

August 16, 2024

The Honorable Sandra L. Thompson
Director
Federal Housing Finance Agency
400 Seventh Street SW
Washington, DC 20024

Re: Request for Input: Federal Home Loan Bank Affordable Housing Program Competitive Application Process

Dear Director Thompson:

On behalf of the Affordable Housing Advisory Council of the Federal Home Loan Bank of Dallas (“Dallas AHAC”), we are writing in response to the Federal Housing Finance Agency’s (“FHFA”) Request for Input (“RFI”) issued June 20, 2024, related to the FHLBanks Affordable Housing Program (“AHP”) Competitive Application Process. Thank you for considering our views.

The RFI raises issues vital to the philosophy of the FHFA regarding AHP, the role of AHP in the affordable housing industry and the accessibility of AHP funds, all of which have fundamental impacts on the operation of the FHLBanks, their members and the communities they serve through the AHP. The ultimate results of the RFI could have a significant and positive impact on this country’s affordable housing challenges by maximizing the impact of the program and reducing administrative complexity.

The Dallas AHAC is comprised of experienced leaders in affordable housing and community development representing Arkansas, Louisiana, Mississippi, New Mexico and Texas. We work in densely built urban areas like New Orleans, Louisiana as well as Dallas and Houston, Texas; and in rural communities in Leflore County, Mississippi, St. Francis County, Arkansas; Socorro County, New Mexico and Lafourche, Louisiana. Our expertise spans affordable housing development, housing authorities, service to extremely low-income households, persons who are homeless, vulnerable populations, community development and small businesses. In addition, several of our Advisory Council members have sponsored multiple AHP applications.

Through our collective experience and the cooperative relationship with FHLBank Dallas’ Board of Directors and management, we understand how AHP works and how it fits into the affordable housing finance system. The Dallas AHAC is fully engaged in helping shape affordable housing policy at the FHLBank. Our current experience with the AHP and the feedback provided in our response to the questions in the RFI are consistent with previous AHAC experience and feedback shared with FHFA in other forums. Our unique governance structure – Advisory Council, Board and management working together – enables us to understand the affordable housing needs in our five-state district and create policies that direct our AHP dollars to meet those needs.

The Dallas AHAC believes the focus of the RFI should be the simplification of these regulations and the elimination of the complexities of the AHP rather than only focus on the AHP application processes of the FHLBanks. It is the complexity of these regulatory and supervisory requirements and the associated examination findings that drive the AHP application process of FHLBanks.

As a result, the Dallas AHAC believes the more effective approach to addressing the concerns about the AHP competitive application process is to focus on revising the regulatory framework to allow AHP to more efficiently, consistently, and effectively help ease affordable housing challenges. To achieve this end, the Dallas AHAC believes the FHFA should reconsider the regulatory philosophy as it relates to the AHP application process and provide for consistent supervisory interpretation and regulatory enforcement.

A refocused philosophy should:

- Recognize that the current complexity of AHP regulations has a direct impact on program users and the communities they serve, as well as a program user's ability to apply for AHP.
- Simplify and streamline the AHP regulations and requirements for both the application process and monitoring.
- Recognize that AHP is only a part of the funding for affordable housing projects, and does not drive an affordable housing market.
- Provide a stable and consistent regulatory framework for the FHLBanks and sponsors,
- Align/integrate the AHP requirements with, and support, the affordable housing sector as a whole; and,
- Appreciate that rural areas are particularly impacted by the burdens of the current AHP regulatory structure because of scalability. Housing partners in rural areas are often smaller, have less access to staffing resources, and are more hesitant to make an AHP application because of the demands associated with making an application and subsequent regulatory compliance.

Once again, the Dallas AHAC appreciates the opportunity to provide these comments to the RFI. We look forward to continuing to work constructively with FHFA as it continues its comprehensive review of the Affordable Housing Program.

Sincerely on behalf of The Federal Home Loan Bank of Dallas Affordable Housing Advisory Council,

Chris Monforton

Chris Monforton
Chair, Affordable Housing Advisory Council
Chief Executive Officer
Habitat for Humanity Mississippi Gulf Coast

Jeff Curry

Jeff Curry
Vice Chair, Affordable Housing Advisory Council
Director of Development
JL Gray Company, Inc

Questions

Question 1

Are there particular components of the FHLBanks' AHP application processes that could be made more effective or efficient, and if so, how?

Are any of the FHLBanks' specific documentation requirements for AHP applications unnecessary for verifying that the applicant meets the AHP eligibility requirements and scoring criteria?

Are there ways to streamline the application process while maintaining the FHLBanks' ability to verify applicants' compliance with the AHP eligibility requirements and scoring criteria?

The Dallas AHAC believes that the AHP regulations drive complexity in the AHP application process, and that efficiencies in that process can only be achieved through changes to the regulatory scheme. To this end, the FHLBanks suggest:

The AHP need for subsidy should be about long-term sustainability, not just about what it takes to first "open the doors". Reserves, well-funded support services, and sustainable cash flow should be seen as a means to support long term sustainability rather than an indication of over-subsidization. The need for subsidy requirements placed upon the Banks via FHFA supervisory action should be removed from the requirements of the AHP application.

- Allow reserves to be included in project budgets at levels that align with other funders’ requirements. Replacement reserves are crucial for the long-term stability and provision of affordable housing. These funds should not be minimized or restricted in the AHP application and evaluation process.
- Allow cost of tenant supportive services to be an eligible operating budget expense.
- The use of deferred development fee to balance projected budgets should not create a required use from that source or negate the need for AHP subsidy.
- Eliminating the expectation that FHLBanks assess whether excess cash flow could be used to take on additional debt, since FHLBanks will not be the providers of that additional debt. Aligning AHP requirements with, and deferring to, larger project funders to mitigate the complexities involved when layering multiple affordable housing subsidies on one project.
- Allowing reasonable reliance on application information and certification without the need for supporting documentation and communications at application. This could have the effect of reducing the need for consultants in applying for the AHP.
- Recognizing that aspects of the property development may change from the time of application to completion of the property due to economic or local factors, and that requiring developers to cure (or attempt to cure) any scoring category changes prior to requesting a modification is unduly burdensome, especially when AHP is a small part of the development budget, and other funders allow changes.

Outside the AHP application process, the FHFA could further simplify the AHP process by:

- Specifically providing for pro-rata forgiveness on rental projects commensurate with the remaining retention period - requiring full repayment when a project has met its AHP commitments for a portion of the retention period creates an unreasonable financial burden for project sponsors.

Question 2

How do the FHLBanks’ AHP application processes compare to those of other providers of gap funding with respect to scope, complexity, and documentation requirements?

There is a disconnect between the AHP application process and those of other funders that adds to the problem of complexity, but the process is driven by regulatory requirements. The FHLBanks offer the following for your consideration in revising the AHP regulation:

- Limit “need for subsidy” review to identification of gap in project’s development budget solely.
- Eliminate negative treatment of positive cash flow (to effectively integrate AHP with the affordable housing sector, need to recognize that commercial lenders want to see positive cash flow).
- Recognize that reserves, especially replacement reserves, are necessary for long-term feasibility and do not need to have ceilings placed on them.
- Eliminate requirements that the net present value of Habitat for Humanity future mortgages be considered a development source of funds. This creates complicated and unnecessary steps when

applying for and being funded with the AHP General Fund for organizations like Habitat for Humanity affiliates that self-fund the mortgages to their homebuyers.

Question 3

Do the FHLBanks' AHP application processes leverage other funders' applications/requirements? Are the AHP application processes duplicative or complementary to other funders' underwriting requirements and processes? Do the AHP application processes create the need for additional information and documentation?

Due to the complexity of the AHP regulations, the FHLBanks cannot efficiently leverage the applications and/or requirements of other funders. Our belief that the AHP regulations need to reflect a change in philosophy that is consistent with the FHFA's stated goal of enhancing the FHLBank's ability to address affordable housing needs and streamlining AHP regulatory requirements. For this philosophy to be effective, it should be based on a strong understanding of the role AHP plays within the current affordable housing context and focus on the downstream impacts to the recipients and beneficiaries of AHP subsidies. This change in approach should allow the FHFA to integrate the AHP application process more effectively with those of other funders and the affordable housing sector at large. One example of an AHP application process requiring additional documentation is the requirement for sponsors to remove supportive services from operating expense pro-formas, resulting in the need to create a unique proforma just for AHP. This is not aligned with industry practice. As noted above, there are other opportunities to better align AHP with industry practice.

Question 4

Should the AHP regulation allow the FHLBanks to differentiate their AHP application requirements for projects requesting subsidy that constitutes a small percentage of the total funding in the project? If yes, why? Do other gap funders differentiate their application requirements for smaller projects?

The Dallas AHAC believes a more appropriate question would be to ask the question differently. For example: "Should the AHP regulation allow the FHLBanks to differentiate their AHP application requirements for smaller projects based on the number of units being developed or renovated?" The complexity of building an affordable rental quadruplex in a rural community is less than a 100-unit urban project using LITHCs. An option to have the application requirements be streamlined and reduced for smaller sized (in terms of units produced or retained) will be impactful to the program. Additionally, allowing differentiation for projects in which the AHP subsidy constitutes a smaller percentage of the total funding would more effectively integrate AHP into the affordable housing market, thereby more effectively delivering the AHP. However, the Dallas AHAC believes that all projects should benefit from regulatory simplification, regardless of the total funding percentage AHP provides. As stated previously, rural areas are particularly impacted by the burdens of the current AHP regulatory structure because of scalability. Housing partners in rural areas are smaller, have less access to staffing resources, and are more hesitant to sponsor an AHP project because of the demands associated with making an application and subsequent regulatory compliance.

Question 5

What role do consultants provide in applying for AHP funds? What are the reasons that an AHP applicant may use a consultant? To the extent that applicants are using the services of consultants to apply for AHP subsidy, how does the practice compare to the use of consultants for other sources of gap funding?

Consultants provide smaller organizations that have limited affordable housing portfolios or experience using federally regulated funds with the expertise to meet AHP's need for subsidy and documentation requirements. While the cost of a consultant may be a limiting factor for the smaller, less experienced developers to apply for the AHP, it is the complexity of AHP expectations that is the real barrier.

Additionally, more experienced sponsors may have limited resources and be unable to devote the time necessary to develop expertise in working through implementation plans and AHP application processes, which is only exacerbated by the complexity of the AHP. It can be more efficient for sponsors to rely on consultants who have worked with AHP on numerous projects through multiple phases and have developed expertise as a result. However, both sponsors and consultants would benefit from an integrated and simplified AHP regulatory framework governing the AHP application process and subsequent compliance if awarded AHP subsidy.

Question 6

Are there effective practices the FHLBanks could implement to coordinate the underwriting review process across multiple funding sources in a project?

Yes, however those practices should be uniform across all FHLBanks, which can only be achieved through a revised AHP regulatory framework that provides a uniform and consistent structure for the FHLBanks. In addition to the recommendations made above, a revised and integrated regulatory framework could:

- Eliminate the exclusion of supportive services from the operating pro forma to align with other funders.
- Allow FHLBanks to accept other funders reasonable benchmarks at face value without unnecessary justification or documentation.
- Recognize the significance and impact of the Low-Income Housing Tax Credit projects, the nation's most important funding source for adding to the supply of affordable housing.
- Allow FHLBanks to rely on other funders' reasonable conclusions and documentation about a project's readiness, capacity, market/demand, and financial viability.

Question 7

What is the single most important change you would recommend for improving the AHP application process?

A change in philosophy around how AHP is evaluated by the FHLBanks is critical. This includes correcting the problematic approach to evaluating the need for AHP subsidy as required by FHFA supervisory action over time. The Dallas AHAC also concurs with the response to this question by the FHLBanks which states:

“The FHLBanks believe the single most important change that could be made regarding AHP is to change the philosophy that guides the regulatory framework for AHP. That philosophy should recognize the complementary role AHP occupies within affordable housing projects and the affordable housing market, align, and integrate with the affordable housing sector, simplify, and streamline regulatory requirements, eliminate unnecessary penalties and unduly burdensome monitoring requirements, and provide consistency to FHLBanks and end-users of AHP subsidies. Relatedly, the FHLBanks encourage the FHFA to recognize the FHLBanks’ role as a “gap” funder as opposed to a lead lender, whereby the FHLBanks are not able to influence major project changes, for example, reserves, funding, etc.”

Question 8

What concrete steps would you recommend for simplifying the AHP application process and why?

The Dallas AHAC recommends a change in a philosophical approach for AHP to being one in which AHP is a collaborative, supportive, and mission-driven source of funds vs. being overly technical, skeptical, and documentation-focused.