National NeighborWorks® Association

April 26, 2006

Federal Housing Finance Board
1625 Eye Street, NW
Washington, DC 20006

Subject: **Federal Housing Finance Board Proposed Rule**
Affordable Housing Program Amendments
RIN Number 3069-AB26
Docket Number 2005-23

To Whom It May Concern:

The National NeighborWorks® Association (NNA) is a national association of over 160 NeighborWorks® organizations (NWOs) that advocate for better neighborhoods and housing for low- and moderate-income individuals and families. Our members use Neighborhood Reinvestment Corporation (dba NeighborWorks® America) funds to leverage private dollars in order to create new homeowners, revitalize distressed communities, and build single family and multi-family housing for low- to moderate-income families in urban and rural communities. We are pleased to have the opportunity to comment on proposed changes to the Affordable Housing Program regulations published in the Federal Register, Vol. 70, No. 248, December 28, 2005.

The following comments are informed by our experience in working with our member NeighborWorks® organizations and their local, regional and national lending partners.

Since the inception of the Affordable Housing Program (AHP) in 1990, it has become one of the nation's most flexible and most important vehicles for encouraging partnerships between member lending institutions and nonprofit housing sponsors, and for stimulating the production and rehabilitation of single family and multifamily affordable housing and assisting low- and moderate-income families attain the American dream of home ownership.

NNA would like to specifically comment on two of the rule changes being considered at this time: **(1)** use of the AHP subsidy by loan pools and revolving loan funds and **(2)** homeowner or homebuyer mandatory counseling. NNA applauds the efforts of the Federal Housing Finance Board and the Federal Home Loan Banks to increase the AHP program's flexibility and responsiveness to the needs of its member institutions and its nonprofit and public entity sponsors. NNA believes the comments set forth below align with those efforts.

(1) Use of AHP subsidy by revolving loan funds and loan pools

NNA would like to particularly urge approval of the proposed rule change which would explicitly authorize the Banks, at their discretion, to allow AHP funds to be used for revolving loan funds and loan pools.

Currently, AHP funds can be directly applied to a wide range of eligible affordable housing activities. They cannot, however, be used for loan pool reserves, partial loan guarantees or other collateralized loan arrangements that serve to highly leverage other financing. It seems foolish to allow (for example) $100,000 of AHP funds to be used to directly fund an AHP eligible activity, but not allow that same $100,000 to be used in a revolving loan fund or loan pool reserve that can easily leverage $1 million to $2 million or more in other funds that can then be used to support additional AHP eligible activities.

In supporting this proposal, NNA urges consideration of the following points:

- Any decision to provide AHP funding in support of revolving loan funds or loan pools should be (as proposed) *"at the discretion of"* the individual FHL Banks. Each FHL Bank should decide whether this option is good for them.
- Banks should only fund revolving loan funds or loan pools for nonprofit sponsors who have previously received AHP funds for other currently eligible activities, and who have utilized those AHP funds to the full satisfaction of the Bank. The ability to receive AHP funds in support of revolving loan funds or loan pools should be viewed, on an ongoing basis, as a 'privilege' that needs to be earned through good performance with previously entrusted AHP funds.
- Although AHP funds should be allowed to be 'pooled' with other private and public funds, the sponsoring organization should be required to separately account for the AHP funds through an annual A-133 type audit to show that the AHP funds are appropriately identified, segregated, and appropriately used by the sponsor organization.
- Any interest revenue generated by the AHP fund participation in a revolving loan fund or loan pool should be used for AHP eligible activities only, and not for general operating support of the fund or the sponsoring organization.
- Monitoring must continue to be an important element. The application for AHP funding should set forth the specific parameters for the fund, including issues such as: how many loans are projected per year, the average size and terms of such loans, the average income and/or income-eligibility limits of the borrowers served by the fund, etc. And then, the performance of the revolving loan fund or loan pool should be monitored against those stated parameters and for income compliance. Clearly, the monitoring associated with revolving loan funds or loan pools should not become more onerous for banks than the current monitoring of properties. We would recommend that consideration be given to an approach such as monitoring the funds for five (5) years or until rolled over twice as capital. The monitoring of the funds should include (as part of the audit or through a programmatic report submitted by the fund sponsor) a review of related issues such as property rehabilitation procedures and lending processes to insure quality control as well as appropriate income targeting.
- Care needs to be given to assure that any procedures required in implementing the revolving loan fund policy or in protecting or monitoring the AHP assets serve to obstruct or negate the nature of the revolving loan fund.
- The AHP regulations should allow for the sale of loans made through an AHP-funded revolving loan fund or loan pool to a secondary mortgage market, thereby allowing the funds to be re-lent over and over – provided that the corpus amount of the AHP funds continue to be used by the sponsor organization only for AHP eligible clients, or returned to the Bank. Returning the funds to the bank and then re-drawing the funds back would hamper the effectiveness of the lending element of the program.
- The regulation as proposed has revolving loan funds and loan pools in the competitive portion of the AHP program. We're not clear why the decision shouldn't be left to each FHL Bank whether to fund revolving loan funds or loan pools from the competitive portion <u>or</u> the set-aside portion of AHP.

Our understanding is that there have been three regulatory impediments that currently prevent revolving loan funds from being implemented using AHP funds:

1. Interest can not be taken on AHP funds.

   <u>Proposed Solution</u>: If any interest earned were earmarked for "lending activities" and not for general operating support it would not represent a 'taking' of interest – and would not open the floodgates and invite other proposals for AHP funding for operating support.

2. The full benefit of the AHP funds has to accrue to the end customer. This has apparently been interpreted to mean no loans.

   Proposed Solution: A shallower benefit would accrue to each customer touched by the AHP funds but the "total dollar amount" of the AHP funds would indeed accrue to many customers over time – benefiting low- and moderate-income borrowers by making their loan more affordable through second mortgages, reasonable interest rates and other approaches.

3. Banks have used a five year lien on AHP-funded properties to guarantee compliance with the AHP regulations in regard to income eligibility and affordability.

   Proposed Solution: Banks should monitor the revolving loan fund or loan pool for compliance, rather than the individual property. This could be accomplished through a standard annual audit and an A-133 supplement to the audit. Banks, through an AHP Agreement with the sponsor organization can also maintain a legal claim on the AHP funds, which could result in a recapture of the AHP funds if a revolving loan fund or its sponsoring organization is found to be out-of-compliance. At the end of the five years the funds would stay with the non-profit organization and continue to be used as capital to assist in maintaining housing affordability for that community.

(2) Homeowner or Homebuyer Mandatory Counseling

NNA also urges re-consideration of the proposed counseling requirement in paragraph 951.5(c)(2)(ii). In this paragraph, the FHFB proposes that homebuyer education be an optional requirement for those receiving subsidies under the set-aside program. The members of NNA offer quality education programs, which the FHFB acknowledges as a component of a successful project. It seems inconsistent that FHFB would see the importance of this service and then pursue to make it optional. NNA believes that homebuyer education should be a mandatory component of every owner-occupied project. Also, in our experience, economic class is not the sole indicator of whether or not homebuyer education is warranted, nor does it correlate to successful and sustained homeownership. Our members throughout the country agree even well-qualified homebuyers with moderate home-buying sophistication take away valuable skills from our homeownership counseling programs.

NNA strongly credits education as the tool that provides the homebuyer with the knowledge to *create* wealth, but more importantly, to *sustain* wealth. NNA strongly encourages the FHFB to continue to require mandatory homeownership counseling - there is something for everyone to learn through homebuyer education. Banks nationwide are experiencing lower delinquency rates from homebuyers who have taken homebuyer education classes versus those purchasers who did not receive the education. Exotic mortgages, predatory lending and rising home prices continue to make to the home buying process difficult. Education is the best way to be proactive in addressing these issues.

NNA members have a strong interest in the proposal to allow individual FHL Banks to fund, at their discretion, revolving loan funds or loan pools. Our members also strongly believe that homeownership counseling is the cornerstone for creating and keeping homeowners.

We thank you for your consideration of these comments and for your overall efforts to improve affordable housing opportunities for underserved families and individuals across the country.

Sincerely,

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