

August 19, 2024

The Honorable Sandra Thompson
Director
Federal Housing Finance Agency
400 7th Street, SW
Washington, DC 20219

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

Dear Director Thompson:

The American Bankers Association¹ is pleased to offer comments on the Request for Input (RFI) published by the Federal Housing Finance Agency (FHFA) regarding the Federal Home Loan Banks' (FHLB) Affordable Housing Program (AHP) Competitive Application Process. We continue to welcome the thoughtful and inclusive process that FHFA has followed since announcing the Comprehensive Review of the FHLBs. The multiple opportunities for stakeholders to engage should promote understanding among interested parties about the strengths of the FHLB System and encourage feedback on potential areas for improvement and innovation. We believe that this request for input will encourage FHFA to adopt durable rules and other policy changes that reflect stakeholder input and consensus.

Summary of Comment

As noted by FHFA, the RFI is an outgrowth of the Comprehensive Review of the FHLBs conducted in 2023. Recognizing the importance of practitioner feedback, the comments below were provided by ABA member banks with experience applying for AHP funds; however, it should be noted that the complexities and costs associated with participating in the AHP limits the universe from which to draw recommendations. Many banks, especially smaller banks, simply do not have the resources or staffing to seek AHP funding. We have attempted to incorporate feedback from these institutions as well, as it is important for their perspectives to be factored into considerations on how to simplify and streamline the AHP application process with a goal of increasing participation from a larger universe of bankers.

In general, our members welcome this effort by FHFA to find ways to streamline and simplify the AHP application process. There is broad consensus that aligning the AHP with the requirements of other funding sources, which usually are larger components of a deal – and which frequently are less complex and burdensome than AHP requirements – is desirable. For example, the FHLBs should be encouraged to adopt underwriting guidelines similar to those used by member banks, which encourage positive cash flow, strong debt to coverage ratios, and sufficient capital reserves. The ultimate goal of the FHLBs' underwriting requirements should be

to make a reasonable determination that these affordable housing projects are financially viable for the long run.

Another broad area of agreement is a recognition of the need for training resources from the FHLBs on the application process. While simplification of the application process is a desirable goal, even with simplification, additional training resources would be welcome and would benefit members of all sizes. Training resources would be especially helpful to smaller banks that have smaller staffs and typically must rely on outside consultants or forgo applying. FHFA should encourage the FHLBs, either individually or as a group, to offer training resources that will make it easier for member banks to access the AHP. That said, additional training resources should not themselves become mired in complex approval processes that could hinder, rather than help, member access to the AHP.

These and other recommendations are further discussed in our response to FHFA's questions below.

1. *Are there particular components of the FHLBs' AHP application processes that could be made more effective or efficient, and if so, how? Are any of the FHLBs' 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 FHLBs' ability to verify applicants' compliance with the AHP eligibility requirements and scoring criteria?*

ABA Members noted that the AHP application process could be improved by recognizing that the AHP is only one element of a "stack" of funding needed to bring a project to completion – and it is usually one of the smaller elements. Given that reality, members suggest that the application process could be improved by aligning the expectations for member banks' financing commitment letters with the expectations for similar letters under state housing tax credit and private activity bond application processes.

As part of the AHP application process, some FHLBs require member banks to produce a letter that contains an unconditional commitment to provide financing for a project. This requirement is more stringent than that required by the states as part of their housing tax credit and private activity bond application processes. States typically only require a letter that states that the bank would financially support the project—not an unconditional commitment that a bank would not otherwise provide in the ordinary course of business. Importantly, the requirement for banks to provide a letter of unconditional commitment to finance a project disregards the reality that a project may not be economically viable if the application for AHP funding is unsuccessful. Therefore, member banks must retain the flexibility to back out of a deal in those situations. For those FHLBs that require unconditional commitments, relaxing this requirement would substantially alleviate challenges to participating in the AHP.

Second, FHFA should allow the FHLBs to defer, at least in part, to the underwriting of majority funders. Specifically, for projects funded with Low Income Housing Tax Credits (LIHTC), tax

exempt bonds, etc., the AHP is often a small component of total project financing. In addition, the failure rate for such projects is significantly lower than that of market rate multifamily developments. Given this, the FHLBs should have the flexibility to defer to the underwriting guidelines of a project's primary funder, especially when the majority funder is a federal program such as LIHTC or tax-exempt bonds. More holistic consideration of the full capital stack, especially for projects with government funding, would mitigate some of the difficulties borrowers face in seeking FHLB AHP funding through the application process.

- 2. How do the FHLBs' AHP application processes compare to those of other providers of gap funding with respect to scope, complexity, and documentation requirements?*

The FHLBs' AHP application processes often require information that is also required to be furnished to the states as part of their housing tax credit and private activity bond application processes. AHP applicants are therefore able to use much of the information required by state applications to complete the AHP application forms. However, as discussed in the feedback to question one, the unconditional commitments that are typically required complicate participation in the FHLBs' AHP.

- 3. Do the FHLBs' AHP application processes leverage other funders' applications/requirements? Are the AHP application processes duplicative or complementary of other funders' underwriting requirements and processes? Do the AHP application processes create the need for additional information and documentation?*

As noted above and discussed in the feedback to questions one and two, the information provided to the FHLBs is required to be much more solidified than the information provided to the states, which complicates participation in the FHLBs' AHP.

- 4. Should the AHP regulation allow the FHLBs 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 FHLBs' AHP application requirements should be the same regardless of whether the projects request subsidy that constitutes a small percentage of the total project funding.

- 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?*

Use of consultants varies by bank size, with smaller institutions being more reliant on the use of consultants. Banks turn to consultants for outside expertise both with AHP and other sources of gap funding largely out of necessity, as the cost of having an in-house expert is prohibitive. Many smaller institutions that are FHLB members have very limited staff to devote to affordable

housing development and grants. For these institutions, the costs associated with training staff – and the bandwidth available to staff to devote to AHP applications – is prohibitive. Streamlining of the AHP application process might help to alleviate this and allow more use of in-house resources. Additionally, several banks report that the cost and limited availability of outside consultants has inhibited them from even considering applying for AHP funding. In addition to streamlining the application process, the FHLBs should consider providing free training to member banks to make it easier and more cost effective for smaller banks, or those with fewer staff resources, to consider participation.

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

It is important for everyone to do their own underwriting for a deal. That said, more coordinated review standards across all FHLBs could aid in underwriting by providing broadly consistent metrics.

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

As suggested in feedback to question one, the most important change would be to discontinue the requirements for banks to provide unconditional financing commitments. This requirement ignores the reality that prior to closing, a project may not be economically viable if the application for AHP funding is unsuccessful. Allowing banks to retain the flexibility to back out of a deal in those situations would be a significant change that would substantially alleviate difficulties for member banks participating in the AHP. It would also make FHLB requirements consistent with those of the states.

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

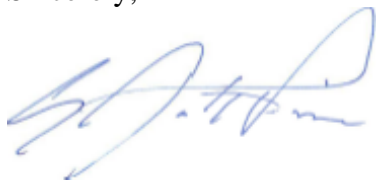
In addition to the previously discussed recommendations, we recommend shortening the application review period. Condensing the timeframe would allow project participants to make alternative plans if they do not ultimately win AHP funding.

Conclusion

The FHLBs' role in financing affordable housing has been highlighted by both FHFA and many commentators during the Comprehensive Review. As ABA has noted in prior comments regarding the mission of the FHLBs, the AHP is the one clearly authorized and intended avenue for the FHLBs to support affordable housing developments. Improving the application process to make it easier and more cost effective for members of all sizes to participate in AHP deals is a laudable goal and perhaps the most effective way to further the FHLBs' affordable housing efforts. We commend FHFA for undertaking this RFI and hope that our comments are helpful in this regard.

If you would like to discuss any of these recommendations further, please do not hesitate to contact the undersigned at JPigg@aba.com. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "G. Joseph Pigg". The signature is fluid and cursive, with a large initial "G" and a long, sweeping underline.

G. Joseph Pigg
Senior Vice President & Senior Counsel
ESG & Mortgage Finance
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