FHLBI

Attachment C
Monitoring Procedures

These procedures set forth the process the FHLBI follows in monitoring its Affordable Housing Program (AHP) competitive application projects in accordance with Sections 1291.7 of the Affordable Housing Program Regulations (12 C.F.R. §1291) (the "Regulation").

- The FHLBI provides the project sponsor or project owner and member with a copy of the FHLBI's monitoring guidelines, which sets forth their respective monitoring obligations.
- The FHLBI notifies the project sponsor, project owner, or member prior to the due date of any certifications required to be submitted to the FHLBI as part of the project sponsor's, project owners, or member's monitoring obligations.

The AHP Monitoring Program will have as its primary focus three stages of review. The three stages are presented and discussed below:

- STAGE 1 Semi-annual Monitoring Review
- STAGE 2 Initial Monitoring Review
- STAGE 3 Long-term Monitoring Review

Stage 1 – Semi-annual Monitoring Review

Overview

A Stage 1 review is conducted during the project's incomplete or development stage. This review is conducted every six months and includes analysis of the Semi-annual Progress Report and supporting documentation. The Semi-annual Progress Report includes certifications made by the sponsor/owner and member institution.

Procedures

A Semi-annual Progress Report (SA Report) must be filed by a member institution whose AHP project has received approval. The SA Report must be filed during the period of construction or rehabilitation of a project and will detail the progress and overall status of the project. The project sponsor/owner and member will sign the SA Report signifying that all parties are informed of the project's status with respect to its level of progress and the sponsor/owner has satisfied the reporting requirements of 12 C.F.R.§ 1291.7(a)(1)(A). The SA Report must be filed every six months until the project is identified as being complete.

SA Reports will be reviewed to determine the project's progress, estimated completion date, change in funding status, and compliance with the approved application. Updated financial information such as the sources and uses statement and pro-forma may be required with the SA report. A project that indicates progress has stalled or is not moving forward may be subject to de-commitment.

Stage 2 – Initial Monitoring

Overview

A Stage 2 review is defined as Initial Monitoring of the project and is conducted within one year after project completion. This encompasses a review of the project to determine the level of the project's compliance with the approved application, approved modifications(s), if any, law, regulation, policy, and procedures as required by 12 C.F.R. § 1291.7. This review may start earlier if there is sufficient indication of noncompliance.

Homeownership Project Procedures

Homeownership projects will be scheduled for Initial Monitoring review within a reasonable time period of receiving from the member financial institution the certification required by 12 C.F.R. § 1291.7.

A member financial institution must, within six months after disbursement of all AHP funds to a project, certify to the FHLBI that the AHP funds were used in accordance with the approved application and that the AHP units are subject to deed restrictions or other legally enforceable Retention Agreements or mechanisms meeting the requirements of 12 C.F.R.§ 1291.9(a)(7).

When a homeownership project is subject to Initial Monitoring, the following will be determined by the FHLBI:

- Level of compliance with the approved application;
- Level of compliance with 12 C.F.R. §1291;
- Level of compliance with the FHLBI's AHP policies and procedures; and
- Whether the AHP subsidy was used for eligible purposes, the project's actual costs were reasonable and customary in accordance with the FHLBI's project feasibility guidelines, and the subsidy was necessary for the financial feasibility of the project.

Documentation to be analyzed for homeownership projects in Initial Monitoring, includes, but is not limited to, the following.

- Original/final comparative statement of sources and uses
- A list of unit resident names and addresses, annual household income at the date of qualification, household size, AMI percent and closing dates
- Income documentation for a sampling of units in effect at project completion time, in accordance with the FHLBI Sampling Plan
- Completion certification form which certifies that:
  - As committed in the application or as adjusted by an FHLBI-approved modification, all units of the project are complete as of the date of the last homeownership unit in the project closed or the last unit is rehabilitated.
  - All reports and documentation required by Regulation, the FHLBI, or the FHFA are current and complete.
  - The project complies with the applicable federal and state laws on fair housing, housing accessibility, and other local building codes, and the project has been affirmatively marketed under law. If certification cannot be made, a corrective action plan must be attached.

  - All approved AHP subsidies have been provided to income-eligible households, using the income ranges committed to in the AHP application (or as modified) and pursuant to the individual Household Subsidy Need Calculation Subsidies may be reduced or increased on a per household basis providing the total subsidy requested is not in excess of the subsidy awarded.
  - The certification is supported by household income verification documentation kept on file for review by the FHLBI member or the FHLBI at the project sponsor's place of business.
- Services, Activities and Set-aside Questionnaire
- Cost validation, as required
- Validation of funding sources, as required
- Other information, as required
- The AHP-assisted units are subject to deed restrictions or other recorded, legally enforceable Retention Agreements or mechanisms meeting the requirements of § 1291.9(a)(7) and 1291.9(a)(8). Sample Real Estate Retention Agreements can be found in Attachment E of this document.

Rental Project Procedures

Rental projects will be scheduled for Initial Monitoring review within a reasonable time period of receiving the certification required by 12 C.F.R. § 1291.7 from the member financial institution.

The Initial Monitoring Review will begin when the FHLBI receives project completion notification via the SA Report or other such information documenting the project is complete. Projects have one year from the date the project is certified for occupancy to submit certain documentation. Failure to provide such documentation may result in sanctions or suspension relating to future applications, and recapture of some or the entire AHP subsidy disbursed pursuant to remedial actions for noncompliance as required by 12 C.F.R. §1291.8.

When a rental project is subject to Initial Monitoring, the following will be determined by the FHLBI.

- Level of compliance with the approved application;
- Level of compliance with 12 C.F.R. §1291;
- Level of compliance with the FHLBI's AHP policies and procedures; and
- Whether the AHP subsidy was used for eligible purposes, the project's actual costs were reasonable and customary in accordance with the FHLBI's project feasibility guidelines, and the subsidy was necessary for the financial feasibility of the project.

Documentation of rental projects to be analyzed in Initial Monitoring includes, but is not limited to, the following.

- Final updated project financial workbook appropriate for the project type (contingencies must be zero at completion or funds may be de-committed or recaptured)
- A list of tenant names and addresses, annual household income at the date of move-in, household size, AMI percent, move-in date, current monthly rent, the amount of any utility allowances or rent subsidies, and number of bedrooms in the unit

- Income documentation for a sampling of units in accordance with the FHLBI Sampling Plan in effect at the time of project completion
- Completion certification form, completed by Sponsor and forwarded to Member for signature, which certifies that:
  - As committed in the application or as adjusted by an FHLBI-approved modification, all units of this project are complete as of the date the last rental unit had certificate of occupancy or equivalent issued, or where such certificates are not issued, the date the last unit in the project is suitable for occupancy.
  - All reports and documentation required by Regulation, the FHLBI, or the FHFA are current and complete.
  - The project complies with the applicable federal and state laws on fair housing, housing accessibility, and other local building codes, and the project has been affirmatively marketed under law. If this certification cannot be made, please attach a corrective action plan.
  - Validation of building design features for which points were awarded or as modified by an architect or other third part evidence such as: photos, invoices, and sworn statements.
  - Services and activities committed to in the AHP application have been provided in connection with the project [§ 1291.7(a)(5)].
  - The tenant rents and income provided in the list of actual tenant rents and incomes are accurate and in compliance with the rent and income targeting commitments made in the AHP application (or as modified) as supported by household income verification documentation maintained for review by the FHLBI member or the FHLBI.
- Services, Activities and Set-aside Questionnaire to determine whether services and activities committed to in the application have been provided
- Cost validation may be requested on all projects. Projects with low-income housing tax credits must submit an accountant's cost certification, final low-income housing tax credit application, IRS 8609, or other such documentation verifying costs
- Validation of funding sources, as required
- Other information, as required
- The AHP-assisted units are subject to deed restrictions or other recorded, legally enforceable Retention Agreements or mechanisms meeting the requirements of § 1291.9(a)(7) and § 1291.9(a)(8). Sample Real Estate Retention Agreements can be found in Attachment E of this document.

Homeless and special needs monitoring requirements:

The FHLBI will monitor, for compliance during the Initial Monitoring Review per the sampling plan outlined, all projects that committed in the approved AHP application to reserve at least 20% of the project's units for homeless households. When the request for AHP monitoring is made, documentation must be available demonstrating that at least 20% of the units are occupied by household qualified as homeless or are vacant awaiting occupancy by homeless or special needs households. For projects with existing tenants at the time of application, only those households who qualified and secured residency within one year prior to the AHP application submission may be considered in the number of homeless, special needs or elderly households required to meet the homeless and special needs commitment detailed in the application.

Stage 3 – Long-term Monitoring Review Overview

A Stage 3 Long-term Monitoring Review is conducted solely for rental projects and in accordance with 12 C.F.R. §1291.7

Homeownership Projects

The FHLBI does not require submission of any information or documentation after initial monitoring except in connection with the sale or refinancing of a unit. The FHLBI requires that a project sponsor or member provide notice to the FHLBI in the event of a resale or refinance of a unit.

Rental Projects

Conducted solely for rental projects in compliance with 12 C.F.R.§ 1291.7, this review will be based on whether the project is eligible for monitoring by a federal, state or local government entity, the level of compliance, and the amount of subsidy received by the project.

All rental projects are required to submit a Project Annual Certification form that is completed by the Sponsor and signed by the Member and certifies:

- As committed in the application or as adjusted by an FHLBI-approved modification, the tenant rents and incomes are in compliance with the rent and income targeting commitments.
- The project is habitable.
- The project complies with the applicable federal and state laws on fair housing, housing accessibility, and other local building codes. If this certification cannot be made, please attach a corrective action plan.
- Documentation regarding tenant rents and incomes and project habitability are being maintained and available for review by the FHLBI.
- Dates of sale(s) of any of the units comprising the project.
- HUD-1 Settlement Statement/Closing Disclosure, or similar documents, must be provided with annual certification in the event of sale.
  Generally, projects will be monitored in accordance with the schedule unless elevated at the FHLBI's discretion based upon material indicators that prompt a higher level of monitoring and oversight. Single projects or phased developments wherein the individual or cumulative subsidy is greater than $2M of AHP require on-site review by FHLBI staff or other housing professionals familiar with the AHP compliance.

The risk based monitoring and sampling schedule is based on any level of compliance by the sponsor, member, or by project performance, and is not limited to the amount of subsidy awarded to a single project.

1) Projects receiving $50,000 or less in AHP subsidy:
   a) No outstanding compliance issues.
   b) FHLBI reviews annual certification from project owner and member for 15 years.

2) Projects receiving $50,001 to $250,000 in AHP subsidy:
   a) No outstanding compliance issues.

b) FHLBI reviews annual certification from project owner and member for 15 years.
c) FHLBI requests a list showing tenant rents (the FHLBI's Rental Income Targeting Worksheet) and income from project sponsor and conducts a review of a sample of income documentation, in accordance with the FHLBI Sampling Plan below, of the project's units to verify compliance once every six years.

3) Projects receiving $250,001 to $500,000 in AHP subsidy:
   a) No outstanding compliance issues.
   b) FHLBI reviews annual certification from project owner and member for 15 years.
   c) FHLBI requests a list showing tenant rents (the FHLBI's Rental Income Targeting Worksheet) and income from project sponsor and conducts a review of a sample of income documentation, in accordance with the FHLBI Sampling Plan below, of the project's units to verify compliance once every four years.

4) Projects receiving more than $500,000 in AHP subsidy in a single phase or $2M in a multi-phase development:
   a) FHLBI reviews annual certification from project owner and member for 15 years. FHLBI will perform an on-site review of project documentation, including tenant rent roll analysis (the FHLBI's Rental Income Targeting Worksheet) and income documentation in accordance with the FHLBI Sampling Plan below, at least every other year. The FHLBI in its sole discretion, may determine after two concurrent on-site reviews, the loss risk of the AHP subsidy is minor, and that the monitoring review schedule may be changed to the requirements of 1-3 above. On-site monitoring reviews may be reinitiated should risk indicators be present to justify a higher level of oversight as indicated in #5 below.

5) All projects with significant compliance issues or wherein AHP is the only income restricted original source of development financing:
   a) All projects with outstanding significant compliance issues or other operating performance concerns (as determined by FHLBI), regardless of amount of AHP subsidy received, will be monitored on-site by the FHLBI staff as deemed appropriate by the FHLBI. On-site reviews will continue until such time the non-compliance issue is resolved or the sustainability of the housing concern is resolved. Upon resolution, the applicable monitoring cycle may be resumed.

Note: See "Monitoring by a federal, state, or local government entity" for a possible monitoring exception for rental projects that are allocated federal low-income housing tax credits.

<u>On-Site Reviews</u>

During the construction phase, a site visit may be performed by the FHLBI in its discretion and typically will be performed if significant changes in scope of the project, modification or other materially significant factors deviate from the approved application. Projects which involve rehabilitation of existing housing may be identified for an on-site observation of the scope of the proposed renovations and condition of the structure. FHLBI may, at its discretion, remove a project from award consideration if the building, its condition, its location present sustainability or market concerns.

The initial monitoring and long term monitoring reviews are generally parallel in scope and approach. Factors considered during these reviews focus on evidence of fulfillment of scoring initiatives, targeting, income documentation reviews, capital needs including general property conditions, marketing and occupancy history, review of profit/loss statements, audited financial statements, insurance losses, code violations or other citations that would indicate habitability/occupancy standards are at risk.

During the course of project monitoring, the FHLBI typically must review back-up project documentation on household incomes and rents maintained by the project sponsor or owner; and (ii) maintenance and FHLBI review of other project documentation in the FHLBI's discretion. Further, consultants or professionals with knowledge of the affordable housing restrictions and requirements may be engaged on behalf of the FHLBI to conduct such reviews. The FHLBI may rely on monitoring reports conducted by other delegates or professionals engaged by other stakeholders pursuant to the Long Term Monitoring policy.

FHLBI Sampling Plan

For projects completed January 1, 2017, through December 31, 2017, sampling of income documentation and retention mechanisms will be performed as follows.

Homeownership Projects §1291.7(a)(1)

Income documentation and retention mechanisms will be obtained per the chart below.

Number of AHP Units in the Project	Percent of Income Documentation and Retention Mechanism to Sample
1 to 10	100%
11 to 80	20%
81 to 100	15%
101 and Higher	10%

Note: See "Monitoring by a federal, state, or local government entity" for a possible monitoring exception for rental projects that are allocated federal low-income housing tax credits.

Rental Projects § 1291.7(a)(4)

The retention mechanism will be obtained for each AHP rental project including the attachment of the corresponding legal description(s) of all real estate parcels making up the project. During the Stage 2 Initial Monitoring Review and Stage 3 Long-term Monitoring Review, income documentation will be sampled based on the schedule in the table below. For projects with a total of $50,000 or less in AHP subsidy in the Stage 3 long-term monitoring phase, only the annual certification will be reviewed. Sampling of income documentation is not required in the long-term monitoring phase if the AHP subsidy disbursed is less than $50,000, regardless of the number of AHP units involved.

For projects with more than $50,000 in AHP subsidy in the Stage 3 long-term monitoring phase, income documentation will be reviewed using the sampling plan in the chart below with the frequency

based on the amount of subsidy as described above. For projects small projects (<25 units) wherein the tenant population is stable with little or no turnover, income verification sampling will be limited to only those tenants that are in residency on the date the rent roll is created since the last sampling report. Sponsors/owners must still retain current tenant income data on site, but are not required to submit current year documentation as a part of long term monitoring. Additionally, shelter type projects with transient tenants such as homeless or domestic violence survivors whose stay is less than one year are not required to provide income verification documentation during the Stage 3 long-term monitoring period.

Number of AHP Units in the Project	Percent of Income Documentation and Retention Mechanism to Sample
1 to 10	100%
11 to 80	20%
81 to 100	15%
101 and Higher	10%

Note: If sampling appears to indicate that a project is out of compliance, the FHLBI reserves the right to review documentation for additional units or to perform an on-site project review.

Note: For annual adjustment of targeting commitments, the HUD area median income listings are updated annually and made available by the FHLBI. For purposes of determining compliance with the targeting commitments in an AHP application, such commitments shall be considered to adjust annually, according to the current applicable median income data. A rental unit occupied by a tenant who qualified under the income targeting restrictions of the project at the time the tenant moved into the unit may continue to count toward meeting the targeting commitment of an approved AHP application, despite increases in income, as long as the rent remains affordable for the targeted income level of the unit (i.e., the rent does not exceed 30% of the applicable 50, 60, 70, or 80% targeted median income level committed to in the AHP application, adjusted for bedroom size). In those cases where 100% of the units require sampling; and there has been little tenant turnover; and the household income has undergone a previous FHLBI sampling review, the sample size will be limited to those households that qualified and moved in since the last sampling occurred.

Monitoring by a Federal, State, or Local Government Entity

For rental projects receiving $500,000 or less in AHP subsidy that are allocated federal low-income housing tax credits, the FHLBI will rely on monitoring (including on-site reviews) by the state-designated housing credit agency administering the tax credits of the income targeting and rent requirements applicable under the Low-Income Housing Tax Credit Program. Under the Regulation, the FHLBI does not have to obtain and review reports from such agency or otherwise monitor the project's long-term AHP compliance provided the income targeting requirements, rent requirements and retention period monitored by the entity for purposes of its own program are substantively equivalent to the AHP commitments. The entity must have demonstrated ability to carry out the AHP monitoring requirements, and must agree to inform the FHLBI of all instances of noncompliance. Compliance reports issued by other interested parties/stakeholders for purposes of assessing the

general property condition/habitability and household income compliance including curative actions to be addressed may be requested annually or at any other time as may be indicated by the circumstance/condition presented. Insurance losses and other acts of nature which render any part of the property uninhabitable for a period of time will be required to report at least quarterly on efforts to restore the property to a state of habitability within a reasonable amount of time commensurate with the size of loss and time of the year of said loss.

Remedial Actions for Noncompliance

If an issue of noncompliance is noted due to a) material and outstanding compliance items, b) project type, size or location issues; or c) sponsor experience or capacity issues, the FHLBI in conjunction with the member and sponsor institutions, will develop an action plan to achieve a remedy for the noncompliance. This plan may include additional monitoring requirements as determined appropriate based on the nature of the noncompliance issue.

Settlements

In cases for which a settlement is indicated as a cure option, approval by the Board is required, with the exception of projects for which the AHP subsidy is $50,000 or less and the remainder of the retention period is 3 years or less. In such cases management may approve a settlement amount less than the AHP subsidy without Board approval. Such settlements shall be reported to the Board at the next meeting. Projects with more than $50,000 in AHP subsidy or more than 3 years remaining on the retention period, any proposed settlement of an amount less than the total AHP subsidy funded requires Board approval.