I. Introduction

The FHLBC has established and implemented this policy, which addresses the bases for and means of remediating Non-Compliance in an AHP Project under the Competitive Application Program. This policy sets forth areas of Non-Compliance, the remedies available for resolution of Non-Compliance, and the implications of Non-Compliance.

II. Non-Compliance

Non-Compliance is a failure to fulfill, in connection with an AHP Project, the requirements set forth in the Regulations, the Subsidy Agreement, the Retention Agreement, the AHP Implementation Plan for the applicable Funding Round under which the AHP Project was approved, or to comply with FHLBC policies and procedures as set forth in this policy.

The following is a non-exhaustive overview of areas and reasons that the FHLBC may determine there is Non-Compliance. In all cases, a determination of Non-Compliance will be at the discretion of the FHLBC after taking into consideration the facts and circumstances surrounding the event(s).

1) **Commitments**: Failure to fulfill a Commitment

2) **Eligibility**: Failure to meet or maintain minimum eligibility criteria as set forth in the Regulations, the Subsidy Agreement, the Retention Agreement or the AHP Implementation Plan for the applicable Funding Round under which the AHP Project was approved. Examples may include, but are not limited to:
   - Failure to demonstrate a need for AHP Subsidy
   - Use of AHP Subsidy for an ineligible purpose. For additional information regarding eligible and ineligible uses of AHP Subsidy, see the Eligible and Ineligible Uses of AHP Subsidy Policy
   - Failure to comply with the timelines for disbursement of AHP Subsidy or Project Completion. For additional information regarding AHP Project timelines see the Disbursement Policy and the Monitoring Policy

3) **Feasibility**: Failure to demonstrate financial feasibility.

4) **Monitoring**: Failure to comply with the FHLBC’s requirements for monitoring and reporting. Examples may include, but are not limited to:
   - Failure to submit monitoring reports in a timely manner
   - Failure to submit monitoring documentation in a timely manner

5) Misrepresentation, negligence, or fraud

6) **Financial distress, insolvency, or dissolution**: Examples may include, but are not limited to:
   - Bankruptcy of the Sponsor or Owner
- Dissolution of the Sponsor or Owner
- Insolvency of the Sponsor or Owner
- Legal actions involving the Sponsor or Owner, including, but not limited to violations of fair housing laws
- Defaults on other sources of financing in the AHP Project

In cases where it is believed, anticipated, or unclear whether there has been Non-Compliance with the Regulations, the FHLBC may consult its legal department and, with CIO approval, the FHFA.

**III. Remedies for Non-Compliance**

Upon a determination of Non-Compliance, the FHLBC will evaluate remedies available for resolution.

The FHLBC’s policy is to remedy Non-Compliance in a timely manner with as little impact to the AHP Project as possible in an effort to maintain the AHP Project through the Retention Period.

Remedies for the resolution of Non-Compliance, in their order of preference, are as follows:

A. **Cure**

The FHLBC will first determine if the nature of the Non-Compliance is such that it can be cured. If the Non-Compliance cannot be cured, the FHLBC will consider alternative remedies to resolve the Non-Compliance.

If the Non-Compliance can be cured, the Sponsor and Member will be given an opportunity to do so. Unless the Non-Compliance can be immediately cured, the Member and Sponsor will be required to submit a **Cure Plan** that includes both of the following:

- the actions to be taken to cure the Non-Compliance; and
- the Cure Period for resolution of the Non-Compliance

The FHLBC will review the Cure Plan for reasonableness and effectiveness and may require revisions, prior to FHLBC approval, to ensure that the Non-Compliance is cured in a timely and effective way.

If the Cure Plan is approved, the FHLBC will also determine an appropriate frequency and method to monitor progress towards resolution of the Non-Compliance.

If the Non-Compliance is not resolved within the Cure Period, the FHLBC may extend the Cure Period or seek an alternative remedy to the Non-Compliance.

B. **Modification**

If the Non-Compliance cannot be cured, the FHLBC may consider a Modification as a remedy to resolve the Non-Compliance.

For additional information regarding Modifications, see the Project Change Policy.

C. **De-obligation or Recapture of AHP Subsidy**

If the Non-Compliance cannot be resolved through a cure or a Modification as described above, the FHLBC may remedy the Non-Compliance through a De-Obligation of AHP Subsidy that has not yet been disbursed to the AHP Project. CIO approval is required for a De-Obligation of AHP

FHLBC Affordable Housing Program Non-Compliance Policy
Subsidy. For additional information regarding the De-Obligation of AHP Subsidy see the Project Change Policy.

Additionally, the FHLBC may remedy the Non-Compliance through a partial or full Recapture of any AHP Subsidy that has been disbursed to the AHP Project. The effect of a full Recapture is that there will no longer be an AHP Project, and the AHP Project will, therefore, no longer be subject to the Retention Agreement. The CIO must approve all Recaptures before they are initiated or accepted.

In the event of a Recapture, the FHLBC will provide written notification of the amount of AHP Subsidy subject to Recapture, along with the timeframe for Recapture, and will pursue repayment of the AHP Subsidy as follows:

If the Member causes the AHP Subsidy to be misused through its actions or omissions, the Member shall repay the AHP Subsidy to the FHLBC.

The FHLBC requires the Member to record a lien, in the amount of the AHP Subsidy against the AHP Project or AHP-Assisted Units, and to maintain it throughout the Retention Period as a means to recover the AHP Subsidy. If the Member did not record or maintain this lien, the Member may be liable for reimbursing the FHLBC for the misused AHP Subsidy.

If the Sponsor or Owner causes the AHP Subsidy to be misused through its actions or Omissions, the FHLBC, in its discretion, may either:

- Direct the Member to recover the AHP Subsidy from the Sponsor or Owner and repay the AHP Subsidy to the FHLBC, or
- Direct the Sponsor or Owner to repay the AHP Subsidy directly to the FHLBC.

If the FHLBC causes the AHP Subsidy to be misused through its actions or Omissions, the FHLBC will reimburse the AHP fund.

In the event the FHLBC does not receive the full amount of the AHP Subsidy required via a Recapture, the FHLBC may settle for a lesser amount, provided that:

- The CIO must approve the amount of AHP Subsidy that will be recovered through all settlements. The CIO and the Executive Vice President of the Members Products Services and Community Investment Group are required to approve any settlement forgiving $100,000 or more of the AHP Subsidy; and
- The FHLBC has sufficient documentation showing that the settlement agreed to be repaid is reasonably justified, based on the facts and circumstances of the Non-Compliance (including the degree of culpability of the non-complying parties and the extent of the recovery efforts); or
- The FHLBC obtains a determination from the FHFA that the settlement agreed to be repaid is reasonably justified, based on the facts and circumstances of the Non-Compliance (including the degree of culpability of the non-complying parties and the extent of the recovery efforts)

In the event the FHLBC settles for less than the full amount of AHP Subsidy disbursed to the AHP Project, the FHLBC will reimburse the AHP fund if directed to do so by the FHFA.

Following the De-Obligation or Recapture of AHP Subsidy as a remedy to Non-Compliance, the CIO must approve the AHP Project’s disposition and removal from Non-Compliance reporting.
D. FHFA Waiver or No-Action

The FHLBC may consult its legal department and, with CIO approval, the FHFA, which may allow the FHLBC to waive or pursue no action to remedy the Non-Compliance.

IV. Implications of Non-Compliance

The FHLBC expects that AHP Projects will comply with the requirements of the Regulations, the Subsidy Agreement, the Retention Agreement, the AHP Implementation Plan for the applicable Funding Round under which the AHP Project was approved, and the policies and procedures of the FHLBC. Instances of Non-Compliance may impact the Sponsor, the Member, or the AHP Project as described below.

A. FHLBC Activities

The FHLBC will not approve any of the following activities in an AHP Project in which there is unresolved Non-Compliance for which the FHLBC has not approved a Cure plan:

- Disbursement of AHP Subsidy;
- PCR Completion

B. Capacity Review

Non-Compliance is a reflection on the capacity of the entity responsible for Non-Compliance. Instances of Non-Compliance are documented and may factor into the FHLBC’s assessment of the capacity of a Sponsor or Member when reviewing any future Application for AHP Subsidy.

C. Suspension and Debarment

Based on the severity or frequency of the Non-Compliance, the FHLBC or the FHFA may initiate Suspension or Debarment of the entity responsible for the Non-Compliance as set forth in the Suspension and Debarment Policy.