



## **2008 AFFORDABLE HOUSING PROGRAM IMPLEMENTATION PLAN**

*Adopted December 20, 2007 and Amended April 1, 2008*

### **Executive Summary**

The Federal Home Loan Bank of New York ("FHLB-NY") herein presents its 2008 Affordable Housing Program ("AHP") Implementation Plan ("Plan"). The Federal Housing Finance Board ("Finance Board") amended its AHP regulation ("AHP Regulation") in order to remove prescriptive requirements, clarify certain operational requirements, provide additional discretionary authority in certain areas, remove certain authorities, and otherwise streamline and organize the AHP Regulation. On October 6, 2006, the Finance Board published final rule No. 2006-17 in the Federal Register, thereby amending 12 CFR Part 951 that governs the FHLB-NY's management of the AHP. The final rule became effective January 1, 2007.

§ 951.3(a) of the AHP Regulation requires each Federal Home Loan Bank to develop an implementation plan that will govern certain portions of the administration of the program. The Plan details how the FHLB-NY will administer the program throughout 2008. The Plan also reflects the FHLB-NY's desire to implement an AHP that is prudent, responsible, and simple to use.

## I. Introduction

The FHLB-NY created its AHP in accordance with the requirements of § 721 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") in order to assist its member stockholder institutions ("Members") in financing affordable housing for very low- and low- or moderate-income households. § 951.3(a) of the AHP Regulation requires the FHLB-NY's Board of Directors to adopt a written implementation plan for the AHP that addresses the following:

- The applicable median income standard or standards, adopted by the FHLB-NY consistent with the definition of median income for the area in § 951.1 of the AHP Regulation;
- The requirements for any homeownership set-aside programs adopted by the FHLB-NY pursuant to § 951.6 of the AHP Regulation;
- The FHLB-NY's project feasibility guidelines, adopted consistent with § 951.5(c) of the AHP Regulation;
- The FHLB-NY's schedule for competitive AHP funding periods pursuant to § 951.5(b) of the AHP Regulation;
- Any additional District minimum eligibility requirements, adopted by the FHLB-NY pursuant to § 951.5(d)(5)(viii) of the AHP Regulation;
- The FHLB-NY's scoring guidelines, adopted by the FHLB-NY consistent with § 951.5(d)(5) of the AHP Regulation;
- The FHLB-NY's time limits on use of AHP subsidies and procedures for verifying compliance upon disbursement of AHP subsidies pursuant to § 951.7(a)(1)(A) of the AHP Regulation;
- The FHLB-NY's practices for carrying out its monitoring obligations pursuant to § 951.7 of the AHP Regulation;
- The FHLB-NY's policies for remedying and resolving projects that fail to comply with the requirements of the AHP Regulation; and
- Any requirements, including time limits, for re-use of repaid AHP subsidy, adopted by the FHLB-NY pursuant to § 951.8(f) of the AHP Regulation.

The FHLB-NY reserves the right to amend the Plan as necessary throughout the year. Amendments will be reviewed by the FHLB-NY's Affordable Housing Advisory Council and approved by the FHLB-NY's Board of Directors in accordance with § 951.3(a) of the AHP Regulation. Within 30 days of approval by its Board of Directors, the FHLB-NY shall publish any amended Plan on its website.

## II. Median Income Standards

In accordance with § 951.1 of the AHP Regulation, the FHLB-NY has designated certain specific area median income ("AMI") standards that can be used to qualify AHP-assisted households, depending on the nature of the project.

All sponsors of owner-occupied projects must select one of the following AMI standards:

- (i) The median income for the area, as published annually by U.S. Department of Housing and Urban Development ("HUD");
- (ii) The applicable median family income, as determined under 26 U.S.C. 143(f) (Mortgage Revenue Bonds) and published by a State agency or instrumentality;

(iii) The median income for the area, as published by the United States Department of Agriculture.

All sponsors or developers of rental projects must select one of the following AMI standards:

- (i) The median income for the area, as published annually by HUD;
- (ii) The median income for the area obtained from the Federal Financial Institutions Examination Council (“FFIEC”).

Please note that the occupancy targets identified at time of application to the AHP must coincide with targeting commitments made to other funding sources. Therefore, any project whose proposed funding structure is comprised of federal low-income housing tax credits, HUD funds, and/or other federal programs may be precluded from selecting the FFIEC AMI standard.

At time of initial application, the project sponsor must choose one of the available AMI standards from the preceding lists. The standard chosen will be applied to the project for the life of the AHP monitoring period. The FHLB-NY may, on a case-by-case basis, allow a project sponsor the option to substitute one approved income standard for another, provided that only one income standard pertains to all households within a given project.

### III. Requirements for Homeownership Set-aside Programs

§ 951.6(c) requires the FHLB-NY to include standards for its homeownership set-aside program in the Plan. The FHLB-NY originally established its First Home Club<sup>sm</sup> program in 1995 as a special set-aside under the AHP in order to assist very low-, low- or moderate-income first-time homebuyers in the purchase of a home. This assistance is provided in the form of matching funds based on the homebuyer’s systematic savings within a dedicated savings account. The FHLB-NY’s matching funds may be used toward the down payment and/or closing costs for the purchase of a home.

The following guidelines will apply to the First Home Club program effective January 2, 2008:

1. In accordance with § 951.2(b)(2) of the AHP Regulation, the FHLB-NY will reserve 15% of its annual required AHP contribution for 2008 in order to finance the First Home Club as well as a new homeownership initiative specified below in Paragraph 12 of this Section. In accordance with § 951.2(b)(3), the FHLB-NY may also set-aside up to an *additional* \$2 million or 20%, whichever is greater, of its annual required AHP contribution from the next year’s AHP subsidy contribution if demand for funds exceeds the current year’s initial set-aside.
2. The FHLB-NY will offer up to three First Home Club open enrollment offerings in 2008. The FHLB-NY will formally notify all participating Members of each enrollment period deadline.
3. Depending on the availability of First Home Club funds, the FHLB-NY reserves the right to limit household enrollment in 2008. The FHLB-NY may also limit the total number of households enrolled per Member or the number of households enrolled per Member in any given enrollment period.
4. The FHLB-NY is responsible for managing the reservation of First Home Club set-aside funds as efficiently as possible. As such, throughout the year, pursuant to § 951.6(e)(3), the FHLB-NY, in its sole discretion, reserves the right to use any First Home Club funds that are periodically deemed to be surplus to replenish its competitive AHP liability account for subsequent re-use by eligible projects in the FHLB-NY’s upcoming competitive funding rounds over the next twelve months.
5. Members will provide set-aside funds only to households that meet the following criteria:
  - a) Satisfy the following definition of a first-time homebuyer:
    - (i) an individual and his or her spouse who have not owned a home during the 3-year period prior to purchase of a home with assistance under subchapter II of this chapter, except that—

- (ii) 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;
  - (iii) 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
  - (iv) 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 3-year period, a dwelling unit whose structure is--
    - (A) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or
    - (B) 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.
- b) have, at the time of initial enrollment (i.e., the date that a dedicated savings account is established, as specified below in subparagraph c) a household income of 80% or less of the area median for their current place of residence, adjusted for family size;
  - c) open a dedicated account with an approved Member and agree to systematically save a portion of their income in the dedicated account over a specified period of time, for a minimum of 10 months, to achieve a specific amount of savings ("Equity Goal");
  - d) meet the requirements of the Member's first-time homebuyer policy;
  - e) complete the homebuyer counseling program offered by the Member; and
  - f) agree to obtain mortgage financing from the Member, or a wholly owned subsidiary, for the purchase of a primary residence.
6. The FHLB-NY will utilize a ratio of up to 4:1 in matching a household's savings. For every \$1 saved and deposited into the dedicated account with the Member under a systematic schedule of savings, the FHLB-NY will match up to \$4 in set-aside funds, not to exceed \$7,500 in matching funds per household. (Qualified households who were enrolled in the First Home Club prior to 2008 will have an opportunity to retroactively qualify for a 4:1 savings match up to \$7,500, subject to their ability to satisfy all revised programmatic guidelines and the formal consent of the FHLB-NY and the participating Member.)
  7. First Home Club funds may be used toward the down payment and/or closing costs for the purchase of a home by a qualified household.
  8. A Member FHLB-NY, or a wholly owned subsidiary, must provide mortgage financing to the qualified household. First Home Club funds may only be disbursed to the Member bank and the appropriate retention agreement must be in the Member's name.
  9. A housing unit purchased using First Home Club funds will be subject to a standard AHP retention agreement that assures pro-rata repayment of the funds for 5 years, consistent with the requirements of § 951.9 (a)(7) of the AHP Regulation.
  10. Pursuant to § 951.6(c)(6), a Member providing mortgage financing to a participating household must provide financial or other incentives and concessions in connection with such mortgage financing, such as special rates on systematic savings accounts, special CRA-related products and loan underwriting standards, discounted loan origination fees and loan processing fees, and/or below-market rates of interest on end loans. Furthermore, the rate of interest, points, fees, and any other charges by the Member must

not exceed a reasonable market rate of interest, points, fees, and other charges for a loan of similar maturity, terms, and risk;

11. In accordance with § 951.6(c)(9) of the AHP Regulation, the Member may provide cash back to a household at closing on the mortgage loan in an amount not exceeding \$250, in order to partially reimburse the household for any pre-closing expenses directly related to the acquisition of their dwelling, such as mortgage application fees, credit report fees, appraisal fees, or property inspection fees. Conversely, the Member must use any First Home Club subsidy that exceeds \$250 and is beyond what is needed at time of closing to cover closing costs and the approved mortgage amount as a credit in order to reduce the outstanding principal of the first mortgage or as a credit toward the household's monthly payments on the mortgage loan. The FHLB-NY shall evaluate the transmittal summary or HUD-1 Settlement Statement in order to effectively monitor this situation.
12. Effective January 2, 2008, the FHLB-NY will offer AHP homeownership set-aside subsidy in order to reimburse approved not-for-profit housing advocacy agencies for the cost of providing formal homebuyer training, including credit counseling, to qualified households who are enrolled in the First Home Club, only in cases where:
  - a) Such costs were incurred in connection with a qualified household who has attended and successfully completed a formal counseling program that the FHLB-NY has approved and ultimately purchases an AHP-assisted unit;
  - b) The cost of such counseling has not been covered by another funding source, including the Member; and
  - c) The comprehensive amount of the AHP subsidy funded to each household, including any homebuyer counseling costs (i.e., \$7,500 + \$500 = \$8,000), must be reflected in the First Home Club retention agreements and enumerated on the HUD-1 settlement statement.

In accordance with the Bank's current First Home Club practices, the Bank will provide this subsidy to the participating Member in order to directly reimburse the not-for-profit agency up to \$500 per household at time of closing, subject to receipt of the following:

- a) A copy of a syllabus that verifies the timeframe and the curriculum that the course and/or counseling sessions covered;
- b) Appropriate supporting documentation that confirms the cost of counseling the household; and
- c) A copy of a certificate or other appropriate evidence that the household has satisfactorily completed an approved homebuyer training and/or credit counseling.

#### **IV. Schedule for Competitive AHP Funding Periods**

§ 951.5 (b)(1) requires the FHLB-NY to include a schedule for AHP funding periods in the Plan. The FHLB-NY will conduct two application periods in 2008. For the first application period, applications will be due to the FHLB-NY by the close of business on April 1, 2008.

For the second application period, applications will be due to the FHLB-NY by the close of business on October 1, 2008. For each application period, qualifying applications will be presented to the FHLB-NY's Board of Directors for approval at their next regularly scheduled meeting following the final analysis by FHLB-NY staff.

#### **V. Minimum Eligibility Requirements for the Competitive AHP**

In accordance with § 951.5(c) of the AHP regulation, the FHLB-NY requires all projects that apply for and receive AHP assistance to meet the following eligibility requirements:

## 1. Owner-Occupied Housing

- a) As required by § 951.5(c)(1)(i) of the AHP regulation, AHP subsidy must be used exclusively to assist in financing the purchase, construction, or rehabilitation of a 1-to-4-family owner-occupied dwelling, condominium, or cooperative unit for a qualified household whose income does not exceed 80% of the area median, adjusted for family size, based on the median income standard that the project sponsor selected from the list specified in Section II of the Plan.
- b) Furthermore, at the time that a household is qualified for participation in an AHP-assisted owner-occupied housing project by the sponsor, the household must have an income that meets the income targeting commitments that were specified and approved in the competitive application to the AHP.
- c) Subject to the consent of the FHLB-NY, a maximum of \$500 in AHP subsidy per household may be used to finance homebuyer education and counseling costs, only in cases where:
  - i. Such costs were incurred in connection with a qualified household who has attended and successfully completed a formal counseling program that the FHLB-NY has approved and ultimately purchases an AHP-assisted unit;
  - ii. The cost of such counseling has not been covered by another funding source, including the Member; and
  - iii. The comprehensive amount of the AHP subsidy funded to each household, including any homebuyer counseling costs, must be reflected in the AHP retention agreements and enumerated on the HUD-1 settlement statement.

## 2. Rental Housing

- a) As required by § 951.5(c)(1)(ii) of the AHP regulation, AHP subsidy must be used exclusively to assist in financing the purchase, construction, or rehabilitation of a single-family or multi-family rental housing project where at least 20% of the units (or beds, if applicable) in the project are reserved for and occupied by qualified households whose income does not exceed 50% of the area median, adjusted for family size, based on the median income standard that the project sponsor selected from the list specified in Section II of the Plan.
- b) Furthermore, upon initial occupancy of the AHP-assisted rental unit, a household must have an income that meets the income targeting commitments that were specified and approved in the competitive application to the AHP.
- c) In the case of an AHP-assisted rental project that is already occupied, a household must have an income that meets the income targeting commitments that were specified and approved in the competitive application to the AHP at the time that the competitive AHP application is submitted to the FHLB-NY for approval.

## 3. Project Feasibility

- a) As required by § 951.5(c)(4)(i) of the AHP regulation, it must be likely for a project to be completed and occupied. The FHLB-NY has established certain reasonable and customary cost guidelines (AHP-101). The FHLB-NY will analyze and evaluate all projects in conformity with these guidelines at the time of application for AHP funding, prior to disbursing reservations of AHP subsidy, and in connection with a proposal to modify a project. The FHLB-NY reserves the right to consider exceptions to these guidelines, on a case-by-case basis, if reasonable explanations and adequate documents are presented in order to justify the exception. Only Community Investment Operations officers of the FHLB-NY are authorized to approve such exceptions.
- b) During the initial AHP application review process, the FHLB-NY will assess a project's demonstrated need for AHP subsidy, likelihood to be developed in a timely manner, and capacity to be operated in a financially sound manner. With the exception of those homeownership projects that involve the use of

AHP subsidy to provide either rehabilitation assistance to existing owner-occupants or downpayment/closing cost assistance to qualified households who are acquiring 1-to-4-family dwellings on the open housing market, the FHLB-NY shall evaluate each project in accordance with the following criteria:

- i. A detailed schedule of project completion that indicates the sponsor's projected dates for taking title to the project site(s), obtaining building permits and other necessary municipal approvals, procuring all proposed funding sources, commencing and completing construction (or rehabilitation), requesting disbursement of AHP subsidy, and lease-up (or sale) of the project units.
  - ii. A copy of an executed deed, lease, contract of sale, or other documentation that evidences that the sponsor either owns or will be able to take title to the proposed project site(s) within 12 months of the date of approval of the application for AHP subsidy.
  - iii. Evidence that the proposed acquisition costs are reasonable shall include a copy of an independent report of the "as is" appraised value of the proposed project site(s).
  - iv. Copies of municipal resolutions, letters from local officials, preliminary assessment reports, remediation plans, permits, or other evidence that the project complies with required zoning, environmental, and other governmental approvals.
  - v. A development budget (excluding the estimated market value of any in-kind donations and voluntary professional labor services) that confirms that the project's estimated sources of funds equal its estimated uses of funds.
  - vi. For rental projects, a current rent plan and valid multi-year forecast of income and expenses (i.e., an operating pro forma).
  - vii. Copies of financing commitment letters from the project's other proposed construction and permanent funding sources that evidences that the sponsor is likely to either partially or fully draw down the AHP subsidy or use the AHJP subsidy to procure other financing commitments within 12 months of the date of approval of the application for AHP subsidy.
- c) As required by § 951.5(c)(10) of the AHP regulation, a project's sponsor must be qualified and able to perform its responsibilities as committed to in the application for AHP subsidy. The FHLB-NY, in its sole discretion, will prohibit certain sponsor organizations from qualifying for any new funding reservations of AHP subsidy if they have already been issued an AHP funding commitment on behalf of a housing initiative that is programmatic in nature (i.e., downpayment/closing cost initiatives or owner-occupied rehabilitation programs) and not site-specific and less than 50% of the existing AHP funding commitment has been drawn down. The FHLB-NY will give such sponsors credit for any pending AHP funding requisitions that were received at the FHLB-NY at least two weeks prior to the commencement of a given AHP competitive offering.
- d) As required by § 951.5(c)(11) of the AHP regulation, a project, 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 for Disabilities Act of 1990, and the Architectural Barriers Act of 1969. The sponsor must also demonstrate how the project will be affirmatively marketed.
- e) All owners of AHP-assisted units must execute the FHLB-NY's standard AHP retention agreements at time of funding and duly record the AHP subordinate mortgage with the appropriate municipal clerk's office.
- f) If AHP subsidy is proposed to refinance an existing mortgage loan on a single-family or multi-family residence, the application must furnish adequate evidence that the equity proceeds generated from the refinance, for an amount consistent with the requested AHP subsidy, shall be used only for the

purchase, construction, or rehabilitation of additional housing units that meet the minimum eligibility requirements of this Section.

#### 4. Additional District Eligibility Requirements

- a) As permitted under § 951.5(b)(15) of the AHP regulation, the FHLB-NY may establish additional AHP eligibility requirements. As such, the FHLB-NY hereby limits rental projects to a per unit average of \$20,000 in AHP subsidy.
- b) In addition, the FHLB-NY limits homeownership projects to a maximum of \$20,000 in AHP subsidy per dwelling (inclusive of all AHP subsidies provided under the FHLB-NY's set aside programs).
- c) The FHLB-NY also restricts the amount of AHP subsidy available to any project to ten percent (10%) of the total amount of AHP subsidy available during a given competitive offering, not to exceed the aforementioned \$20,000 per unit limit.
- d) Multiple AHP application submissions that pertain to a single project that is programmatic in nature (i.e., downpayment/closing cost initiatives or owner-occupied rehabilitation programs) and not site-specific cannot exceed a total AHP subsidy funding request in an amount that is equivalent to 10% of the total amount of AHP subsidy available during a given competitive offering.

## VI. Scoring Guidelines

The FHLB-NY will only score those applications that meet the AHP eligibility standards set forth in § 951.5(c) of the AHP Regulation as well as specified above in Section V. Each FHLB-NY AHP scoring category, identified below, has been designated as either a fixed point or a variable point criterion in accordance with the following methodology:

- Variable-point objectives have varying degrees to which a project can satisfy certain criteria. The number of points that may be awarded to an application for meeting a variable point objective will vary, depending on the extent to which the project can realistically satisfy the criterion, in comparison to the other competitively scored applications. The application(s) best achieving each variable-point criterion shall receive the maximum point score available for that criterion, with the remaining applications scored on a declining scale.
- Fixed-point objectives cannot be achieved in varying degrees and are either satisfied, or not. An application that adequately meets a fixed-point criterion shall be awarded the total number of points allocated to that criterion.

The FHLB-NY has established 100 points as the highest possible score, allocated among 9 separate scoring categories. In accordance with the AHP regulation, the Targeting objective must have a value of at least 20 points and each remaining category must carry a minimum value of 5 points.

### Scoring Criteria

- (A) Use of donated or conveyed government-owned or other properties. The creation of housing using a significant proportion of units or land donated or conveyed by the Federal government (regardless of the conveyance price) or any agency or instrumentality thereof, or by any other party, for an amount significantly below the fair market value of the property.

“Significant portion” will be defined as at least 20% of the units. “Significantly below fair market value” will be defined as having an acquisition cost of \$100 per vacant parcel of land or \$250 per existing building.

5 points - Variable

Points will be awarded based on the percentage of total units in the project meeting the above criteria based receipt of acceptable documentation (e.g., a copy of a settlement statement, formal letter from the donor, or other third party documentation) that confirms the sales price and terms of the transfer.

- (B) Sponsorship by a not-for-profit organization or government entity. Project sponsorship 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. A project sponsor is defined as an organization that has ownership interest (including any partnership interest) in a rental project or an organization that is integrally involved in an ownership project, such as 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. Points will be awarded as follows:
- i. If a sponsor of an ownership project is integrally involved in the development of a project as evidenced by:
    - ownership of the land or building(s) that comprise the project during the construction and/or rehabilitation phase of development, and/or;
    - responsibility as the primary contractor and/or construction manager of the properties that comprise the project, 10 points will be awarded.
  - ii. If a sponsor of an ownership project evidences that they will perform at least one of the following roles, 5 points will be awarded:
    - a) screening or qualifying prospective project households;
    - b) arranging or providing mortgage financing;
    - c) conducting credit or homeownership counseling;
    - d) participating in the marketing of project units; or
    - e) other roles that demonstrate that the sponsor is integrally involved in the development of the project.
  - iii. If a sponsor of a rental project owns or will own the land and/or the building(s) that comprise the project, 10 points will be awarded. In order to confirm the sponsor's ownership role, the FHLB-NY shall evaluate such supporting documentation as deeds, contracts of sale, purchase options, offer letters, and lease agreements.
  - iv. If a sponsor of a rental project that is utilizing Low-Income Housing Tax Credits is a not-for-profit entity and will either become a general partner or hold a majority share of the general partner interest within the final ownership structure/limited partnership of the project, 10 points will be awarded. In order to confirm the sponsor's ownership role, the FHLB-NY shall evaluate such supporting documentation as a tax credit allocation award notice, partnership agreement, or tax credit investor's commitment letter.
  - v. If a sponsor of a rental project that is utilizing Low-Income Housing Tax Credits is a not-for-profit entity and will hold an ownership interest in the project, other than being a general partner, or holds a minority share of the general partner interest within the final ownership structure/limited partnership of the project, 5 points will be awarded. In order to confirm the sponsor's ownership role, the FHLB-NY shall evaluate such supporting documentation as a tax credit allocation award notice, partnership agreement, or tax credit investor's commitment letter.

10 points – Variable

- (C) Targeting. The extent to which a project creates housing for very low-, low- or moderate-income households.
- (1) Rental projects. An application for a rental project shall be awarded the maximum number of points available under this scoring criterion if 60 percent or more of the units in the project are reserved for occupancy by households with incomes at or below 50 percent of the median income

for the area. Applications for projects with less than 60 percent of the units reserved for occupancy by households with incomes at or below 50 percent of the median income for the area shall be awarded points on a declining scale based on the percentage of units in a project that are reserved for households with incomes at or below 50 percent of the median income for the area, and on the percentage of the remaining units reserved for households with incomes at or below 80 percent of the median income for the area. In cases where projects will be monitored by a federal, state, or local government entity providing funds or allocating federal Low-Income Housing Tax Credits to a proposed project, the FHLB-NY, will score each project according to the targeting commitments made by the project to such an entity.

- (2) Owner-occupied projects. Owner-occupied projects that target the largest percentage of households who earn 50% or less of the median income for the area will receive 20 points and all other projects which target households with incomes at 80% or less of the median income for the area will receive points on a declining scale.

20 points - Variable

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

- (D) Housing for homeless households. The creation of rental housing, excluding overnight shelters, reserving at least 20% 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% of the units for homeless households. A homeless household is defined as a household made up of 1 or more individuals, other than individuals imprisoned or otherwise detained pursuant to state or federal law, who:

- (1) Lack a fixed, regular, and adequate nighttime residence; or
- (2) Have a primary nighttime residence that is:
  - i. A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);
  - ii. An institution that provides a temporary residence for individuals intended to be institutionalized; or
  - iii. Public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
- (3) May be viewed as homeless or at the risk of homelessness, such as:
  - i. Victims of domestic violence in rural areas where no organized shelters exist, forcing victims to live in the homes of their abusers;
  - ii. Related or unrelated individuals living in shared overcrowded housing in extremely cold climates where there is a shortage of organized shelter and it is not possible to live on the streets or cars;
  - iii. Children living in foster care who are about to reach the age of 18 and must leave the foster care system;
  - iv. Households facing imminent loss of their homes due to condemnation or eviction.

10 points - Variable

Points will be awarded based on the percentage of total units in the project meeting the above criteria based upon receipt of acceptable contractual evidence (e.g., referral letters, a grant award letter,

executed contract or similar evidence from a third party entity) that requires the units within a certain project to be reserved for and occupied by a specified number of homeless households..

(E) Promotion of empowerment. Points will be awarded based on a given project's ability to provide affordable housing in combination with a program that offers certain services or activities that economically empower project residents. The maximum number of points will be awarded to the project that provides the most services or activities with the remaining projects awarded points on a declining scale.

- (1) Acceptable economic empowerment for rental projects will include the following:
  - On-site case management programs that support the residents' ability to find or sustain employment or be self-sufficient or promote their economic betterment;
  - On-site youth programs, including daycare services or formal recreational activities that serve as a substitute for childcare and thereby enable their parents or guardians to find or sustain employment;
  - On-site primary health care services for households and their children;
  - On-site vaccination or medical screening programs for households and their children;
  - On-site job training programs, employment opportunities or other educational services that economically benefit project residents;
  - Resident management opportunities, including resident involvement in the development, design, or operation of the project and/or the formal establishment of an on-site tenants' association;
  - Homesteading, IDA's, or "sweat equity" activities;
  - Welfare to Work initiatives; and
  - Project-specific private transportation services for households to and from places of employment.
  
- (2) Acceptable economic empowerment for owner-occupied projects will include the following:
  - Project-specific case management programs that support the owner-occupants' ability to find or sustain employment or be self-sufficient or promote their economic betterment;
  - Project-specific youth programs, including daycare services or formal recreational activities that serve as a substitute for childcare and thereby enable their parents or guardians to find or sustain employment;
  - Project-specific primary health care services for households and their children;
  - Project-specific vaccination or medical screening programs for households and their children;
  - Project-specific job training programs, employment opportunities or other educational services that economically benefit owner-occupants;
  - Pre-purchase counseling for prospective first-time homebuyers, including all credit counseling, budgeting courses, or other financial services that economically benefit owner-occupants (as evidenced by a formal catalogue or syllabus, including an educational curriculum and a detailed synopsis of topics, that specifies the standard timeframe of the classes as well as the name of the agency or organization that will conduct the counseling);
  - Predatory lending prevention and awareness counseling (as evidenced by a formal catalogue or syllabus, as specified above);
  - Workshops for existing homeowners on maintenance, repairs, and improvements (evidenced by a formal catalogue or syllabus, as specified above);
  - Homeowner decision making opportunities in the development or design of the project units;
  - Establishment of a formal project-specific homeowners' association;
  - Homesteading, IDA's, or "sweat equity" activities;
  - Welfare to Work initiatives; and
  - Project-specific private transportation services for households to and from places of employment.

10 points – Variable

The maximum number of points will be awarded to the project(s) that provide(s) the most services or activities with the remaining projects awarded points on a declining scale, based on receipt of supporting documentation or a brief description of those services or activities.

(F) First District Priority. The FHLB-NY's Advisory Council has recommended and the FHLB-NY's Board of Directors has adopted the following criteria for the FHLB-NY's First District Priority:

- (1) Economic diversity: 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 income equals or exceeds the median income for the larger surrounding area -- such as city, county, or Primary Metropolitan Statistical Area -- in which the neighborhood or city is located.

Scattered site or owner-occupied project units that are countywide may not be eligible for points. A rental project that is located in a moderate- or high-income census tract that contains any market-rate units will not be eligible for points. If a homeownership project that is located in a low- and moderate-income census tract and includes market-rate units, then the units that comprise the project must be clustered together in a specific housing development or located on a common tract of land and at least 20% of the total number of housing units must be sold to and occupied by households whose incomes exceed 80% of the area median income. Otherwise, such a project will not be eligible for points.

(5 points)

- (2) Community Development: If the project will meet a housing need that is specified in a municipal stabilization plan, consolidated development plan, or housing strategy that was formally approved and/or adopted by a unit of state or local government, 5 points will be awarded, subject to receipt of relevant pages from the current, approved plan or strategy or a letter from a state or local government official that affirmatively states that the project will meet a housing need that has been identified within a current consolidated plan or strategy that the jurisdiction has adopted.

(5 points)

10 points – Variable

(G) Second District priority. The FHLB-NY's Advisory Council has recommended and the FHLB-NY's Board of Directors has adopted the following criteria for the FHLB-NY's Second District Priority:

- (1) For rental projects, the creation or preservation of housing with an affordable rent structure that serves moderate-income households.
- i. Provided that a multi-family rental project satisfies the regulatory threshold that at least 20% of its units are reserved for and occupied by households who earn 50% or less of the applicable area median (adjusted for family size), 5 points will be awarded to a multi-family rental project that reserves at least half (50%) of its units for occupancy by households who earn between 51% and 80% of the applicable area median, adjusted for family size.
  - ii. 5 points will be awarded to a project that demonstrates that it has established an affordable rent structure that is set below the fair market rent limits for its municipality.
  - iii. 5 points will be awarded if the project has not applied for or will not be eligible to receive project-based rental assistance under a Section 8 Choice Voucher Program, a Section 202 or

Section 811 Project Rental Assistance Contract, an Annual Contributions Contract, or similar subsidy provided on a multi-year basis by a private, local, state or federal entity.

15 points – Variable

- (2) For homeownership projects, projects that create or preserve the stock of 1-to-4-family owner-occupied dwellings through weatherization, the installation of major energy efficient systems, heating system efficiency upgrades, energy or water conservation improvements, mold or lead-based paint hazard abatements, asbestos removal, and/or other safety improvements.

Projects that target the largest percentage of dwellings to undergo such renovations and improvements will receive 15 points and all other suitable projects will receive points on a declining scale. (Projects that involve the acquisition of existing homes on the open market may not combine rehabilitation work with any proposal to use AHP subsidy for downpayment or closing cost assistance.)

15 points - Variable

- (H) AHP subsidy per unit. The extent to which a project proposes to use the least amount of AHP subsidy per AHP-targeted unit. For purposes of this scoring criterion, applications for owner-occupied projects and rental projects will be scored separately.

5 points – Variable

- (I) Community stability. The promotion of community stability, such as by rehabilitating vacant or abandoned properties, being an integral part of a neighborhood stabilization plan approved by a unit of state or local government, and not displacing low- or moderate-income households, or if such displacement will occur, assuring that such households will be assisted to minimize the impact of such displacement. Points will be awarded as follows:
- i. If a project involves the rehabilitation of vacant or abandoned properties, 3 points will be awarded, subject to evaluation of information contained in the application.
  - ii. If a project does not displace low- or moderate-income households, or if such displacement will occur, adequate procedures are in place to ensure that such households will be assisted to minimize the impact of such displacement, 3 points will be awarded, subject to confirmation that such displacement will not occur or, if applicable, receipt of an acceptable relocation plan.
  - iii. Subject to receipt of third-party documentation that evidences that a project has either qualified for historic tax credits or is specifically identified in the National Register of Historic Places, 3 points will be awarded to projects that promote historic preservation.
  - iv. If a project enacts smart growth strategies, is part of a village or community center concept, includes planned units (or areas) of development, contains in-fill construction, or allows for increased residential density, 3 points will be awarded, subject to receipt of the following supporting documentation:
    - a) If the Project is located in a neighborhood that has been formally designated as a Smart Growth area, a letter from an official of the jurisdiction where the project is located, or other comparable evidence, that confirms this matter.
    - b) If the Project does not require the extension of public utilities, a letter from an architect or official of the jurisdiction where the Project is located that confirms that the Project site has existing water and sewer hook-ups, electrical lines, etc.

- c) If the Project is part of a village or community center concept that includes a concentration of housing uses and/or retail, commercial, education, or employment opportunities, a letter from an architect or official of the jurisdiction where the Project is located that confirms this matter.
  - d) If the Project contains Planned Units of Development or is located in a planned development area, a letter from an architect or official of the jurisdiction where the Project is located or a specific reference within the community comprehensive or master plan that confirms this matter.
  - e) If the Project involves in-fill construction on vacant lot(s) located in an otherwise developed or contains open space set-asides or another system that promotes increased residential density, a letter from an architect or official of the jurisdiction where the Project is located that confirms this matter.
- v. If a project enacts strategies to remediate physical, environmental or social blight, (including indecent or substandard housing, brownfields, or crime and public safety needs), 3 points will be awarded, subject to receipt of either:
- a) Documentation from the jurisdiction where the project is located that confirms that the project site has been designated as a “blighted” property along with a formal statement that explains how the project will remediate the blight;
  - b) Third-party documentation (e.g., statistical information from the official website of the Environmental Protection Agency (“EPA”), a letter from a federal/state/local official, financing commitments, grant award letters, etc.) that verifies that the project site either meets the EPA’s definition of a brownfield or is identified on the National Priorities List of brownfields; or
  - c) Copies of marketing materials, a letter from an architect or a law enforcement official of the jurisdiction where the Project is located, or other third-party documentation that confirm that a project will employ security personnel, maintain a technical security system, incorporate certain safety design features, and/or enact strategies that will promote the safety of its residents.

15 points - Variable

#### **VII. Time Limits on the Use of AHP Subsidy and Procedures for Verifying Compliance Upon Disbursement of AHP Subsidy Pursuant to § 951.5(g)(2) and § 951.6(e)(3).**

Homeownership Set-Aside -- Members may continue to enroll eligible households in First Home Club for a period of time not to exceed 24 months. In the event that an enrolled household satisfactorily completes the programmatic requirements of the First Home Club within that twenty-four month period and requires additional time to execute a contract of sale, qualify for mortgage financing, and close on a home, the FHLB-NY may, in its sole discretion, approve an extension not to exceed one year, subject to receipt of certain documentation set forth in its *First Home Club Compliance Monitoring Guidelines* (FHC-114).

If the First Home Club funds have not been drawn down and used within the required period and the FHLB-NY has not approved an extension of the household’s enrollment, the FHLB-NY shall withdraw the household from the program. The FHLB-NY shall then determine, in its sole discretion, whether such funds will be made available for other eligible First Home Club households or to replenish the FHLB-NY’s competitive AHP liability account for subsequent re-use by eligible projects in the FHLB-NY’s upcoming competitive funding rounds over the next twelve months.

Competitive Program -- AHP subsidies approved under the FHLB-NY’s competitive application program must be drawn down and used by the project within 36 months of the FHLB-NY’s approval of the Member’s AHP application. Extensions may be granted on a case-by-case basis, as per the FHLB-NY’s AHP procedures, if sufficient evidence is received documenting the reason for the delay and the progress toward project completion and funding. If AHP subsidy funds have not been drawn down and used within 36 months and the FHLB-NY has

not approved an extension of the project's commitment period, the FHLB-NY shall cancel the commitment and de-obligate the AHP subsidy. The funds will be made available for other AHP eligible projects.

For further information regarding the FHLB-NY's practices and policies for verifying the progress of AHP-assisted projects, kindly refer to the *AHP Compliance Monitoring Guidelines* (AHP-102). For further information regarding the FHLB-NY's practices and policies for verifying the progress of enrolled First Home Club households, kindly refer to the *First Home Club Compliance Monitoring Guidelines* (FHC-114).

### **VIII. Practices for Verifying Compliance upon Disbursement of AHP Subsidy**

For information regarding the FHLB-NY's practices and policies for verifying the compliance of AHP-assisted projects at time of disbursement, kindly refer to the *AHP Compliance Monitoring Guidelines* (AHP-102). For information regarding the FHLB-NY's practices and policies for verifying the compliance of First Home Club households at time of disbursement, kindly refer to the *First Home Club Compliance Monitoring Guidelines* (FHC-114).

In regard to existing owner-occupants who qualify for AHP subsidies in order to rehabilitate their homes, the Member is prohibited from providing any excess assistance under the AHP. The Member shall be liable for repaying any AHP subsidy that was used to over-subsidize such households. The FHLB-NY shall likewise evaluate HUD-1 Settlement Statements or transmittal summaries in order to effectively monitor this situation.

### **IX. FHLB-NY Initial and Long-Term Monitoring Practices**

The Member is liable for ensuring that competitive AHP subsidy is used efficiently and does not exceed a household's need at time of closing. Similar to the FHLB-NY's practices and policies related to the First Home Club, the Member may permit cash back to a first-time homebuyer at closing on the mortgage loan in an amount not to exceed \$250, in order to partially reimburse the household for any pre-closing expenses directly related to the acquisition of their dwelling, such as mortgage application fees, credit report fees, appraisal fees, or property inspection fees. The FHLB-NY shall evaluate HUD-1 Settlement Statements and transmittal summaries in order to effectively monitor this situation.

For information regarding the FHLB-NY's practices and policies that govern the monitoring of AHP-assisted projects, kindly refer to the *AHP Compliance Monitoring Guidelines* (AHP-102) and *AHP Compliance Monitoring Late Receipt Policy* (AHP-104). For information regarding the FHLB-NY's practices and policies for resolving events of non-compliance and, if necessary, the recapture of AHP subsidy, kindly refer to the *AHP Recapture Guidelines* (AHP-105).

For information regarding the FHLB-NY's practices and policies that govern the monitoring of First Home Club households, kindly refer to the *First Home Club Compliance Monitoring Guidelines* (FHC-114).

### **X. Re-Use of Repaid AHP Subsidies**

The FHLB-NY will not allow Members or project sponsors to re-use repaid AHP subsidies. Any repaid AHP subsidies must be returned to the FHLB-NY forthwith and will be used to replenish its AHP competitive liability account for use by eligible projects.

### **XI. Revolving Loan Funds and Loan Pools**

As specified above, the FHLB-NY will not allow Members or project sponsors to re-use repaid AHP subsidies. Consequently, the FHLB-NY will not authorize AHP subsidy to finance any revolving loan funds or loan pools.