



BILLING CODE: 8070-01-P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1290 and 1291

RIN 2590-AA83

Affordable Housing Program Amendments; Correction, Extension of Comment Period, and Further Request for Comment

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule; correction, extension of comment period, and further request for comment.

SUMMARY: The Federal Housing Finance Agency (FHFA) is correcting an inadvertent error in the calculation of a proposed regulatory outcome requirement in the proposed rule published in the *Federal Register* on March 14, 2018, regarding the Federal Home Loan Banks' (Banks) Affordable Housing Program (AHP or Program). FHFA is requesting comment on the corrected calculation and is extending the comment period on all aspects of the proposed rule by an additional 30 days.

DATES: The comment period for the proposed rule, published at 83 FR 11344 (March 14, 2018), is extended to June 12, 2018. Written comments must be received on or before this date.

ADDRESSES: You may submit your comments, identified by Regulatory Information Number (RIN) 2590-AA83, by any one of the following methods:

- *Agency website:* www.fhfa.gov/open-for-comment-or-input.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal

eRulemaking Portal, please also send it by e-mail to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590-AA83.

- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590-AA83, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street, SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590-AA83, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street, SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For time-sensitive correspondence, please plan accordingly.

FOR FURTHER INFORMATION CONTACT: Ted Wartell, Manager, Office of Housing and Community Investment, 202-649-3157, ted.wartell@fhfa.gov; Marcea Barringer, Senior Policy Analyst, Office of Housing and Community Investment, 202-649-3275, marcea.barringer@fhfa.gov; Marshall Adam Pecsek, Senior Counsel, Office of General Counsel, 202-649-3380, marshall.pecsek@fhfa.gov; or Sharon Like, Managing Associate General Counsel, Office of General Counsel, 202-649-3057, sharon.like@fhfa.gov. These are not toll-free numbers. The mailing address is: Federal

Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877-8339.

SUPPLEMENTARY INFORMATION:

Comments

FHFA invites comments on all aspects of the March 2018 proposed rule, including any new or supplemental comments on the corrected calculation of the proposed regulatory outcome requirement, and will take all comments into consideration before issuing a final rule including those filed prior to this notice. Copies of all comments will be posted without change, including any personal information you provide such as your name, address, email address, and telephone number, on the FHFA website at <http://www.fhfa.gov>. In addition, copies of all comments received will be available for examination by the public through the electronic rulemaking docket for this proposed rule also located on the FHFA website.

Background

On March 14, 2018, FHFA published in the *Federal Register* a proposed rule to amend its regulation governing the Banks' AHP, located at 12 CFR part 1291. *See* 83 FR 11344. The proposed rule, among other things, would provide the Banks authority to design and implement their own project selection scoring criteria and award AHP funds, subject to meeting certain FHFA-prescribed outcome requirements. The proposed rule contains an inadvertent error in the calculation of the regulatory outcome requirement in proposed § 1291.48(d), related rule text, and preamble discussions. The proposed rule states that: "Each year, each Bank shall ensure that at least 55 percent of the Bank's

required annual AHP contribution is awarded under the Bank's General Fund and any Bank Targeted Funds to projects that, in the aggregate, meet at least two of the three regulatory priorities in this paragraph" See 83 FR 11361, 11386 (emphasis added).

Under proposed § 1291.48(d), as drafted in the proposed rule, any AHP funds awarded to a household participating in a Homeownership Set-Aside Program would not count towards fulfillment of the outcome requirement. Therefore, were a Bank to allocate the maximum amount permitted under the proposed rule to its Homeownership Set-Aside Program(s) – 40 percent of its required annual AHP contribution – it would be required to ensure that nearly 92 percent of its remaining annual contribution be awarded to projects that satisfy, in the aggregate, two of the three identified regulatory priorities.

While not all subsidies awarded under a Homeownership Set-Aside Program will meet one of the prioritized housing needs identified under the regulatory priorities in proposed § 1291.48(d), some will, and FHFA believes that this should be reflected in the applicable outcome requirement.

Correction

Proposed § 1291.48(d), related rule text, and preamble discussions, therefore, should have included awards to households under a Bank's Homeownership Set-Aside Programs, if any, along with awards under the Bank's General Fund and any Bank Targeted Funds, in the calculation of whether the Bank achieved the regulatory outcome requirement. That is, the Bank's awards under its General Fund and any Targeted Funds and Homeownership Set-Aside Programs would be included in the numerator, and the Bank's required annual AHP contribution amount would be included in the denominator of the calculation.

Accordingly, in the proposed rule FR Doc. 2018-04745, on page 11386, in the issue of March 14, 2018, in the left column, in paragraph (d) of § 1291.48, the correction should correctly read: “Each year, each Bank shall ensure that at least 55 percent of the Bank’s required annual AHP contribution is awarded under the Bank’s General Fund and any Bank Targeted Funds and Homeownership Set-Aside Programs to projects or households, as applicable, that, in the aggregate, meet at least two of the three regulatory priorities in this paragraph” (emphasis added) If the corrected language is adopted in a final rule, FHFA will also make any other conforming revisions to the rule text as necessitated by the correction.

FHFA specifically requests comments on whether the calculation, as corrected, would provide the Banks sufficient flexibility to provide AHP funds to the housing needs in their districts. FHFA further requests comments on whether other changes to the outcome calculation would be appropriate, such as decreasing the percentage of the Bank’s annual AHP contribution required to meet the regulatory priorities to less than 55 percent, provided that at least a majority of the Bank’s annual AHP contribution is awarded to certain regulatory priorities established by FHFA.¹ FHFA also requests comments on whether adding a regulatory priority that is specifically focused on homeownership would increase opportunities for the Banks to include awards made in their Homeownership Set-Aside Programs towards meeting the regulatory priorities.

Extension of Comment Period

The comment period for the proposed rule was originally set to expire on May 14, 2018. FHFA has received a number of requests from commenters for an extension of the

¹ The Federal Home Loan Bank Act requires FHFA to establish priorities for the use of the AHP funds. 12 U.S.C. 1430(j)(9)(B).

comment period of varying lengths, with commenters citing the complexity and length of the proposed rule, the important issues addressed, and the high level of interest. In light of these requests, and FHFA's additional request for comment on the correction to the proposed outcome requirement calculation, FHFA is extending the comment period by an additional 30 days. This will result in a total comment period on the proposed rule of 90 days, expiring June 12, 2018.

Dated: April 26, 2018.

Melvin L. Watt,
Director, Federal Housing Finance Agency.
[FR Doc. 2018-09326 Filed: 5/1/2018 8:45 am; Publication Date: 5/2/2018]