

§ 951.10

(b) *Agreements between Banks and project sponsors or owners.* A Bank shall have in place an agreement with each project sponsor or project owner, in which the project sponsor or project owner agrees to repay AHP subsidies directly to the Bank in accordance with the requirements of § 951.8(b)(2)(ii) of this part (if applicable).

(c) *Application to existing AHP projects and units.* The requirements of section 10(j) of the Act (12 U.S.C. 1430(j)) and the provisions of this part, as amended, are incorporated into all agreements between Banks, members, project sponsors, and project owners receiving AHP subsidies under the competitive application program, and between Banks, members and unit owners under the homeownership set-aside program. To the extent the requirements of this part are amended from time to time, such agreements are deemed to incorporate the amendments to conform to any new requirements of this part. No amendment to this part shall affect the legality of actions taken prior to the effective date of such amendment.

§ 951.10 Conflicts of interest.

(a) *Bank directors and employees.* (1) Each Bank's board of directors shall adopt a written policy providing that if a Bank director or employee, or such person's family member, has a financial interest in, or is a director, officer, or employee of an organization involved in, a project that is the subject of a pending or approved AHP application, the Bank director or employee shall not participate in or attempt to influence decisions by the Bank regarding the evaluation, approval, funding, monitoring, or any remedial process for such project.

(2) If a Bank director or employee, or such person's family member, has a financial interest in, or is a director, officer, or employee of an organization involved in, an AHP project such that he or she is subject to the requirements in paragraph (a)(1) of this section, such person shall not participate in or attempt to influence decisions by the Bank regarding the evaluation, approval, funding, monitoring, or any remedial process for such project.

(b) *Advisory Council members.* (1) Each Bank's board of directors shall adopt a

12 CFR Ch. IX (1-1-08 Edition)

written policy providing that if an Advisory Council member, or such person's family member, has a financial interest in, or is a director, officer, or employee of an organization involved in, a project that is the subject of a pending or approved AHP application, the Advisory Council member shall not participate in or attempt to influence decisions by the Bank regarding the approval for such project.

(2) If an Advisory Council member, or such person's family member, has a financial interest in, or is a director, officer, or employee of an organization involved in, an AHP project such that he or she is subject to the requirements in paragraph (b)(1) of this section, such person shall not participate in or attempt to influence decisions by the Bank regarding the approval for such project.

(c) *No delegation.* A Bank's board of directors shall not delegate to Bank officers or other Bank employees the responsibility to adopt the conflict of interest policies required by this section.

§ 951.11 Temporary suspension of AHP contributions.

(a) *Request to Finance Board.* If a Bank finds that the contributions required pursuant to § 951.2(a) of this part are contributing to the financial instability of the Bank, the Bank may apply in writing to the Finance Board for a temporary suspension of such contributions.

(b) *Board of Directors review.* (1) In determining the financial instability of a Bank, the Board of Directors shall consider such factors as:

- (i) Severely depressed Bank earnings;
- (ii) A substantial decline in Bank membership capital; and
- (iii) A substantial reduction in Bank advances outstanding.

(2) *Limitations on grounds for suspension.* The Board of Directors shall not suspend a Bank's annual AHP contributions if it determines that the Bank's reduction in earnings is due to:

- (i) A change in the terms of advances to members that is not justified by market conditions;
- (ii) Inordinate operating and administrative expenses; or
- (iii) Mismanagement.