



**Federal Home Loan Bank
of Pittsburgh**

John R. Price
*President and
Chief Executive Officer*

March 29, 2006

Federal Housing Finance Board
1625 Eye Street, N.W.
Washington, DC 20006
ATTENTION: Public Comments

**Subject: Federal Housing Finance Board. Proposed Rule: Affordable Housing Program
Amendments. RIN Number 3069-AB26. Docket Number 2005-23**

To the Federal Housing Finance Board:

The Federal Home Loan Bank of Pittsburgh ("Bank") appreciates the opportunity to provide comments to the Federal Housing Finance Board ("Finance Board") on the proposed rule referenced above.

The Bank believes strongly in the importance of the Affordable Housing Program ("AHP"). In 2006, the AHP enters its 17th year of helping to build safe, decent and affordable housing in our communities. Since 1990, the Bank has awarded more than \$111 million in subsidies that have resulted in more than 20,000 affordable housing units in Delaware, Pennsylvania and West Virginia. In addition to the AHP, the Bank has created the Community Lending Program, a source of funds offered to member financial institutions for community and economic development projects that create housing, improve business districts and strengthen neighborhoods. We support more than just affordable housing. To support local business development and growth, the Bank also offers Banking on Business, a program that lends money to small businesses, especially start-ups, that lack sufficient equity or cash flow. The Bank recognizes that no community can thrive without local jobs. Through these programs, the Bank shows its commitment to affordable housing and our communities.

The Bank commends the Finance Board for its efforts to grant the Federal Home Loan Banks ("FHLBanks") additional flexibility in administering the AHP. As a result of 17 years experience in addressing the various housing needs of our communities, we believe the Bank is in a unique and advantageous position to accept additional responsibilities which will further the goals of the program. We also support the Finance Board's efforts to clarify regulatory terms to be consistent with current usage and for incorporating current AHP practices in the regulation. The Bank expects the proposed changes to help the FHLBanks in their efforts to serve the affordable housing needs in their communities.

Because of our overall support for the technical changes included in the proposed rule, we have chosen to focus our comments on substantive rule changes where we believe the needs of the

AHP program would be better served by additional guidance or flexibility. The Bank submits the following comments on the proposed rule:

1. Definitions: Proposed §951.1.

The Bank notes that under the Federal Home Loan Bank Act ("FHLBank Act"), the AHP regulations should coordinate the use of AHP funds with other federal affordable housing funds or federally-subsidized programs to the maximum extent possible. See 12 U.S.C.A. §1430(j)(9)(G). One place where the AHP requirements are not currently coordinated with other federal programs is in the definition of "net gain" for purposes of determining the amount of funds available to make repayment of the AHP subsidy. Under the AHP regulations, "net gain" is defined as proceeds after the deduction of expenses of sale. In contrast, certain federal housing programs and federally-subsidized housing programs define "net gain" as the amount remaining after the deduction of sales expenses, the owner's down payment and other equity. The Bank believes that it would be helpful in coordinating the use of AHP funds with other federal programs if the definition of "net gain" corresponded to the definition in these federal programs.

2. Allocation of Contributions: Proposed §951.2(b).

In regulation section 951.3(a), the Finance Board created a set-aside program directed to address homeownership needs. Proposed section 951.2(b) addresses allocation of funds to the FHLBanks' set-aside programs. The Bank asks the Finance Board to build on the Federal Home Loan Bank System's success with the homeownership set-aside programs by adding new set-aside categories that the FHLBanks could use to address needs in their district. We ask the Finance Board to expand the flexibility of the set-aside programs as follows:

- Provide the FHLBanks with the flexibility to create a revolving fund set-aside which would be used to lend funds for a variable length of time, from two to 15 years. The funds would be required to be repaid and then reused. While the Finance Board has proposed that revolving loan funds and loan pools can be eligible for funding in the competitive AHP program, the proposed regulation does not extend the revolving loan pool concept to the set-aside program. The Bank suggests moving both the revolving loan fund and the loan pools from the competitive section of the regulation to the set-aside section. Because of the unique issues raised by revolving loan funds and loan pools, the Bank believes that these can be better addressed in a set aside program than in the competitive program. Additionally, the Bank would like to have the discretion to either administer a revolving loan fund ourselves or use a third-party intermediary;
- Provide the FHLBanks the flexibility to create set-asides for special needs housing; and
- Provide for other set-asides as requested by the FHLBanks and approved by the Finance Board.

3. Removal of AHP Contribution Acceleration Authority: Proposed §951.3(a)(2).

The Finance Board proposes to eliminate the authority of the FHLBanks to accelerate or “borrow” AHP funds from the subsequent year to fund the current year’s AHP program. While the Bank understands the Finance Board’s reasons for the change and appreciates the Finance Board’s primary duty which is to regulate the safety and soundness of the FHLBanks, it should be noted that we have relied upon this provision in the past. Using this authority, in relatively low earning years the Bank was able to maintain a steady level of AHP funding for the good of the affordable housing community. Revoking this authority from the FHLBanks will remove a useful tool and could negatively affect the members and developers who rely on the AHP to finance affordable housing projects.

4. AHP Competitive Application Program--Use of the AHP Subsidy by Revolving Loan Funds and Loan Pools: Proposed §§951.5(c)(13) and 951.5(c)(14).

The Finance Board has asked for comment on three issues stemming from this proposed change.

a. *The Finance Board requests comment on how the revolving loan fund authority could be used within the requirements of AHP.*

The Bank strongly supports the Finance Board’s proposal to expand the authority of the FHLBanks to distribute AHP funds. While the Bank has no immediate plans to use revolving loan funds or pools, we ask that the FHLBanks be given the discretion to determine the specific criteria applicable regarding the use of any such fund or pool. As noted earlier, the Bank believes that this provision is better suited as a set-aside program.

b. *The Finance Board requests comment on whether it is preferable to establish a time limit (on the use of AHP funds) by regulation and if so, the duration of that time limit, or to allow a Bank to establish a time limit as part of its AHP Implementation Plan, as proposed. The proposed rule is silent on the length of time that a project sponsor would have, as specified in the forward commitment, for the sponsor to expend the full amount of the AHP subsidy.*

The Bank believes that the needs of our district are best met when we are given additional flexibility to tailor the program. We recommend the Finance Board allow each of the FHLBanks to establish a time limit as part of its AHP Implementation Plan. In granting this discretion to the FHLBanks, the Finance Board should recognize that the FHLBanks may establish different time limits. Factors to be considered by each FHLBank could include the type of project, complexity of the project, and additional legal and regulatory factors affecting the projects.

c. *The Finance Board has requested comment on whether rental housing loans should be eligible under the AHP loan pool authority, and if so, what kinds of loans and activities, consistent with AHP requirements, should be eligible.*

The Bank agrees with the Finance Board’s suggestion in the proposed rule to include rental housing loans as eligible under the AHP loan pool authority. Additionally, the Bank believes that the

FHLBanks should be granted authority under the regulation to individually decide the categories of loans eligible for inclusion under the AHP loan pool authority. Again, this provision would be better suited under the set-aside section of the regulation.

5. Prohibited Use of AHP Subsidy--Prepayment Fees: Proposed §951.5(c)(16)(i).

The Finance Board has stated its policy that AHP funds should be used for purchase, construction or rehabilitation of housing, and that the usage of the AHP subsidy to pay prepayment fees on subsidized AHP advances conflicts with this policy. While the Bank understands the Finance Board's stated concerns, there may be circumstances which warrant the use of any remaining unused subsidy to pay the prepayment fee. One circumstance where this additional flexibility would be warranted is when a project is in financial distress. When a project is in financial distress and cannot repay the AHP debt service, sale of the project or injection of additional equity or grant funds and subsequent prepayment of the outstanding subsidized advance option, may be its only recourse. The prepayment of AHP would allow the project to be feasible and provided that the project agrees to continue to meet AHP requirements, AHP funds should be permitted to be used for the advance prepayment fee.

We believe a nexus exists between salvaging a project by using AHP funds to pay the prepayment fee and the Finance Board's policy to use AHP funds for the purchase, construction or rehabilitation of housing. The Bank believes that the FHLBanks should be given discretion to use the unused subsidy to pay the prepayment fee if the Bank believes it best serves the intent of the AHP.

6. Changes to the Scoring System: Proposed §951.5(d).

The one change proposed by the Finance Board in this subsection is technical and the Bank does not object. The Bank suggests the Finance Board consider additional changes to the scoring system to allow the FHLBanks flexibility consistent with the requirements of the FHLBank Act.

Congress has determined the priority for the funding of qualified projects by statute:

Each Bank member shall give priority to qualified projects such as the following:

- (A) purchases of homes by families whose income is 80 percent or less of the median income for the area,
- (B) purchase or rehabilitation of housing owned or held by the United States Government or any agency or instrumentality of the United States; and
- (C) purchase or rehabilitation of housing sponsored by any nonprofit organization, any State or political subdivision of any State, any local housing authority or State housing finance agency. See 12 U.S.C. § 1430(j)(3).

While the statute establishes broad, general scoring categories, under current Finance Board regulation, FHLBanks are required to allocate 100 points among nine specific defined scoring

criteria identified in 12 CFR §951.6(b)(4)(iv). The current regulation is much more prescriptive than what is required by statute. The Bank suggests that the AHP scoring requirement be limited to those criteria contained in the statute, allowing the FHLBanks to determine the most appropriate additional scoring criteria to best serve their respective districts.

As an alternative to the above, the Bank suggests combining the First District and Second District priority categories under the current regulation into one category, and the deletion of the list of options currently contained in the First District priority. In this new combined scoring category, the FHLBanks should be permitted to select one or more scoring criteria of their choosing.

Additionally, the Bank asks the Finance Board to permit the FHLBanks to create a regional scoring system. Housing need is best analyzed on a regional basis. We have identified the greatest needs within the states in our district; however, we lack the tools to tailor an appropriate solution. We propose that the FHLBanks be granted the authority to divide states into separate regions for scoring purposes. With this additional flexibility provided by the Finance Board, the FHLBanks could restructure the point allocation per region in order to fund the most essential projects serving the greatest needs in specific areas. In this way, the needs of the communities would be better served.

Lastly, the Bank asks for the authority to establish thresholds to be met by a project before it can even apply for AHP funds. The Bank would like to have the option of creating its own thresholds that all projects must meet. The flexibility sought here would be directed toward project features or characteristics that would enhance the overall quality of the projects applying for AHP funds. Possible thresholds may include:

- Minimum criteria for energy efficiency;
- Design standards for neighborhood compatibility; or
- Green building principles.

Each FHLBank should have the discretion to set its own thresholds.

7. Compliance Upon Disbursement: Proposed §951.5(g)(3).

The Bank commends the Finance Board for granting additional discretion to the FHLBanks in determining whether an AHP approved project continues to meet eligibility requirements. The Bank requests that the Finance Board clarify the new requirements under the proposed rule. Specifically, the Bank seeks guidance on the nature of the documentation the Finance Board requires and examples of what types of documents the Finance Board believes would demonstrate compliance with this provision.

8. Member Financial Incentives: Proposed §951.6(c)(6).

The Finance Board asks three questions that relate to member financial incentives:

- a. *The Finance Board has requested comment on whether it should require all originators of AHP-assisted mortgage loans to provide financial or other incentives in connection with the mortgage financing, irrespective of whether the originator is a member or nonmember.*

The Bank believes that if members are required to provide incentives then the Finance Board should require all originators to provide some type of incentive, whether financial or another type of incentive.

- b. *The Finance Board has also asked whether the current financial incentive requirement should remain as a mandatory requirement or be made a matter of discretion for the Bank as a preferential selection criterion for its homeownership set-aside program(s).*

The Bank believes that its smaller, more rural members may be at a disadvantage when they are required to establish financial incentives as a prerequisite for receiving AHP funding. Therefore, the Bank supports making this criterion a discretionary one.

- c. *The Finance Board has asked whether additional incentives should be required, such as a matching funds requirement, member-provided financing, or preference to a member working in partnership with a nonprofit sponsor assisting first-time homebuyers to qualify for a mortgage.*

It is the position of the Bank that such additional incentives should not be required. This will encourage more members to participate in the program.

9. Cash Back: Proposed §951.6(c)(10).

It is the experience of the Bank that during a closing, occasionally there can be excess funds which normally would result in a small refund to the homeowner. The mortgage loan closing process includes many variables and often times there is a modest amount of excess cash that is not needed to close the deal. A strict interpretation of the regulation is that the buyer cannot receive any cash back at closing, causing adjustments to be necessary to other financial components of the transaction. These adjustments sometimes require changes to legal documents and place an unnecessary burden on our members to precisely balance the money at closing. This issue can be solved by creating a *de minimis* exception to the rule. The Bank proposes the Finance Board grant the FHLBanks authority to allow a *de minimis* exception to this rule for adjustments totaling less than \$100.

Again, the Bank wishes to express its appreciation to the Finance Board for its efforts in revising the AHP regulation and granting the FHLBanks the opportunity to provide comments on the proposal.

Sincerely,

