



# FHLB Des Moines Rental Project General Information Packet

This document outlines the steps members and sponsors you will take as they reach particular milestones in grant approval, disbursement, and monitoring, including:

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This document is intended to help explain the AHP regulation (12 CFR 951), the FHLB of Des Moines' AHP Implementation Plan, as well as the Bank's policies and procedures. If further information or clarification is needed, please contact the Community Investment Department.

Remember, the review of your project is all about scoring, financial feasibility and demonstrating the project's need for the AHP subsidy.

## **Contact Information**

The program relies on the successful partnership and communication between member institutions, project sponsors and owners and the FHLB Des Moines. Please make sure that we always have your up-to-date contact information, including email addresses. We are available to discuss any questions you may have, provide additional information on the AHP program, or address specific issues that affect your project and the AHP award.

### Community Investment Department Staff Contacts

| Name            | Specialty              | Contact Information   |
|-----------------|------------------------|---|
| Tony Montgomery | Rental Housing Manager | 800.544.3452, ext. 1073<br><a href="mailto:tmontgomery@fhlbdm.com">tmontgomery@fhlbdm.com</a> |
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| Name                            | Specialty                       | Contact Information   |
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| Evelyn Bengtson                 | Rental Housing Specialist       | 800.544.3452, ext. 1064<br><a href="mailto:ebengtson@fhlbdm.com">ebengtson@fhlbdm.com</a> |
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| Community Investment Department |                                 | 800.544.3452, ext. 1173   |

### **FHLB Des Moines Website, AHP Documents and Forms**

The FHLB Des Moines’s website contains additional information regarding the administration of the AHP, including the AHP Implementation Plan, summary of program requirements, and the required forms and documentation (i.e. – for disbursement or the retention requirements). The AHP web page is found directly at <http://www.fhlbdm.com/strong-communities-fund/> or you may also visit Affordable Housing Program under the Community Investment Department section of the FHLB Des Moines website.

### **AHP Implementation Plan**

The Federal Home Loan Bank of Des Moines (the Bank) suggests you review the AHP Implementation Plan for this round available at the Bank’s web site located at: <http://www.fhlbdm.com/strong-communities-fund/housing-programs/>. The Implementation Plan contains all current information on the Affordable Housing Program, including feasibility guidelines and scoring criteria.

### **Program Timeline and Benchmarks**

1. **AHP Agreement.** The AHP Agreement is mailed to the member representative and the project sponsor.
2. **Progress Reports.** During construction/rehabilitation, semiannual Progress Reports are required of members and sponsors/owners.
3. **Timing of AHP Subsidy Use.** Some or all of the AHP subsidy must likely be drawn down or used by the project to procure other financing commitments within 12 months of the date of approval of the application for AHP subsidy funding the project. The Bank will review all projects at 12 months to determine if the AHP commitment should proceed.
4. **Disbursement.** The member must submit an *AHP Subsidy Transfer Request Form* (<http://www.fhlbdm.com/strong-communities-fund/housing-programs/>) and all of the required documentation. The Member must be current on all Progress Reports prior to disbursement of funds. *A request for disbursement of funds may not be made until the AHP Agreement has been executed.*
5. **Initial Monitoring.** Nine Months after the project is completed, CID will conduct its initial monitoring review and analyze any changes to the project’s costs and operations.
6. **Long-Term Monitoring.** Owner/Sponsor Certifications will be required annually for all projects. Rental Monitoring Spreadsheets and supporting income documentation will be requested in 2, 4 or 6-year intervals based on the amount of AHP subsidy.

### **AHP Agreement**

The AHP Agreement sets forth the respective duties and obligations of the Bank, member, project sponsor and project owner with regard to the approval and funding of the AHP Application. The AHP Agreement must be signed by the member, project sponsor, project owner, and the Bank. *An authorized AHP signatory of the member financial institution is required to sign the AHP Agreement.* The member and project sponsor/owner will be bound by the terms and conditions governing the approval and funding of the application, including all representations made in the

application. The Agreement will also outline contingencies that must be satisfied prior to disbursement and/or initial monitoring. It is imperative that the member and sponsor review the AHP Agreement thoroughly to ensure their understanding of the document. Other than the identification of member, sponsor, and owner, the terms and conditions of the Agreement are non-negotiable.

### **Progress Reports**

During the construction or rehabilitation period, the owner and member must report to the Bank semi-annually on the project's progress (i.e. – issues that may delay completion of the project, status of construction, funding commitments, etc.).

The project sponsor/owner will report to the member financial institution regarding the status of the project semiannually. The member will then report to the FHLB Des Moines. Reporting generally occurs in March and September. All notifications are sent via mail. The Community Investment Department requests and reviews semiannual reports to measure the progress an AHP project is making toward completion and/or occupancy. The Progress Report must include the following information:

- A description of the current status indicating any changes in the development time line, funding, or construction status and estimated completion date.
- A description of any changes affecting the approved scoring criteria that have occurred since the application was approved including number of units, targeting, special needs populations served, property locations, and services to be provided to eligible households.

Based on the findings of the progress report, the Community Investment Department will determine in its sole discretion whether to grant an extension, withdraw or recapture any previously disbursed AHP funds. Each progress report must provide specific information and provide progress on the project. Progress Reports will be required until construction and /or rehabilitation of all units is complete. Complete is defined as all project units are complete and all sources of funds in the development budget have been disbursed to the unit, including non-AHP assistance.

### **Retention Document**

The Federal Housing Finance Board's regulations governing the AHP require that an Agreement for Covenants & Restrictions or other legally enforceable mechanism (such as a deed restriction or mortgage) be used to secure the obligations contained in the Agreement. The Retention Document will secure the entire AHP Agreement including, but not limited to, its affordability provisions. The FHLB Des Moines provides standard Covenants & Restrictions documents on its website. If not using the sample retention document, approval of the proposed document is required by the FHLB Des Moines prior to disbursement.

Because lease-purchase programs pose unique issues concerning retention, members and sponsors should discuss these issues with the CID in advance of drawing AHP funds.

### **Project Cost and Feasibility Guidelines**

The FHLB Des Moines has established guidelines for the review of a project's cost, financial feasibility, and need for AHP subsidy. Project costs and operating figures will be analyzed against Bank guidelines at the time of application, disbursement, requested project modifications, and initial monitoring. The Bank's feasibility guidelines are published in the FHLB Des Moines' Implementation Plan for the year of award. The AHP subsidy shall be used to pay for eligible housing development costs. AHP funds *may not* be used for capitalized reserves, non-housing

costs (i.e. – garages, community buildings, program/office space, playgrounds, etc.), or supportive services.

### **Modifications**

The AHP regulation requires that if there are changes that affect the individual scoring criteria of an application, a modification must be completed. The FHLB Des Moines, in its sole discretion, may approve a written modification to the terms of an approved application, if:

- The project would continue to meet the eligibility requirements of the AHP regulations;
- The application continues to score high enough to have been approved in the funding period in which it was originally scored and approved by the Bank; and
- There is good cause for the modification. The Bank will document the analysis and justification for the modification in writing.

### **Award Extensions**

Each project is given 24 months to complete. The Bank may extend the time for expenditure of AHP funds provided that reasonable progress is being made in obtaining funding or toward completion of the project. The Bank will, in its sole discretion, determine whether to extend the time for expenditure of AHP funds. To receive an extension beyond 24 months, the Bank will consider issues including, but not limited to: (1) the percentage of the project completed to date; (2) the timing of applications and requirements of other funding sources involved in the project; (3) weather-related construction problems; (4) natural disasters or local conditions that cause delay; (5) legal requirements; and (6) community challenges. Extensions will be limited to the period necessary to address the specific issue(s).

### **How to Complete a Subsidy Transfer Request**

Prior to disbursement, FHLB Des Moines staff verifies that the project meets the eligibility and feasibility requirements (through review of project budgets) and continues to display a need for the AHP subsidy. Staff also reviews changes to the project, including characteristics that would affect the project score prior to disbursement. Please submit the request for disbursement to the Community Investment Department **at least ten business days** before the funds are needed. Most transfers are processed within ten (10) business days, although the process may take longer based on the complexity of the project and the responsiveness of the Sponsor/Owner.

All projects must use the *AHP Subsidy Transfer Request Form* for disbursement requests (available at <http://www.fhlbdm.com/strong-communities-fund/housing-programs/competitive-affordable-housing-program/ahp-rental-forms-page/>). The following documentation is required with each Subsidy Transfer Request:

1. A fully executed copy of the AHP Agreement (if not already submitted)
2. Any delinquent AHP Progress Reports (if not already submitted)
3. The proposed rent schedule, which includes the number of units targeted at various percentages of area median income (50%, 60% and 80%), bedrooms per unit, maximum income level, tenant paid rent and rental assistance per unit. These numbers must be consistent with the approved AHP application and match the Pro Forma
4. The current Sources and Uses of Funds (development budget)
5. The current Contractor's & Owner's Cost Breakdown (signed)
6. The current 15-year Pro Forma
7. Sample Retention Document
8. Documentation of contingencies that must be satisfied prior to disbursement (as stated in the project's AHP Agreement)

### **Initial Monitoring**

Nine months after the FHLB Des Moines is notified that a rental project is complete; the Bank will begin the initial monitoring process to determine that the project was developed and is operating in accordance with AHP regulations. The Bank will also examine the scoring criteria as committed to in the AHP application and AHP Agreement, confirming that each of the scoring criteria is fulfilled. It is expected that initial monitoring will be completed within 15 months of the project completion date. If the Bank can not verify compliance within 15 months of the completion date, the project will be placed on the Compliance Plan. The FHLB Des Moines strongly encourages that the parties responsible for property management (sponsor or owner's staff and/or the property management company) participate in the monitoring process.

It is the sponsor and owner's responsibility to maintain all documentation necessary for compliance review. The sponsor must do the following during the initial monitoring review:

- Certify to the Bank that the AHP subsidies were used for eligible purposes, according to the commitments made in the AHP application.
- Provide a list of tenant rents and incomes and certify that the rents and incomes are accurate and in compliance with the approved targeting commitments.
- Retain all income documentation from move-in for all tenants residing in the units to demonstrate project is in compliance with approved targeting. Demonstrate that the final costs were reasonable in accordance with the Bank's guidelines and the AHP subsidies were necessary for the completion of the project.
- Provide a copy of the recorded AHP Retention Document.
- Certify that services and activities committed to in the approved AHP application have been provided in connection with the project.

NOTE: The final documentation on development costs and first year rents and operating expenses must demonstrate that the project is feasible and needs AHP funds.

The following information will be collected at initial monitoring:

1. Certification of Use of Affordable Housing Program Funds for Rental Projects – Owner form
2. Rental Monitoring Spreadsheet (RMS). Verification that the tenant rents and incomes are accurate and in compliance with the approved targeting commitment.
3. Copy of the recorded AHP Retention Document (Agreement for Covenants & Restrictions)
4. Copy of the Certificate of Occupancy
5. Final Sources and Uses of Funds Statement
6. Final Contractor's and Owner's Cost Breakdown
7. First Year Operating Statement (trailing 12 months following completion)
8. 15-year Pro Forma
9. Final Cost Certification (submission is required if a certification has been completed for other funding programs, such as the Low-Income Housing Tax Credit Program or HUD). If a final cost certification was not required by any other funding source, please submit other third-party documentation of the project's final development cost, such as the final request and certification for payment (as approved by the architect), a sworn construction statement, final lien waivers, a closing statement, and/or copies of receipts and invoices.
10. Copy of IRS Form 8609, signed by an authorized official of the housing credit agency (submission is required for projects financed with Low-Income Housing Tax Credits).
11. AHP Project/Tenant Services Certification Form

12. Pictures of the completed project
13. Various other items that are tied to the project's scoring criteria

**Long-term Monitoring (Annual Compliance Certifications/Periodic Monitoring Reports)**

It is the obligation of the project owner to ensure that the long-term monitoring and reporting obligations are understood by the responsible parties and fulfilled in a timely manner. The FHLB Des Moines strongly encourages that the parties responsible for property management (sponsor or owner's staff and/or the property management company) participate in the monitoring process.

In the second year after completion and annually thereafter until the end of the retention period, the project owner must complete an Owner/Sponsor Certification, certifying to the FHLB Des Moines that:

- Tenant incomes and rents are accurate and in compliance with the restrictions and income targeting commitments made in the AHP application;
- The housing is habitable;
- Documentation regarding tenants' rents and incomes and the project's habitability is available for review by the FHLBDM to support such certifications; and
- There has been no sale, refinancing, or transfer of the project since the last certification was signed.

The Bank will review documentation maintained by the project owner regarding tenant rents and incomes and project habitability to verify compliance with the rent and income targeting commitments in the AHP application and project habitability, according to the following schedule:

- \$100,000 and under – the Bank will review annual certifications by the project owner
- \$100,001 to \$250,000 – the Bank will review project documentation for a sample of the project's units at least once every six years
- \$250,001 to \$500,000 – the Bank will review project documentation for a sample of the project's units at least once every four years
- Over \$500,000 – the Bank will review project documentation for a sample of the project's units at least once every two years

Requirements for Project Owners with Low Income Housing Tax Credit projects:

In the second year after completion of a rental project and annually thereafter until the end of the project's retention period, the project owner must certify annually to the Bank that:

- The tenant rents and incomes are in compliance with the rent and income targeting commitments made in the AHP application; and maintain documentation regarding tenant rents and incomes available for review by the Bank to support such certifications.
- The project has not been notified of a compliance issue by the Low Income Housing Tax Credit Administrator.
- The project has not been sold or refinanced.

**Remedial Actions for Noncompliance**

A project may be placed under the Bank's Compliance Plan or Watch List for failure to comply with AHP Regulations and/or the department's policies and procedures. Such status may lead to the disqualification for future AHP funding.

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

The member shall not be liable to the FHLB Des Moines for the return of amounts that cannot be recovered from the project sponsor or owner through reasonable collection efforts by the member. Please see also your executed AHP Agreement and the AHP regulation for more information on this topic.

**Deobligation and Recapture of Funds**

Deobligation occurs when committed AHP funds that were never disbursed to a member or were never disbursed by a member to an AHP project sponsor/owner are returned to the Bank.

Recapture may occur when committed AHP funds were disbursed to a member and

- AHP funds were not spent in a manner consistent with the AHP Application and Agreement
- AHP funding was used for non-housing purposes
- The project no longer meets the feasibility guidelines of the Affordable Housing Program
- The project no longer displays a need for AHP subsidy
- The property is sold and the affordability restrictions were not maintained
- The project does not maintain the original application score (9 scoring priorities)
- The property is sold without prior FHLB Des Moines approval
- Funds are allocated without an authorized lien release
- Various other factors determined by department in its sole discretion