a minimum, the AHP mortgage and note, and any mortgage rider as applicable, will establish requirements for:

- Compliance with the income and rent commitments consistent with the approved application for the duration of the AHP 15-year retention period;
- Notice – the Bank (or designee) is given notice of any sale, transfer, assignment of title or deed, or refinancing of the unit during the AHP retention period;
- Repayment of the AHP subsidy, including regulatory exceptions as established in 12 CFR 1291.15; and
- Termination of income and rent restrictions after any foreclosure or deed-in-lieu of foreclosure.

Prepayment Fees on AHP and Community Development Advances (CDA)

The Bank will charge the member a prepayment fee to the extent the Bank suffers an economic loss from the prepayment of a subsidized advance. Members utilizing an AHP subsidized advance or a CDA to finance construction, warehousing, or permanent mortgage needs of a sponsor's development will be subject to the Bank's yield maintenance fee requirements in the event the advance is paid back to the Bank prior to its scheduled maturity.

In the event the sponsor (or borrower) prepays such an advance to the member, the member must pay the Bank back, notwithstanding the scheduled maturity of the advance. Therefore, the Bank recommends that the member pass through or insure in its mortgage document that the sponsor (or borrower) is responsible for any and all prepayment fees that may be due to the Bank as a result of the prepayment of the advance.

**F. Disbursement of Funds - Overview**

The Bank will disburse subsidies only to institutions that are members of the Bank at the time a draw down request is received. If a member with an approved application for AHP subsidy withdraws from membership for any reason, the Bank may disburse AHP subsidies to a member of the Bank to which the institution has transferred its obligations under the approved application, or the Bank may disburse AHP subsidies through another Federal Home Loan Bank to a member of that Bank that has assumed the institution's obligations under the approved AHP application.

At each and every disbursement, the project sponsor shall certify that it meets the project sponsor qualifications criteria established by the Bank and that the project sponsor has not engaged in, and is not engaging in covered misconduct as defined in the Federal Housing Finance Agency's Suspended Counterparty Program Regulation (12 CFR part 1227) and any and all corresponding policies and procedures as defined and established by the FHLBank Boston.

Prior to funding initial disbursements of AHP subsidy to approved projects, the Bank will obtain information and pertinent facts and conduct a financial review to verify that the project/program meets and maintains compliance with the regulatory eligibility requirements and feasibility standards of the Implementation Plan and all scoring items identified as "Qualifying Characteristics" in the approved application. Applicant members or sponsors are required to provide the Bank with any and all information necessary for the Bank, in its sole judgment, to ensure compliance prior to funding. This review is done of the project budgets, the need for AHP subsidy, and reviews any changes to the project characteristics, including the AHP Qualifying Characteristics and any award conditions.

AHP funds must be requested online. For a link to the system, please see the Bank's web site at <https://housing.fhlbboston.com>. Please submit the request for disbursement at least **15 business days** before the funds are needed. (Please note that disbursement requests submitted during the AHP application review period may take longer as staff resources are limited.)

The Bank reserves the right to accept or deny a disbursement request for a rental or homeownership initiative at its sole discretion. Factors to be considered include:

- Adequacy and/or completeness of the documentation submitted;
- Project status and development progress;
- The proposed use of AHP funds and/or the documentation of the use of AHP funds;
- Market conditions or other considerations.

To minimize the risk of over extending AHP funds relative to the development progress of a homeownership initiative, prorata disbursements may be considered on a house-by-house basis based on market conditions, member's recommendation, as well as use of AHP funds, e.g. acquisition, hard construction costs, infrastructure costs, or down payment assistance.

Upon our confirmation of eligibility to participate in the program, the AHP direct subsidy funds are disbursed to the member financial institution's IDEAL Way Account.

#### Project Cost, Feasibility, and Scoring Guidelines

The Bank has established guidelines for the review of a project's cost, financial feasibility, and need for AHP subsidy. These guidelines will be applied at the time of application, prior to funding of approved AHP subsidies, in the course of any requested project modifications, and upon project completion. The Bank will consider appropriate exceptions to these guidelines on a case-by-case basis substantiated by information and documentation justifying need to the



satisfaction of the Bank for such exception. Project cost and feasibility/need for subsidy guidelines are in Attachment A of this document.

#### AHP Subsidized Advances

Once reviewed, the member will work with the HCI Community Investment Manager to call the Bank's Money Desk to draw down the advance for disbursement on the designated date.

#### Documentation Required for All Rental and Homeownership Initiatives

The following documentation is required with the member's first disbursement request of AHP funds. For subsequent disbursement requests, the information is required only if changes to the project have occurred since previously approved disbursements:

- Certification by the project sponsor at each disbursement confirming that it meets the Bank's sponsor qualification criteria and it has not engaged in, and is not engaging in, covered misconduct as defined in the FHFA's Suspended Counterparty Program regulation (12 CFR 1227) and any and all corresponding policies and procedures as defined and established by the FHLBank Boston;
- If not already submitted, a signed copy of the AHP Agreement;
- The current sources and uses development budget, including commitment letters or other documentation to verify all permanent sources of funding;
- A written explanation of any changes to the project's development budget since the application resulting in an overall increase or decrease of five percent or greater;
- A written explanation of any changes to the project's Qualifying Characteristics, and a written request for a modification and approval of such changes;
- If available, please submit documentation confirming the use of the AHP funds. The Bank will request that the member institution provide documentation to evidence the transfer of AHP funds to the sponsor and the specific use of AHP funds by the sponsor following disbursement. The evidence may be in the form of an invoice with the copy of a check and letter stating the amount of payment that was received and certifying that the information is true.
- Copy of executed (and recorded, if available) Bank-provided standard mortgage and note securing the AHP funds throughout its retention period. This is required for both the direct subsidy and subsidized advance and recorded copies will be required at completion monitoring. *It is important that you allow additional time for approval of non-standard documents.*
- Information and/or documentation on the current status of the project as needed;
- Evidence of fulfillment or compliance with any specific award conditions; and,

- Any delinquent AHP reports, as they may delay the disbursement request.

#### **Additional Disbursement Documentation Required – Rental Only**

In addition, for the items in the section above, the following is required at disbursement for all rental initiatives:

- The current 15-year operating pro forma;
- A written explanation of any changes to the project's operating pro forma since the application resulting in an increase or decrease of five percent or greater; and
- The proposed rent schedule, including number of units targeted at percentage of area median income, beds per unit, people per unit, maximum income level, and total rent and tenant paid portion per unit. These numbers must be consistent with the approved AHP application and tie to the 15-year operating pro forma and the rent charge for the unit should not exceed 30% of the median income for the targeted group.

#### **Additional Disbursement Documentation–Homeownership–Prior to Buyer Closing**

When funds are used for construction and disbursement is requested, the following is also required:

- *Interim AHP Mortgage and Note*: between the member and sponsor to secure the properties benefiting from AHP funds during the development phase (as the sponsor sells developed units, the interim mortgage may be released and replaced by the homebuyer AHP subordinate mortgage).

If any of the units have been sold at the time of disbursement, see the next section for additional required documentation.

#### **Additional Disbursement Documentation–Homeownership–After Buyer Closing**

If the AHP subsidy funds are used for down payment and closing cost assistance, disbursement is provided on a reimbursement basis only. In addition, if the AHP subsidy funds are used for construction or development and any of the units have closed the following is required for each homebuyer assisted:

- The completed ownership subsidy calculation spreadsheet demonstrating the pass-through of the subsidy.
- The settlement statement or Closing and Seller Disclosures evidencing the AHP subsidy amount and homebuyer acknowledgement.
- Copy of the executed Bank-provided standard mortgage and note securing the AHP funds throughout the retention period. Recorded copies will be required at completion monitoring.

- Third-party income documentation as of the date of qualification supporting that the homebuyer's income is within the income targeting commitments made in the approved application.
- Schedule of the progress that the member and sponsor are making in complying with the Qualifying Characteristics of the approved application.
- Copy of homebuyer/homeowner education/counseling certificate.

Please note that the Bank requires that sponsors maintain copies of all documentation for the AHP-assisted transactions. Members are advised to retain the closing statement and a copy of the AHP mortgage for your records.

#### **Closing Instructions for Owner Development and Mortgage Financing Initiatives**

For ownership initiatives using AHP funds to assist homebuyers with a down payment, closing costs, or permanent financing, the AHP Regulation requires that the closing documentation clearly and specifically show the subsidy being used. To document the incorporation of the AHP grant/subsidy into a homeownership closing, please request the Bank's sample instruction letter to the closing agent.

#### **G. Disbursement Evidence**

Following disbursement, AHP direct subsidy and subsidized advance funds *must* be provided to the Sponsor/Owner within 90 days for approved purposes. The member is not permitted to make any arbitrage gain on the AHP subsidy. At a minimum, the member must transfer the funds to the sponsor by depositing the AHP funds into a separate account benefiting the sponsor within 90 days of disbursement from the Bank to the member.

Any arbitrage occurring resulting from a failure to transfer the funds to the sponsor within 90 days must be allocated to the sponsor. The member must document that it did not make any arbitrage gain on the AHP subsidy. Earnings from arbitrated AHP funds are calculated based on the Federal Funds rate for the period with which the funds were held beyond 90 days.

##### **Separate Sponsor Account**

Although not required, to facilitate accounting for the AHP funds, it is recommended that the member financial institution establish a separate account for the sponsor and this initiative before disbursing the funds to the sponsor. Further, it is recommended that AHP funds should not be co-mingled with other funds of the sponsor.

#### **H. Initial Reporting and Monitoring – All Approved AHP Projects**

**Prior to and During Construction, Rehabilitation or Implementation of a Financing Program.** The project sponsor or owner shall report to the member, and the member to the Bank, semiannually regarding project development status, generally in June and December.

The Bank uses the report to determine, at a minimum, whether the project is making satisfactory progress toward completion and occupancy. Both ownership and rental projects are subject to this requirement. Semiannual Progress Reports (SAPR) will be required of all unfunded, partially funded and fully funded projects until project completion or occupancy occurs.

The SAPR includes, but is not limited to, the following:

- A description of the current status indicating any changes in the development time line, funding, site control, or construction status and estimated completion date.
- Revised development and operating budgets, funding commitment letters or other documentation, and explanations if changes have occurred from the original application.
- A description of any changes in the approved Qualifying Characteristics (QC) that have occurred since the application was approved including unit count, income targeting, populations served, property locations, and services to be provided to eligible households.
- If AHP funds have been drawn, evidence is needed of the funds transfer from the member financial institution to the sponsor (wire transfer record, Bank statements, settlement statements, or check copy) and evidence of how the sponsor used the funds (settlement statements or Closing and Seller Disclosures, invoices, and/or requisitions).
- If applicable, copies of the certificates of occupancy for completed housing units.
- For rental projects, provide a list of tenant income and rents, at move-in, of all occupied units.
- For rental Low Income Housing Tax Credit-funded initiatives, the project sponsor/owner shall provide prompt written notice if the project is in material and unresolved noncompliance with the LIHTC income targeting or rent requirements at any time during the AHP 15-year retention period;
- For homeownership projects, please provide a list of all units sold and loans closed using the spreadsheet template provided on the Bank's website. This spreadsheet should include the following information:
  - (a) Homebuyer's last name;
  - (b) Amount of grant/subsidy;
  - (c) Settlement statement or Closing and Seller Disclosures completed – indicate yes or no;
  - (d) Retention mechanism executed – indicate yes or no;
  - (e) Amount of payment to the buyer;
  - (f) Amount of homebuyer's verified income and household size;

- (g) Targeted income level – very low income (VLI), low income (LI), moderate (Mod) and the number of units of each;
- (h) Type of income documentation – pay stub, tax return, etc.
- (i) Although not required photos and any marketing or publicity information about the project may be provided.

In the case of rental projects, project completion will be achieved at the issuance of a certificate of occupancy (CO) issued by the local jurisdiction or, if the local jurisdiction does not issue such a CO, then the development will be deemed complete when the sponsor determines that the development has reached 80 percent occupancy by eligible tenants and all of the AHP funds have been disbursed by the Bank and passed through to the sponsor for the project.

In ownership projects, the completion date for owner-occupied initiatives will be the closing date of the loan of the last homebuyer on the sale of the last home.

Where AHP funds are used to finance the purchase of owner-occupied units, the sponsor must maintain household income verification documentation available for review by the member or the Bank. The sponsor and the member must provide annual certification to the Bank until all approved AHP subsidies are disbursed to eligible households. For owner-occupied projects, within one year after disbursement and/or project completion, the member shall review project documentation and certify to the Bank that (1) the AHP subsidy has been used in accordance with the approved AHP application and (2) the AHP-assisted units are subject to a deed restriction or other legally enforceable affordability retention agreement or mechanism meeting the requirements of section 1291.9(a)(7) or (a)(8) of the AHP Regulation.

If, in the judgment of the Bank, there is lack of material progress in the timely completion of a project the Bank may, at its sole discretion, rescind approval of undisbursed AHP funds and/or require repayment of previously disbursed AHP funds. Any interest accrued on disbursements of AHP funds not used at the time of repayment shall also be recovered by the Bank and deposited in the AHP pool. Similarly, extensions of funding commitments will be made solely at the discretion of the Bank.

#### **I. Project Completion Definitions**

For rental projects, the date of project completion will be the later of: 1) the date the project reports an 80% occupancy rate, 2) the date a certificate of occupancy (CO) is issued by the local jurisdiction or, 3) the date of final disbursement of AHP subsidy.

In ownership projects, the project completion date will be the closing date of the loan of the last homebuyer on the sale of the last home in the project.

#### **J. Closeout Monitoring Review - Compliance Verification (Reporting and Monitoring) at Project Completion**

##### **Owner-Occupied Projects (Including Mortgage-Financing Initiatives)**

Within one year after completion, the Bank shall complete a compliance Closeout Monitoring Review and obtain the member and sponsor certification that the AHP subsidy has been used in accordance with the approved AHP application and project completion. That review will determine that the project meets the following requirements, at a minimum:

1. The AHP subsidies were used for eligible purposes according to the commitments made in the approved AHP application,
2. The incomes of households that own AHP-assisted units did not exceed the levels committed to in the AHP application at the time the households were qualified by the sponsor to participate in the project,
3. The project's actual costs were reasonable in accordance with the Bank's project cost guidelines, and the AHP subsidies were necessary for the financial feasibility of the project as currently structured;
4. Each AHP-assisted unit is subject to an AHP retention agreement that meets the requirements of the AHP Regulation, as applicable, and
5. The services and activities committed to in the AHP application have been provided, and
6. All scoring commitments as listed in the Qualifying Characteristics were met.

The review will include, but is not limited to, the following information:

- Incomes of households that own AHP-assisted units do not exceed limits committed to in the AHP application at the time the households were qualified. Please complete the spreadsheet template as discussed above under Reporting and Monitoring during Development and provide third-party income documentation for at least ten percent of the AHP-assisted units.
- The project's Qualifying Characteristics have been fulfilled and the Bank has approved any modification in writing. A written summary and back-up documentation confirming that each of the Qualifying Characteristics is fulfilled.
- A copy of the settlement statement or Closing and Seller Disclosures for each unit or buyer-assisted award.
- The AHP subsidies were used for eligible purposes, the project's actual costs were reasonable in accordance with the Bank's project feasibility guidelines, and subsidies were necessary for the financial feasibility of the project. This includes the following documentation:
  - (a) Final sources and uses development budget, typically the final cost certification, if applicable;
  - (b) Documentation of use of AHP funds; and/or
  - (c) Audited statements or cost certifications if available.
- The AHP-assisted units are subject to the Bank-provided standard mortgage and note.
- The evidence confirms that AHP funds were passed through from the member financial institution to the sponsor and subsidies pass through to the beneficiaries identified in the application is acceptable.
- The sponsor complied with affirmative marketing and Fair Housing requirements.
- Photos, if available.

- A site review shall be performed whenever the project is rated 2 or 4 as a result of a defined risk factor or when significant compliance issues appear to exist. The site review will include a review of the files and viewing of a sample of units, community space, and utilities if accessible.

### **Rental Projects**

Within one year and 120 days after project completion, the Bank shall complete a final compliance review in accordance with the AHP Regulation that will include a review of documentation to determine that:

- (1) The AHP subsidies were used for eligible purposes in accordance with the commitments made in the approved AHP application,
- (2) The household incomes and rents at move-in comply with the income targeting and rent commitments made in the AHP application,
- (3) The project's costs were reasonable in accordance with the Bank's project cost guidelines, and the AHP subsidies were necessary for the financial feasibility of the project as currently structured,
- (4) Each AHP-assisted unit is subject to an AHP retention agreement that meets the requirements of the AHP Regulation, as applicable, and
- (5) The services and activities committed in the approved AHP application have been provided, and
- (6) All scoring commitments as listed in the Qualifying Characteristics were met.

This review will be performed by reviewing documentation submitted to the Bank by the member and sponsor. As part of the final compliance review, the project owner must:

- (1) Certify to the member and the Bank that the services and activities committed to in the AHP application have been provided in connection with the project,
- (2) Provide a list of actual tenant rents and incomes at move-in to the member and Bank and certify that they are accurate and in compliance with the rent and income targeting commitments made in the AHP application and that the project is habitable, and
- (3) Maintain documentation regarding tenant rents and incomes and project habitability available for review by the member or Bank to support such certifications.

The following information will be reviewed:

- Evidence that the services and activities committed to in the AHP application are being provided in connection with the project.
- Evidence that the elements of the Qualifying Characteristics (QC) have been fulfilled or the Bank has approved any modification in writing. A written summary and back-up documentation that each of the Qualifying Characteristics is fulfilled.
- The AHP subsidies were used for the eligible purposes stated in the approved application; the actual costs were reasonable in accordance with the Bank's

- development feasibility guidelines; the AHP subsidies were needed for the financial feasibility of the initiative. This includes the final detailed sources and uses development budget; documentation of use of AHP funds; audited financial statements or cost certification if available; and the 15-year operating pro forma.
- Tenant rents and incomes at move-in for accuracy and compliance with the income targeting commitments made in the approved AHP application and the rents are no more than 30 percent of HUD Area Median Income Limit for the unit's targeted income.
    - Documentation includes rent roll and third-party, back-up income and rent documentation.
    - Rent rolls are required for LIHTC, HUD 202, HUD 811, USDA 515 or USDA 514 initiatives.
    - LIHTC, HUD 202, HUD 811, USDA 515 or USDA 514 initiatives are exempt from providing income and rent documentation.
  - The rents charged for the AHP-assisted units do not exceed the maximum income limits committed to in the approved application.
  - The AHP-assisted units are subject to the Bank-provided standard mortgage and note for the AHP direct subsidy and/or subsidized advance. Recorded copies are required.
  - Evidence that confirms that AHP funds were passed through from the member financial institution to the sponsor.
  - Sponsor complies with affirmative marketing and Fair Housing requirements.
  - LIHTC Form 8609, if applicable.
  - Photos, if available.
  - A site review shall be performed whenever the project is rated 2 or 4 as a result of a defined risk factor or when significant compliance issues appear to exist. The site review will include a review of the files, viewing of a sample units, community space, and utilities if accessible.

#### Property Management Participation in the AHP Closeout Monitoring Review

The Bank strongly encourages that the parties responsible for property management (e.g. the sponsor or project owner's occupancy staff and/or the property management company) participate in the closeout monitoring process because there are also operating requirements to fulfill the AHP Qualifying Characteristics and reporting obligations for rental initiatives for the 15-year AHP affordability period. It is the obligation of the project owner to ensure that the long-term monitoring and reporting obligations are fully understood by the responsible parties and fulfilled in a timely manner. The project owner is responsible for certifying to the accuracy of the long-term monitoring and reporting.

### **K. Long-Term Compliance Monitoring Requirements for Completed Projects**

#### **Owner-Occupied Projects**

Long-term monitoring is not required of home ownership projects. However, sale, transfer, assignment of title or deed, or refinance during the term of the retention period shall be



reported to the Bank, and in its discretion any designee of the Bank. The Bank will determine if a pro rata share or net proceeds of the AHP subsidy must be repaid.

### **Rental Projects**

Long-term monitoring requirements will be determined by the AHP risk factors, the extent of project monitoring performed by a federal, state or local government entity and the amount of AHP subsidy provided to the project.

Completed rental projects that have Low Income Housing Tax Credits (LIHTC) , Tax Credit Assistance Program (TCAP), or Tax Credit Exchange Program (TCX) funds will be monitored by the state-designated housing credit agency in accordance with the requirements applicable under the tax credit program. To evidence LIHTC initiatives, a copy of the IRS Form 8609 must be on file with the Bank. Documentation of TCAP or TCX funds and monitoring will also be required. No additional reports will be requested, received, or reviewed, once a sponsor s provided evidence of the tax credits and as long as the initiative remains in compliance with the requirements of the LIHTC, TCAP, or TCX funds.

The project owner or sponsor must notify the Bank if the initiative no longer qualifies as a LIHTC, TCAP, or TCX initiative, receives an IRS Form 8823, or is in material and unresolved noncompliance with the LIHTC income targeting or rent requirements at any time during the AHP 15-year retention period. In this event, the long-term monitoring, including required income and rent documentation and site visits, will restart for the rental initiative. Additional monitoring or other actions may be considered at the sole discretion of the Bank.

In accordance with AB 2019-02, completed rental projects which are funded by and in compliance with one of the four following federal programs (HUD 202, HUD 811, USDA 515 or USDA 514) are required to complete all long-term monitoring requirements. These projects are exempted, however, from providing third-party, back-up income and rent documentation as part of the long-term monitoring. Provision of satisfactory rent rolls and the applicable long-term reports and applicable certifications will only be required.

Long-term monitoring requirements to be performed by the Bank, members and project owners in projects not monitored by an approved government entity are as follows:

*For 4-Rated/Watch List projects with a status of completed:*

- a) Beginning in the second year after project completion, and through the 15-year retention period, completion of an annual compliance certification regarding habitability and rent and income targeting from owner during term of retention period. Supporting documentation, available for Bank review, must be maintained by the owner.
  - i. The Bank will review the owner certifications on household incomes, rents, and financial viability.
- b) Annual submission and Bank review of household income and housing payment documentation, as well as information regarding financial viability of the project including taxes, loan payments, vacancy rate, and compliance with other funding sources. The Bank will sample 100 percent of the projects in this category every

- year and, based on the current supplied rent roll, supporting documentation, including third-party move-in/qualification income documentation and/or lease agreements is submitted and reviewed based on the risk-based sampling plan determined by the Bank. Currently, this is 20 percent of the units that have moved in since the last report and 20 percent of the units that have not turned over.
- c) Site visit, including a review of the files, at least every other year. See Section L.

*For 2-Rated projects with a status of completed:*

- a) Beginning in the second year after project completion, and through the 15-year retention period, completion of an annual compliance certification regarding habitability and rent and income targeting from owner during term of retention period. Supporting documentation, available for Bank review, must be maintained by the owner.
- b) The Bank will review the owner certifications on household incomes, rents, and financial viability. Biennial submission and Bank review of household income and housing payment documentation, as well as information regarding financial viability of the project including taxes, loan payments, and compliance with other funding sources. The sampling plan used includes 100 percent of the projects in this category once every two years (i.e. 50 percent will be alternated every other year). And, based on the current supplied rent roll, supporting documentation, including third-party move-in/qualification income documentation and/or lease agreements will be submitted and reviewed based on the risk-based sampling plan determined by the Bank. Currently, this is 20 percent of the units that have moved in since the last report and 20 percent of the units that have not turned over.
- c) Site visit, including a review of the files, at least every other cycle, but only once every four years. See Section L.

*For 1- and 3-Rated projects with a status of completed:*

- a) Beginning in the second year after project completion, and through the 15-year retention period, completion of an annual compliance certification regarding rent and income targeting from owner during term of retention period. Supporting documentation, available for Bank review, must be maintained by the owner.
- b) The Bank will review the owner certifications on household incomes, rents, and financial viability. Annual submission from ten percent of projects, but no more than 20 projects, and Bank review of household income and housing payment documentation, as well as information regarding financial viability of the project including taxes, loan payments, vacancy rate and compliance with other funding sources. The Bank will sample the 1- and 3-rated projects a random 10 percent, up to 20 projects. Projects will be reviewed no more than once every three years. And, based on the current supplied rent roll, supporting documentation, including third-party move-in/qualification income documentation and/or lease agreements submitted and reviewed based on the risk-based sampling plan determined by the Bank. Currently, this is 20 percent of the units that have moved in since the last report and 20 percent of the units that have not turned over.

*Additional Long-Term Compliance Monitoring:*

The Bank reserves the right to require further monitoring outside of the above schedule. The monitoring may be comprised of supplementary reporting periods or documentation for projects with a high percentage of AHP subsidy to total development costs, concerns with sponsor capacity, or other issues, as determined by the Bank.

**Monitoring by a Federal, State or Local Government Entity**

The Bank will rely upon on-going monitoring performed by a federal, state or local government entity in projects that receive funds from, or an allocation of Low Income Housing Tax Credits by, such a government entity. No additional reports will be requested, received, or reviewed.

**Monitoring by a Contractor**

The Bank reserves the option to retain the services of a qualified contractor to perform the long-term monitoring review to ensure project compliance with the AHP Regulation and project characteristics approved in the AHP application.

**L. AHP Risk Factors, Site Visits, Rating System, and Watch List Placement**

**AHP Risk Factors**

The Bank has determined specific risk factors related to AHP projects and sponsors. (NOTE: The Bank's Credit Department is responsible for monitoring Bank members.) The factors include:

- AHP subsidy. AHP subsidy and AHP subsidized advance principal are 50 percent or greater of total development costs (2-rating).
- Sponsor Concerns. The sponsor has project development, financial, compliance, operational, performance, or other concerns that call into question the capacity of the project sponsor or owner, or the continued operational feasibility of the project (2- or 3-rating).
- Projects that would benefit from additional oversight/monitoring, based on Bank's discretion (3-rating).
- Watch List. Watch List projects that are categorized as In Danger of Financial Default, Regulatory Noncompliance, or Other Noncompliance or Default (4-rating).
- Fraud or Misrepresentation. Projects in which the Bank suspects that the owner, sponsor, managing agent, or other party may have misrepresented factual information or falsified income verifications or altered tenant files (4-rating).

As defined in the AHP regulation, and at any time at the discretion of the Bank, the risk factors may also include the amount of AHP subsidy in the project, type of project, size of project, location of project, sponsor experience and performance, and any monitoring of the project provided by a federal, state, or local government entity.

In addition to the risk factors, the Bank maintains a project rating system and Watch List to monitor and manage projects that may encounter difficulties at any stage, whether in development or during the retention period. Retention period is defined as five years for homeownership and 15 years for rental initiatives.

**AHP Site Visits**

As a result of the Federal Housing Finance Agency’s Advisory Bulletin (AB 2013-08) issued December 13, 2013, effective July 1, 2014, site visits to certain projects are required to ensure the completion or continued operation of these specific initiatives. Virtual or remote visits can be conducted and documented based on individual project circumstances.

The site visit policy applies to 2- and 4-rated projects.

A site visit will be conducted by a Bank staff member. A site visit can also be done during a Closeout Monitoring Review, for an Annual Compliance Certification/Periodic Monitoring Review (ACCPMR) of rental rolls and income documentation, or at any other time post-completion. A site visit report will be completed by the Bank staff member. Exceptions for geographically difficult projects can be made.

A site visit for projects with risk factors outside of the above can be performed at any time.

**Rating System**

Ratings of 1 to 4 are assigned to projects for the following reasons. Projects with a rating of 3 have issues that may lead to placement on the Watch List if not resolved. Those with a rating of 4 are on the Watch List and are monitored until resolved.

Rating	Reason
1	The initiative is in full compliance with the AHP Regulation and HCI policies and procedures and no reports or documents are due to the Bank.
2	The initiative is in overall compliance with the AHP Regulation, but demonstrates one or more of the risk factors as defined above.
3	An initiative may receive this rating if it requires special ongoing monitoring (potential merger, refinancing, or other event) or has other deficiencies.
4 Watch List	<p>Projects may be rated a 4 and placed on the Watch List for the following reasons:</p> <ul style="list-style-type: none"> <li>• In Danger of Financial Default</li> <li>• Regulatory Noncompliance</li> <li>• Delayed Completion</li> <li>• Delayed Monitoring</li> <li>• Other Noncompliance or Default</li> </ul> <p>Example of issues on the Watch List in recent years have include delayed completion; homeownership initiatives in which all the units are built but have not been sold due to the economic environment; sponsor dissolved or has diminished</p>

	capacity; financial operating difficulties; pending foreclosure; compliance issues with targeting or other qualifying characteristics; and more.
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### **M. Watch List Reporting and Requirements**

Watch List projects are reviewed regularly by HCI and quarterly by the Housing and Community Development Committee of the Bank's board of directors.

The issues causing the "4" rating are described in the report and an action plan and time-frame are established with the member and sponsor and included to guide the resolution of whatever issues caused the project to be added to the list. Members and sponsors complete additional monitoring and reporting for initiatives on the Watch List.

Placement on the Watch List could also result in deobligation and/or repayment of funds. Such status may also lead to the disqualification of future AHP application, suspension, or debarment.

#### Specific Requirements

Each project placed on the Watch List will be required to submit either a plan or a detailed development time line depending on their reason for placement on the Watch List. Both the plan and the timeline should contain and/or reflect review and approval by sponsor/owner and member.

- Projects other than Delayed Completion are required to submit a plan with projected dates and their plan B should they not meet their plan. Should contain review and approval by sponsor/owner and member.
- Delayed Completion initiatives will be required to submit a detailed development time line including the following dates at a minimum:
  - Acquisition
  - Zoning and Permits
  - Construction Contractor Selected
  - Financing Close
  - Construction Start
  - Construction Completion
- NIMBY (not-in-my-backyard) initiatives will be required to submit documentation of the NIMBY challenges.

The plan/timeline will be reviewed by the CIM and the Director and/or Deputy Director. Formal notification/confirmation to the member and sponsor/owner will be required. The Watch List report will be updated with the plan/timeline information, the Bank's position on the plan, and a short description of the alternatives for both the sponsor/member and the Bank.

In addition, periodic financial feasibility reviews on Delayed Completion and NIMBY initiatives will be required. "Periodic" will be defined on a case-by-case basis at the discretion of the CIM and the Director/Deputy Director.

**N. Watch List Resolution/Corrective Actions for Noncompliance**

For the purposes of this section, AHP subsidies include AHP direct or grant subsidy, the principal and AHP interest-rate subsidy on an AHP subsidized advance, and Equity Builder Program grants.

The AHP Regulation requires that members who pass AHP subsidy on to project sponsors and/or owners execute a legally enforceable retention mechanism (i.e. AHP mortgage and note) securing the AHP-assisted property, which is recorded with the appropriate municipality, and will authorize the member to recover subsidy from a project sponsor/owner or subsidy recipient if an event of noncompliance or default should occur. The Bank relies on the member participate in the corrective actions, and if needed, to exercise the full abilities of the recorded lien.

The corrective actions for noncompliance, in this order, are:

1. Cure - The member, project owner, or project sponsor cures the noncompliance within a reasonable period of time, generally not to exceed 12 months.
2. Modification - The circumstances of the noncompliance are eliminated through a modification of the scoring characteristics of the approved application pursuant to the AHP Regulation 12 CFR 1291.29 and 1291.60. Although modifications can be done at any time, they are only considered a cure for noncompliance and not for other recapture scenarios.
3. Repayment of AHP subsidies – The Bank shall recapture or recover the AHP subsidies (plus interest, if appropriate) that are not used in compliance with the commitments made in the approved AHP application, the AHP Agreement, or as otherwise required by the FHFA's regulations, and if the misuse is the result of the actions or omissions of the member, project sponsor, or owner.

(a) Responsible parties for repayment of AHP subsidies:

The member or sponsor/owner shall repay to the Bank the amount of any subsidy (plus interest, as appropriate) that, as a result of the member's, sponsor's or owner's respective actions or omissions, is not used in compliance with the terms of the approved application for the subsidy, unless the noncompliance is cured within a reasonable period of time.

(b) Repayment of the AHP subsidies are not required if:

- i. The member, project owner, or project sponsor cures the noncompliance as noted above; or

- ii. The circumstances of the noncompliance are eliminated through a modification as noted above; or
- iii. The member is unable to collect the AHP subsidy after making reasonable efforts to collect it.

If the member has a recorded mortgage or lien for the AHP subsidy or subsidized advance, this may include initiating foreclosure action against a project, sponsor, or owner and the amount of subsidy to be repaid to the Bank will be the amount recovered from the foreclosure after the payment of any prior liens. The member must demonstrate that “reasonable efforts” have been made to actively recover all misused AHP subsidy. If the member is not successful in recovering the full amount of the misused AHP subsidy from the project, sponsor, or owner, the member will only be liable for the amount of AHP subsidy that could be recovered through the foreclosure or other legal action.

(c) Partial Repayment for Noncompliance for Rental Initiatives:

- i. If the noncompliance results from occupancy by households with incomes exceeding the income-targeting commitments in the AHP application, the amount of subsidy due is calculated based on the number of units in noncompliance, the length of the noncompliance and the portion of the AHP subsidy attributable to the noncompliant units.
- ii. In select circumstances, at the sole determination of the Bank, a partial recapture may be required for noncompliance based only on some or all of the units for some or all of the retention period, or the extent of the noncompliance and time period of noncompliance. The funds will be due from the party responsible for the noncompliance.

4. Settlements are utilized only after items 1 through 3 above have been exhausted, and after the member has fully exercised its abilities under the recorded lien and has pursued recapture of the subsidy through traditional loan recapture methods, including foreclosure.

According to the AHP Regulation (12 CFR 1291.60), a Bank may settle a claim for AHP subsidies that it has against a member, project sponsor, or project owner for less than the full amount due. If a Bank enters into such a settlement, the FHFA may require the Bank to reimburse its AHP fund in the amount of any shortfall, unless:

- The Bank has sufficient documentation showing that the sum agreed to be repaid under the settlement is reasonably justified, based on the facts and circumstances of the noncompliance (including the degree of culpability of the non-complying parties and the extent of the Bank's recovery efforts); or

The provision is used in the rare circumstances where the full AHP subsidy due is not repaid, including in some cases where a member has documented all “reasonable efforts” to collect the AHP subsidy due, but is unsuccessful. Settlements are not considered where the other options of cure or modification are utilized. Settlement is also not considered when a member has not placed a lien or a deed restriction (if permitted by the Bank) on the property(ies) or has not made efforts to collect the AHP subsidy due.

In determining recommendation and approval of a settlement or reduced repayment of AHP subsidy and or AHP loan funds, the following may be utilized:

- Review and documentation of the facts and circumstances of the noncompliance.
- Determination of culpability of noncomplying party/ies (including member, sponsor, or project owner);

If needed, review of third-party cost validation to determine if the subsidy was used on compliance with the application and to evaluate culpability.

- Analysis of the repayment ability of the noncomplying party/ies, including:

Review of member, sponsor, owner, or project financial statements, taking into account reserves and cash flow; and

Other financial resources that may be accessed to repay.

- Any written guarantees for repayment or payment assistance.
- Review of collateral (generally, the project property/ies) to determine ability to repay, including:

Current valuation/appraisal of collateral; and  
Other liens against the collateral.

All settlements will be documented in the project’s chronological record file and in a detailed memo to the file, management, or the board’s Housing and Community Development Committee. The chronological record and memo will summarize the event, the settlement amount, and resolution. In addition, the same will be included in a letter to the member and sponsor/owner. If needed, a formal agreement regarding the resolution may be executed between all AHP parties. All settlements will be reported to the board’s Housing and Community Development Committee and will be presented to the full board for approval.



## **O. Suspension and Debarment**

If a member, project sponsor, or project owner shows a pattern of noncompliance, or engages in a single instance of flagrant noncompliance, with the terms of an approved application for AHP subsidy or the requirements of the AHP Regulation, the Bank may suspend or debar the party from participating in the AHP or related programs. In addition, the FHFA may order a Bank to suspend or debar a member, project sponsor, or project owner.

### Suspension

The Bank may suspend a member, project sponsor, project owner, or other party from participation in AHP for one year (12 months) or longer for a variety of reasons not limited to: Failure to comply with one or more applicable AHP requirements, including delinquent reporting to failure to cure an issue of noncompliance or any other performance or compliance issues that the Bank or FHFA believe warrant suspension.

In addition, the Bank will apply temporary suspensions (less than 12 months) in order to resolve delinquent reporting, at the sole determination of the Bank.

### Debarment

The Bank may permanently debar a member, project sponsor, project owner, or other party from participation in AHP for a variety of reasons not limited to the following: Failure to document to the Bank reasonable efforts to cure an event of noncompliance after entering into an agreement to cure said noncompliance; a demonstrated pattern of noncompliance or a single instance of flagrant noncompliance with a regulation or terms of an application for AHP subsidy; commitment of fraud, mismanagement of properties, or other negligent actions that lead to the financial distress or foreclosure of a project; abandonment of a project; any other performance or compliance issues that the Bank or FHFA believe warrant debarment.

## **P. Other Circumstances Requiring Repayment of AHP Subsidy and Obligations**

### **1. Sale, Transfer, Assignment of Title or Deed, or Refinance**

- (a) Homeownership Initiatives - In the case of a sale, transfer, assignment of title and deed, or refinancing of the unit prior to the end of the retention period, the AHP subsidy shall be repaid to the Bank from any net gain realized upon the sale or refinancing, unless one of the following exceptions applies:
  - i. The unit was assisted with a permanent mortgage loan funded by an AHP subsidized advance;
  - ii. The unit is sold to a low- or moderate-income household, as determined by the Bank using one or more proxies that are reliable indicators of the subsequent purchaser's income; or

- iii. The amount of the AHP subsidy that would be required to be repaid in accordance with the net proceeds calculation is \$2,500 or less; or
  - iv. Following a refinancing, the unit continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism (i.e. the Bank's standard mortgage and note).
- (b) Rental Initiatives - In the case of a sale or refinancing of the project prior to the end of the retention period, the full amount of the AHP subsidy received by the owner shall be repaid to the Bank, unless:
- i. The project continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions committed to in the approved AHP application for the duration of the retention period; or
  - ii. If authorized by the Bank, in its discretion, the households are relocated, due to the exercise of eminent domain, or for expansion of housing or services, to another property that is made subject to a deed restriction or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions committed to in the approved AHP application for the remainder of the retention period.
  - iii. If a sponsor sells some, but not all a project's units, the repayment of AHP subsidy is based on the percentage of units being sold. A sponsor selling 33 percent of the project's units would pay back 33 percent of the subsidy—which would be the “entire” subsidy for that part of the project.

**Q. Other Issues: Fire or Foreclosure**

**1. Fire**

For a project funded with AHP direct/grant subsidy that has been completely destroyed by fire, and documented that there is no criminal fault or negligence on the part of the owner, there is no requirement for recapture for the direct subsidy unless there is undisbursed subsidy or a noncompliance issue. Retention can be released following receipt of appropriate documentation.

If an AHP subsidized advance was utilized to provide funding, the obligation is subject to the member's mortgage, note, and other requirements. Following satisfaction of the obligation to the member, there may be no requirement for recapture for the subsidy unless there is undisbursed subsidy or a noncompliance issue. Retention can be released following receipt of appropriate documentation.

Partially damaged property would not qualify, because as it is anticipated that the owner would make the necessary repairs and place the property back in service. If the

owner is unable to place the property back in service, the options involved would start with Cure, as noted under M.(1) above.

## **2. Foreclosure.**

For both homeownership and rental initiatives, foreclosure is the end of the retention period; therefore, the project is no longer an AHP project. A project is then only liable for repayment of any subsidy for reasons of noncompliance prior to the foreclosure. If there was no noncompliance prior to foreclosure, then the project has nothing to repay. Foreclosure is not a sale or refinancing, which are the only conditions, other than noncompliance, for which the regulation requires repayment of the AHP subsidy. A short-sale of the property to avoid foreclosure would be a sale subject to repayment. A deed-in-lieu is considered a foreclosure.

Specifically, in ownership initiatives, the obligation to repay AHP subsidy to the Bank shall terminate after any foreclosure or transfer by deed-in-lieu of foreclosure. For rental projects, the AHP Regulation states that the income-eligibility and affordability restrictions applicable to the project shall terminate after any foreclosure.

### **XIII. Attachment D —**

#### **2022 Equity Builder Program – Homeownership Set-Aside Program**

##### **A. Overview**

The Equity Builder Program (EBP) is the Federal Home Loan Bank of Boston's (Bank) noncompetitive homeownership set-aside program of the Affordable Housing Program (AHP) under the Federal Housing Finance Agency's AHP Regulation (12 CFR Part 1291.40).

The AHP Regulation and this plan guide the Bank, the participating member financial institutions (Members), and the homebuyers awarded EBP subsidy funds. This section governs the activities of the EBP, including the following: eligibility, subsidy allocations, application review/approval, homebuyer/ household approval, subsidy disbursement, affordability retention, monitoring, records retention, and subsidy recapture.

The EBP is available only to Members of the Bank. Members need only to comply with the AHP Regulation, this Implementation Plan policy, and the related procedures to be eligible for the program. Homebuyer/enrollment requests will be fulfilled on a first-come, first-served basis.

##### **Allocation of Subsidy Funds to EBP**

The allocation to the EBP will be the greater of 15 percent of the total Affordable Housing Program subsidy funds or \$1,000,000, with one-third of the allocation to be awarded to first-time homebuyers. In no case, will the contribution to the EBP be greater than 35 percent of the total AHP subsidy funds available.

The amount allocated to the EBP round will be divided among up to six funding periods, with the flexibility to change the number of periods, the percentages, and dates at the Bank's sole discretion based on current year's program need and on member/homebuyer demand. Each funding allocation will occur the first business day of the month. If the first business day is a Federal holiday, the funds will be released the next business day. Details and dates for the current program will be published on the Bank's website.

EBP funds allocated within the current calendar year must be committed by yearend of the current year. On December 31, any remaining funds from the current year allocation, not previously committed, will be placed into the AHP pool. In addition, any EBP funds recaptured or deobligated from the sale of a home, will be allocated to the current year EBP pool.

##### **Member Application Periods and Application Requirements**

Members will have an opportunity to apply for access to the Equity Builder Program funding round at the beginning of each calendar -year. Approved Members will have full access to the funds allocated to the EBP funding round until they have met their maximum amount or until the pool runs out.

**Application Period:**

Member Application Opens:	Tuesday, February 1, 2022
Member Applications Due:	Monday, February 28, 2022
EBP Agreement Execution Begins:	Tuesday, March 1, 2022
EBP Agreement Execution Deadline:	Monday, March 14, 2022
Enrollments Begin:	Friday, April 1, 2022

Only institutions that are Members of the Bank at the time of application may apply. In addition, the institution must be a member to draw the EBP funds at the time of disbursement.

The Bank reserves the right in its sole discretion to determine, at the time the application is submitted, whether a Member is eligible to participate in the EBP based on, but not limited to, the borrowing and/or credit status of the Member. In addition, the Bank will consider the Member's experience and performance with the program when determining eligibility. Member(s) may be contacted to discuss related concern(s) in advance of approval and award.

**EBP Member and Homebuyer Limits**

Following approval, subsidy funds will be available to Members with eligible applications on a first-come, first-served basis with a maximum enrollment cap of **\$220,000** per Member, with no guarantee of funds. Additionally, it is the Member's responsibility to ensure any prospective income-eligible homebuyers understand the program funds are NOT guaranteed and are available only on a first-come, first-served basis

Members may make enrollment requests of up to a maximum of **\$22,000** per household to this general pool of funds to assist income-eligible households on a first-come, first-served, homebuyer-by-homebuyer basis. Funds will be held upon the online submission of the homebuyer information and officially reserved upon Bank approval of the enrollment. Income-eligible households approved under the EBP cannot receive AHP subsidy from any other Federal Home Loan Bank set-aside program.

The first one-third of the Member enrollment cap must be used for the enrollment of qualified first-time homebuyers, as defined by the Bank in the glossary of this section, however, if the Bank were to offer an owner-occupied rehabilitation program, this one-third would also include households for owner-occupied rehabilitation. After the first one-third, the remaining EBP funds can be used for first-time homebuyers or non-first-time homebuyers. Members will be required to certify that the homebuyer is a first-time homebuyer and may be required to provide additional documentation.

### EBP Uses – Eligible and Ineligible

EBP subsidy funds can be used to pay for down payment, closing costs, or rehabilitation assistance in connection with the household's purchase of an owner-occupied housing unit to be used as the household's primary residence. In addition, a maximum of \$500 in EBP funds may be used to pay for education/counseling costs.

The property types include 1- to 4-family homes, condominiums, cooperative housing units, or manufactured housing units.

The following examples are how the EBP funds **can** be utilized:

- (a) The cost has not been covered by another funding source, including the Member;
- (b) The cost is included on the Closing Disclosure (pages 2 and 3), and
- (c) The cost is included in the total amount listed on the retention mechanism;
- (d) Such costs are incurred in connection with education/counseling of homebuyers who purchase an EBP-assisted unit; a maximum of \$500 in EBP funds may be used to pay for education/counseling costs

EBP subsidy funds **cannot** be used for the following items:

- (a) Refinancing an existing home or for reimbursement of earnest deposits or cash down payments.
- (b) Funding reserves for principal, interest, taxes, insurances or condominium fees.
- (c) EBP funds can be layered with other first-time homebuyer or down payment assistance programs with the exception of FHLBank Boston's AHP. If an address is part of a project that received a grant through the AHP General Fund, it is not eligible for EBP funds.
- (d) EBP funds cannot be used to bridge the gap between purchase price and appraised value if the value is lower than the sales amount. The loan amount will need to be adjusted by the member accordingly if the homebuyer will continue to move forward with the purchase transaction.

An application will be deemed ineligible if it is incomplete, does not meet all the program's eligibility requirements, or does not provide sufficient information to make a reasonable determination of eligibility with the program's general requirements.

All Members with an approved application must execute an Equity Builder Program Agreement (EBP Agreement), which documents the rights and responsibilities of both the Member and the Bank. A managing officer or authorized signatory (as designated by the Member and as authorized pursuant to the Member's current *User Entitlement Administrator under EBP/HOW*) is required to sign the EBP Agreement.

## **B. Member's Role, Responsibilities, and Requirements**

### Member Application

The Member will affirmatively indicate in the application that it will only use EBP-eligible mortgage products. Nontraditional mortgage products, including negative amortization and interest-only first mortgages, are not eligible. Eligible products include:

- Conventional fixed-rate mortgages;
- Conventional adjustable-rate mortgages with an initial interest rate period of five years or greater. The maximum initial and total rate adjustment cap(s) can be no greater than 2/6, respectively.

Other products may be presented for consideration and approval by the Bank. The specific mortgage product will be evaluated at enrollment and/or disbursement. To mitigate any unintended support of inappropriate lending practices, the Bank will review each homebuyer's transaction to assess whether the products offered are adjustable rate mortgages (ARMs), are subprime, or have predatory loan characteristics using a methodology and definitions based on the Interagency Guidance on Nontraditional Mortgage Product Risks (September 28, 2006) and the Statement on Subprime Mortgage Lending (June 29, 2007).

In addition, the Member will provide a description of the Member concession being provided in connection with homebuyer's participation of the EBP grant. The Member only needs to provide one concession to each homebuyer and can adjust throughout the program year if the original concession listed on the Member's application was not provided at time of disbursement request. The following types of concessions are acceptable:

- (a) Reduced or waived fees
- (b) Below market interest rates (must be supported by standard rate sheets to determine the homebuyer received a discounted rate)
- (c) Expanded underwriting standards (must be supported with a memo explaining the waiving or expansion of the Member's underwriting in conjunction with their standard guidelines and/or procedures); or
- (d) Lender credit, down payment assistance or other cash contributions made by the Member at closing.

The fees charged to the homebuyer shall not exceed a reasonable market rate of interest, points, fees, and other charges for a loan of similar maturity, term, and risk. The Bank's Anti-Predatory Lending Policy for Collateral and Acquired Member Assets discourages predatory lending practice and the Member must comply with applicable federal, state and local anti-predatory lending laws. The Bank's Anti-Predatory Lending Policy for Collateral And Acquired Member Assets ("APL Policy") can be referenced on the Bank's website for more information.

The Member must ensure that all income-eligible first-time homebuyers complete homebuyer education/counseling prior to closing and but must have been received by the homebuyer within a reasonable time not to exceed 24 months prior to the enrollment submission date. The Bank's list of recognized education/counseling agencies includes those recognized by the Citizens Housing and Planning Association's Massachusetts Homeownership Collaborative (CHAPA), National Industry Standards for Homeownership Education and Counseling (NISHEC), or HUD. The published list is made available during the Member Application period and as a help topic when a Member submits an Enrollment or Disbursement request.

The use of online education/counseling through either Framework or eHome America will be permitted, through the Bank's list of recognized education/counseling agencies. This means the homebuyer should work directly with either CHAPA, NISHEC or HUD approved agencies to receive guidance and instructions to complete the online education either via Framework or eHome America. If a homebuyer completes online education/counseling directly through Framework or eHome America, the Members are required to ensure the homebuyer completes the post-closing counseling component. The Bank will not permit other online education/counseling agencies other than Frameworks and eHome America. For example, online education from Fannie Mae, Freddie Mac, or MGIC is not permitted.

#### Member Contacts and Users

In the application, Members are required to designate a primary and secondary contact person. The designated contacts will receive all email notifications and subsidy updates throughout the program round. It is expected that these contact people will oversee the submission of enrollments to the Bank. Specifically, contacts must insure that all program requirements are met in accordance with EBP/HOW disclosure guidelines, member personnel representing the program to homebuyers and entering data into the Banks' online system are appropriately trained, and documents for each transaction are submitted in a timely manner. The designated contacts are also responsible for facilitating any requests for additional documentation in a timely manner. If these contacts are not involved with the first mortgage underwriting or post-closing, it is the responsibility of the designated contacts to share all email correspondence from the Bank internally to their institution. Only two designated contacts are permitted.

All users are required to access the EBP through the on-line Community Lending log-in page. Each user should have their own individual Web User Account and password.

#### Member EBP Training Requirement

Following approval of the EBP Application, it is required that at least one person/staff member attends the enrollment and disbursement training sessions on behalf of the Member, whether a representative attends the live or pre-recorded sessions. Additional staff members such as loan originators, underwriters, and closers are welcome to attend either of the webinars as appropriate to his/her job responsibilities. The intent of this requirement is to ensure that each Member participating in the EBP receives a thorough understanding of the program, the regulatory requirements, and the calculation of income and disbursement process. In the EBP Agreement, Members will be certifying at least one staff member's participation and attendance.

#### Enrollment/Disbursement Requests

Enrollment and disbursement requests are submitted online. Please refer to the EBP Procedures found on our website ([www.fhlbboston.com](http://www.fhlbboston.com)) under Housing and Economic Growth.



### Member Monitoring and Compliance Responsibilities and Requirements

The Bank and the Members participating in the EBP will comply with the monitoring requirements detailed in the AHP Regulation. The Bank may, at its discretion, request additional documentation to confirm compliance with program requirements.

Members are required to maintain with each household's file all pertinent documentation including, but not limited to, Member's certification, income verification (at the time of enrollment), underwriting worksheets, education/counseling certification, Closing Disclosures (buyer's disclosures), and other closing documentation evidencing the purchase of a home. The Member is required to submit a copy of the recorded EBP mortgage, at time of disbursement.

If during the review of enrollments, the Bank determines or is made aware of any material misstatement, misrepresentation or omission of relevant facts, the Bank staff is obligated to elevate the concern and provide all documents to the Bank's Enterprise Risk Management department for review and reporting. The Bank has a formal Red Flag policy that is updated regularly and required to be administered when reviewing enrollments.

Members participating in the EBP will provide the Bank with prompt written notice of any material misstatement, misrepresentation or omission in connection with the award of any EBP subsidy by the Bank that the Member becomes aware of through its underwriting and monitoring practices. Members participating in the EBP will also provide the Bank with all information, documentation and assistance reasonably requested by the Bank in response to the Bank's receipt of any such notice from such Member.

### **C. Homebuyer/Household Enrollment Requirements**

The Bank requests that Members submit enrollments at least 15 business days prior to the scheduled home closing to permit the Bank sufficient time to review the income documentation. The Bank cannot guarantee approval of enrollments submitted less than 15 business days prior to the close date. All required documentation should be submitted with the enrollment request. The Bank reserves the right to deny the Enrollment request if there is insufficient time based upon the closing date and Purchase and Sales Agreement.

All reservations for EBP funds are homebuyer specific. The Bank will allow the subject property to be updated or changed when a purchase transaction is cancelled due to specific property issues. If a homebuyer does not find another property in a timely manner, the Member is required to notify the Bank to allow other income-eligible homebuyers access to the funds. A Member may replace the buyer with another income-eligible homebuyer candidate in the pipeline, but funds cannot be held to allow the Member to find a replacement homebuyer. If the Bank has determined a member is holding or has held funds for a homebuyer that is not moving forward, the Bank may, in its sole discretion, release the funds back into the EBP pool for other income-eligible homebuyers.

Homebuyer enrollment requests are generally reviewed within 15 business days of submission. (Please note that enrollments submitted during the AHP application review period

may take longer as staff resources are limited.) As part of the review, HCI staff will review the request, including the third-party income documentation to determine income eligibility.

It is expected that all homebuyer enrollment requests will be fully complete when submitted. Placeholder documentation (blank or incomplete documentation) will not be permitted when a Member submits an enrollment to reserve funds. If the Bank has determined a placeholder document has been used, the homebuyer's Enrollment will be denied, and the funds will be placed back into the general EBP pool.

If there are any questions about a homebuyer enrollment, the Bank will contact the Member within a reasonable period. If an enrollment is missing required documentation (not including placeholder documentation), the enrollment will be placed into Member Action Required (MAR) status and the Member will receive notification via email. All missing documentation must be submitted within 10 business days. An email reminder will be sent on the fifth business day to remind the Member of the outstanding items. The Bank retains sole discretion to deny an enrollment if the Member does not submit complete and sufficient income documentation within 10 business days or if questions regarding the enrollment cannot be resolved. The Bank will contact the member via phone before denying and releasing the funds back into the pool.

The Member will be notified via email when the homebuyer is approved. If the enrollment request is denied, the Member will be notified with the reason and afforded an opportunity to provide an explanation to resolve the matters pertaining to the denial of the enrollment, if possible, unless the homebuyer is over the income eligibility limit.

Once the enrollment request is approved by the Bank, the amount of EBP funds requested for that homebuyer will be reserved for a 90-day period. The amount of the reservation will be deducted from the Member's maximum enrollment cap amount and from the total pool. The Bank reserves the right to request additional current income or other documentation prior to disbursement if more than 90 days have elapsed since enrollment or if changes have been made to property location or household size.

Extensions to any of the EBP requirements may be granted on a case-by-case basis, at the Bank's sole discretion, if in the Bank's judgment, sufficient evidence is provided documenting progress toward homebuyer funding.

#### **D. Disbursement/Funding Requirements**

All EBP funds must be secured with an executed and recorded EBP retention agreement (mortgage) and note executed between the homebuyer and the Member. If a subject property is a cooperative housing unit, in addition to an EBP mortgage and note, a UCC-1 must be recorded by the Member against the unit and cooperative shares. If the Bank were to offer an owner-occupied rehabilitation program, EBP retention agreements and notes would not be required for those homeowners. If the Bank were to offer an owner-occupied rehabilitation program, EBP retention agreements and notes would not be required for those homeowners. Document templates are available on the Bank's web site at [www.fhlbboston.com](http://www.fhlbboston.com).

EBP subsidy funds will be provided to Members on a reimbursement basis only after the closing, generally within 20 business days from the Bank's receipt of all materials. (Please note that disbursement requests submitted during the AHP application review period may take longer as staff resources are limited.) No EBP funds will be reimbursed to a Member if any of the evidentiary documentation is not received, reviewed, and approved by the designated Bank. The Bank will disburse subsidies only to institutions that are Members at the time they request a draw of subsidies.

If EBP funds are being used for rehabilitation, 100 percent of the work must be completed satisfactorily and sufficient evidence of payment for the work completed must be provided before funds can be disbursed.

The Member may provide cash back to a household at closing on the mortgage loan in an amount not exceeding \$250. The Member shall make every attempt to ensure that the EBP funds are used at the time of closing to directly benefit the homebuyer through down payment and closing costs coverage. If a household is to receive more than \$250 cash back at closing, the first option would be to reduce the EBP grant amount. In the second option, the Member will apply all EBP subsidy exceeding such amount that is beyond what is needed at closing for closing costs and the approved mortgage amount as a credit to reduce the principal of the mortgage loan or as a credit toward the household's monthly payments on the mortgage loan. If the Member needs to exercise option two, the Bank must be notified in advance of the closing and/or as soon as possible.

If a disbursement is missing sufficient documentation, the enrollment will be placed into Member Action Required (MAR) status. All missing documentation must be submitted within 20 business days. An email reminder will be sent on the 10th business day to remind the member of the outstanding items. Examples that a disbursement would be placed into MAR status include the following:

- (a) Missing recorded EBP Mortgage and/or executed EBP Note with correct program year and revision date
- (b) EBP retention documents that do not include the appropriate borrower and non-borrower names in accordance with the first mortgage financing
- (c) Final Buyer Closing Disclosure (CD) that does not evidence EBP grant;
- (d) Missing mortgage/notes for additional down payment assistance or grant funds received by the homebuyer
- (e) Missing or outdated homebuyer education/counseling certificate

#### Progress Toward Use of EBP Subsidy – Requirement

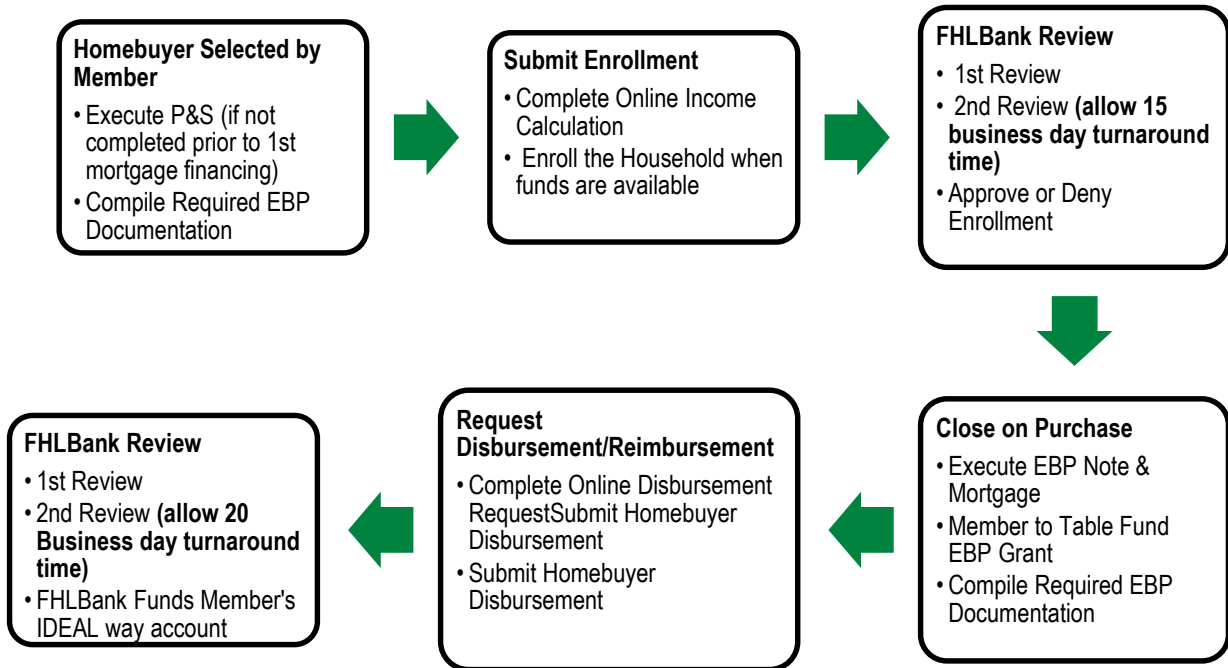
Extensions to any of the EBP requirements may be granted on a case-by-case basis, at the Bank's sole discretion, if in the Bank's judgment, sufficient evidence is provided documenting progress toward homebuyer funding.

### **E. Homebuyer/Household Requirements**

EBP subsidy funds will only be provided to households that:

- (1) Execute the Homebuyer Information, Household Members and Income Worksheet, and Authorization to Release/Certification of Information disclosure (EBP/HOW Disclosure).
- (2) Have incomes at or below 80 percent of the median income for the location of the property to be purchased, as published annually by HUD, based upon the date which the Member enrolls the household for participation in the set-aside program. Household must remain income-eligible through the date approved by the Bank.
- (3) Have sufficient income to support the mortgage/home purchase at the time the household is accepted for enrollment by the Member in the Bank's EBP
- (4) Provide a minimum of \$500 in down payment funds in the purchase of the subject property. Paid outside of closing costs are not acceptable.
- (5) Complete homebuyer education/counseling prior to closing and but must have been received by the homebuyer within a reasonable time not to exceed 24 months prior to the enrollment submission date. The Bank's list of recognized education/counseling agencies includes those recognized by the Citizens Housing and Planning Association's Massachusetts Homeownership Collaborative (CHAPA), National Industry Standards for Homeownership Education and Counseling (NISHEC), or HUD. Please refer to Member's Role, Responsibilities and Requirements.
- (6) Are participating in a Member-originated eligible mortgage product; as defined in Section C. above.
- (7) Have a specific known address for the new home, evidenced by an executed, valid purchase and sale agreement.
- (8) Will execute the Bank-provided subsidy retention agreement (mortgage and note) for the five-year affordability retention period.
- (9) Purchase a home within 90 days of enrollment. (Exceptions to the 90 days for circumstances like the construction of a new home are allowed at the discretion of the FHLBank Boston.)

### Establishing an EBP Work Flow



#### F. Homeowner Post-Closing

##### (1) Sale of the Home, Transfer, Assignment of Deed, or Refinancing

In the event of a sale, transfer, assignment of deed, or refinancing prior to the end of the five-year retention period, the Member must ensure that the Bank, and in its discretion any designee of the Bank, is notified in advance of the closing. The Bank will require a draft copy of the Seller's Closing Disclosure and will calculate, prior to the closing, the portion of the subsidy, if any, that is to be repaid to the Bank. **NOTE: All calculations will be done by the Bank.**

The homeowner or seller closing attorney may contact the Bank to request the recapture amount. The Bank will contact the Member directly to facilitate the recapture process, in addition to the discharge. It is the Member's sole responsibility to execute the EBP discharge as the originator of the mortgage. The standard turnaround time for the Bank to complete the two-tier review process is a minimum of two business days. If any amounts or dates change on the Seller's Closing Disclosure, this may impact the total recapture amount due to the Bank.

The calculation is based on net proceeds and household's investment. Household investment is defined as reasonable and customary transaction costs paid in connection with the purchase of the unit, down payment EBP grant, cost of capital improvements made, and any mortgage principal repaid since the purchase of the unit until the time of sale, transfer,

assignment of deed, or refinancing during the EBP five-year retention period. The Bank shall be repaid the lesser of:

- a) the EBP subsidy that financed the purchase, construction, or purchase of a home in conjunction with its rehabilitation, reduced on a pro rata basis per month for the period that the property is owned or Any net proceeds from the sale, transfer, assignment of deed, or refinancing minus the EBP-assisted household's investment, unless one of the following conditions apply:
- b) The recapture shall be waived if the subsequent purchaser is a low- or moderate-income household, as defined by the FHFA AHP Regulation. The subsequent purchaser, transferee, or assignee is a low- or moderate-income household, as defined in the AHP Regulation. Neither the Bank nor its designee is required to request or obtain the subsequent purchaser's income. The subsequent purchaser, transferee, or assignee does not have any obligation to provide any income documentation; however, if FHLBank or its designee has documentation demonstrating these subsequent purchaser's actual income, the FHLBank may not apply the value limit proxy or any other proxy to determine subsequent purchaser income. When the subsequent purchaser's, transferee's, or assignee's, actual income is not available, the member and FHLBank Boston shall determine that the subsequent purchaser, transferee, or assignee is a low- or moderate-income household, as defined by the AHP Regulation, by using the HUD HOME Investment Partnership Program (HOME) and the Housing Trust Fund (HTF) value limits of the subject property's location. The limits are posted annually on the HUD website and will be available on the FHFA website. The Bank will confirm the subject property address against the HOME and HTF value limits prior to the sale, determining whether the recapture process needs to be fully executed.

**The proxy does not apply to refinance transactions.**

- c) If the calculation results in a repayment amount of \$2,500 or less, or
- d) Following a refinancing, the Property continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism.

For refinancing, if the property is to continue to be subject to an EBP retention mechanism, a subordination may be requested. Subordination requests involve the Member's completion of the subordination template and submission to the Bank. Subordination requests may involve internal Bank legal review, therefore, to be submitted within five business days prior to executing. This may include consenting to a discharge and then replacement of the existing EBP note and mortgage.

If following a refinancing, the property will not be subject to an EBP retention mechanism, the Member must ensure that the Bank is notified in advance of the closing. The Bank will require a draft copy of the Seller's Closing Disclosure and will calculate, prior to closing, the portion of the subsidy that is to be repaid to the Bank.

(2) **Death of EBP-Assisted Owner**

Upon death of an EBP-assisted owner within the five-year EBP retention period, the EBP retention agreement terminates and there is no obligation to repay the EBP subsidy. In all cases, the original EBP Mortgage and Note will be reviewed to determine if co-owners and or joint owners are still obligated under the original executed retention documents.

(3) **Foreclosure, Transfer by Deed-in-Lieu of Foreclosure, or Assignment of a Federal Housing Administration First Mortgage to HUD**

Following foreclosure, transfer by deed-in-lieu of foreclosure, or assignment of an FHA first mortgage to HUD of a house purchased with EBP assistance during the five-year retention period, the EBP retention agreement terminates and there is no obligation to repay EBP.

## XIV Attachment E —

### 2022 Affordable Housing Program Guidelines for Revolving Loan Funds

#### A. **Overview**

The AHP Regulation defines a revolving loan fund as “...a capital fund established to make mortgage or other loans whereby loan principal is repaid into the fund and re-lent to other borrowers.”

The Bank allows eligible revolving loan funds requesting initial AHP subsidy funds for an owner-occupied program-based initiative. An owner-occupied, program-based initiative is one where the revolving loan fund provides funding to support existing homeowners or homebuyers. The Bank will not be accepting revolving loan fund applications for rental projects in 2021.

An owner-occupied, program-based initiative is one with or without specific addresses identified at application and will loan funds initially to developers, homeowners or homebuyers. A program-based initiative is most likely a soft-second or rehabilitation program for homeowners/homebuyers.

#### B. **Sponsor Qualifications**

A loan fund is considered an eligible sponsor. Members are eligible to apply for AHP direct subsidy for qualifying revolving loan funds that meet the definition of “revolving loan fund” and the project sponsor qualification requirements.

A revolving loan fund sponsor that intends to use the AHP subsidy in accordance with this section must:

1. Provide audited financial statements that confirm its operations are consistent with sound business practices; and
2. Demonstrate the ability to re-lend AHP subsidy repayments on a timely basis and track the use of the AHP subsidy.

#### C. **Application – AHP Direct Subsidy**

An application for AHP direct subsidy shall include the revolving loan fund’s criteria for the initial lending of the subsidy, identification of and information on a specific proposed AHP program, the revolving loan fund’s criteria for subsequent lending of subsidy principal and interest repayments, and any other information required by the Bank.

The information in the application shall be sufficient for the Bank to:



1. Determine that the criteria for the initial lending of the subsidy, the specific proposed project if applicable, and the criteria for subsequent lending of subsidy principal and interest repayments, meet the eligibility requirements of the AHP Regulation; and
2. Evaluate the criteria for the initial lending of the subsidy, and the specific proposed project or program, pursuant to the guidelines established by the Bank.

The Bank shall review an application from a revolving loan fund to evaluate the program for the initial lending of the subsidy, pursuant to the Bank's cost and feasibility guidelines found in Attachment A and the scoring guidelines found in Attachment B.

#### **D. Disbursement Requirements**

AHP funds disbursed through a revolving loan may only be used for the financing of purchase, construction, or rehabilitation of affordable housing and, as discussed below, interest earned on the lending of the subsidy should also be used for AHP-eligible purposes.

AHP subsidy may not be used for purposes, such as to pay for predevelopment, operating, or other costs that are unrelated to the purchase, construction, or rehabilitation of housing.

#### **E. Other Requirements**

A revolving loan fund's interest rates must be reasonable and comply with the financing costs requirement of the AHP Regulation (1291.24), where the rate of interest, points, fees, and any other charges for all loans that are made in conjunction with the AHP subsidy shall not exceed a reasonable market rate of interest, points, fees and other charges for loans of similar maturity, terms, and risk.

#### **F. Initial Lending of AHP Direct Subsidy**

The initial loan(s) made by the revolving loan fund to the initial program must meet AHP eligibility requirements. The revolving loan fund must also ensure that the initial loans are made to programs and households that meet the commitments made in the approved AHP application, and that they will be met for the full AHP retention period.

In the initial lending of AHP subsidy, the revolving loan fund is required to make a loan for a term equal to or greater than the AHP retention period ( five years for homeownership) with a rate greater than zero percent.

The initial lending of AHP subsidy by a revolving loan fund may be co-mingled with other financing to the project or program. Financing structures outside of the standard amortizing loan (principal and interest payments monthly) will be considered. Examples:

- RLF may lend other investor/pool funds with their standard rate and utilize the AHP as an amortizing second loan.

- RLF may blend a larger loan with a higher rate with the AHP direct subsidy loaned to produce a lower effective rate to the project.

The RLF may charge points or fees on the lending and re-lending of the AHP subsidy, as long as the fees comply with 1291.24 of the AHP Regulation (“...not exceed a reasonable market rate of interest, points, fees, and other charges for loans of similar maturity, terms, and risk”). The points/fees may be an addition to the lending pool or may be used to cover administration cost.

#### **G. Noncompliance on Initial Lending of AHP Direct Subsidy**

If a project or program funded initially is in noncompliance with the commitments in the approved AHP application, or is sold or refinanced prior to the end of the applicable AHP retention period, the required amount of AHP subsidy shall be repaid to the revolving loan fund. The revolving loan fund shall re-lend such repaid subsidy, excluding the amounts of AHP subsidy principal already repaid to the revolving loan fund, to another project or owner-occupied unit meeting the initial lending requirements for the remainder of the retention period.

Initial lending requirements are “pursuant to the scoring methodology established by the Bank.” The AHP Regulation refers to “initial lending of subsidy” in 1291.31(c)(1) that “...the initial lending of the AHP subsidy shall meet the eligibility requirements of this paragraph (a)...” Paragraph (a) is the minimum eligibility requirements for the competitive application program. Therefore, the subsequent project would have to meet the same scoring characteristics and other requirements as the originally approved AHP application for the remainder of the AHP retention period. If the RLF cannot locate a project that meets the commitments in the original application, the AHP subsidy will be repaid by the RLF to the Bank.

#### **H. Subsequent or Re-Lending of AHP Direct Subsidy Principal and Interest Repayments**

The subsequent loans made by the revolving loan fund to projects or households with amounts received from repayments of the initial loans, would have to meet AHP eligibility requirements.

All repayments of AHP subsidy principal and interest payments must be tracked and reported as repaid and as they are re-loaned. The Bank will have an online tracking system available for reporting to the Bank.

For subsequent lending of the AHP subsidy and principal and interest repayments, the AHP eligibility requirements are that subsequent lending must be for the purchase, construction, or rehabilitation of owner occupied units for households with incomes at or below 80 percent of the median income for the area.

AHP subsidy principal and interest repayments received by the revolving loan fund may also be provided as nonrepayable grants to eligible projects or programs.

The revolving loan fund must return to the Bank any AHP subsidy that will not be used for AHP-eligible purposes.

Each RLF application is required to provide a plan for the re-lending (or granting) of the AHP direct subsidy and interest payments during the AHP retention period (five (5) years for homeownership). The plan must include:

- The anticipated timeframe for re-lending of all payments of principal and interest from the initial lending of the AHP subsidy;
- Whether the payments will be held and accumulated until sufficient to re-lend or will be incorporated into another pool with like requirements for use/eligibility; and
- If it is the intention of the RLF to grant the AHP subsidy funds after the initial lending, the sponsor must outline the parameters for granting in the plan.

After the end of the retention period, the RLF may continue to re-lend the funds but keep the interest for operating expenses. **Using the interest for operating expenses is not allowed during the retention period (per the Preamble).**

The Bank will not require the revolving loan fund's subsequent lending of subsidy principal and interest payments to be subject to the retention period, monitoring, or additional recapture requirements.

#### **I. AHP Agreement**

To ensure each party understands its responsibilities and those of the other parties taking part in the AHP, the Bank prepares an AHP Agreement to be signed by the member institution, project or program sponsor/revolving loan fund, project owner of the initial project (if applicable), and the Bank. A draft of the AHP Agreement is included with the award notification. An executed AHP Agreement is expected within 12 months and is required prior to the first disbursement of AHP subsidy.

The executed AHP Agreement includes the terms and conditions that govern the approval and funding of the application, including all representations made in the application, and that bind the member and project or program sponsor/revolving loan fund, and project owner. This includes any monitoring/reporting requirements and fulfillment of the AHP Qualifying Characteristics. The Qualifying Characteristics summarize the scoring elements of the application and project, upon which, in part, it was approved for subsidy. The AHP Qualifying Characteristics are an integral part of the AHP Agreement and is included as an attachment to the AHP Agreement. For more information on the AHP Agreement, please see Attachment C, Section C.

#### **J. AHP Affordability Retention Documents**

The AHP Regulations require that a mortgage, or other legally enforceable mechanism, such as a deed restriction, be used to secure the obligations contained in the AHP Agreement. This mechanism will secure the entire AHP Agreement including, but is not limited to, its

affordability provisions. The Bank provides standard mortgage and note documents for a variety of project types. For more information on the required retention documents, please see Attachment C, Section E.

**K. Retention Documents for Subsequent Lending and Re-lending of AHP Subsidy**

The revolving loan fund's subsequent lending of AHP subsidy principal and interest payments are not subject to retention period, monitoring, and recapture requirements as defined by the Bank in its AHP Implementation Plan.

**L. Monitoring**

Like all other approved AHP initiatives, revolving loan fund's initial lending of the AHP direct subsidy is subject to the Bank's compliance monitoring, as applicable to owner-occupied or rental housing.

The initial lending of AHP subsidy by a RLF will be monitored in the same manner that the Bank monitors projects that are not designated as RLFs. The monitoring process is described in the current AHP Implementation Plan, Attachment C. This includes semiannual project progress reports, the closeout monitoring review, annual compliance certifications and periodic monitoring reports, and semi-annual reporting on the repayments of principal and interest.

Semiannual Project Progress Reports will be submitted in accordance with the AHP Implementation Plan, Attachment C, Section H. In cases where the initial lending of AHP subsidy is made to multiple projects, one Semiannual Progress Report will be submitted on behalf of all projects.

A Closeout Monitoring Review will be submitted in accordance with the AHP Implementation Plan, Attachment C, Section J. In cases where the initial lending of AHP subsidy is made to multiple projects, a Closeout Monitoring Review will be submitted for each project.

**Long-term Monitoring:**

**A. Owner-Occupied Projects:**

1. Long-term monitoring is not required of home ownership projects. However, sale, transfer, assignment of title or deed, or refinance during the term of the retention period shall be reported to the Bank, and in its discretion any designee of the Bank. The Bank will determine if a pro rata share or net proceeds of the AHP subsidy must be repaid.

B. Rental Projects:

1. Annual Compliance Certification: Beginning in the second year after project completion, and through the 15-year retention period, completion of an annual compliance certification regarding habitability and rent and income targeting from owner during term of retention period is required. Supporting documentation, available for Bank review upon request, must be maintained by the owner.
2. Periodic Monitoring Reports: The Bank will review the owner certifications on household incomes, rents, and financial viability. Biennial submission and Bank review of household income and housing payment documentation, as well as information regarding financial viability of the project including taxes, loan payments, and compliance with other funding sources. Based on the current supplied rent roll, supporting documentation, including third-party move-in/qualification income documentation and/or lease agreements will be submitted and reviewed. In cases where the initial lending of AHP subsidy is made to multiple projects, a risk based sampling plan will be used to determine which project is subject to this biennial review. Currently, only the largest project based on the number of AHP units will be sampled. If multiple projects have the same number of AHP units, the greatest amount of AHP subsidy will be used to determine the sample.

Additional semi-annual reporting will be required for the tracking of repayments of principal and interest from the initial loan and subsequent re-lending (or granting) of AHP subsidy and use/eligibility during the AHP retention period. The reporting fields include:

- Total Principal and Interest Repaid During the Period (with a break out for principal and interest)
- Re-lent Funds During the Period
- Funds Granted During the Period
- A certification that funds re-lent or granted during the reporting period meet AHP eligibility requirements.

As noted in a prior section, the Bank will not require the RLF's subsequent lending of subsidy principal and interest payments to be subject to the retention period, monitoring, or additional recapture requirements.