COMMUNITY LOAN FUND
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Alfred M. Pollard, General Counsel
Federal Housing Finance Agency
Eighth Floor, 400 Seventh Street SW
Washington, DC 20219

Submitted via www.regulations.gov and email to RegComments@fhfa.gov

Re: Comments/RIN 2590-AA83
Proposed Rule on Affordable Housing Program Amendments

Dear Mr. Pollard:

We appreciate the opportunity to comment on the Federal Housing Finance Agency (FHFA) Proposed rule on Affordable Housing Program (AHP) Amendments.

The New Hampshire Community Loan Fund provides loans, capital and technical assistance to extend the reach of conventional lenders and public institutions. Established in 1989, the Community Loan Fund was one of the first Community Development Financial Institution in the nation, with a mission to leverage financial, human and civic resources to enable traditionally underserved people to participate more fully in the economy.

One of our strong strategies is to provide financing to both resident owned manufactured home communities and also to individual manufactured home buyers to better advantage people with low- and moderate incomes. As a sponsor of Federal Home Loan Bank of Boston AHP programs, we offer these comments on the proposed rules.

1. Facilitate access to AHP capital for manufactured housing

We recommend that AHP recognize manufactured housing as a significant source of housing for affordable housing and normalize the treatment of manufactured housing in the AHP rules.

a. Add manufactured homes as a priority underserved community and population in the AHP rules.

Manufactured housing is a significant priority of the FHFA and others nationwide. The FHFA rules on the Duty to Serve Underserved Markets recognized that manufactured housing is a significant source of housing for very low-, low-, and moderate-income households, many of whom are first-time homebuyers and many of whom are seniors. The Duty to Serve rules also recognized that financing and down payment assistance are often not available to manufactured home buyers.

All the other priorities from the Duty to Serve rules are included in the AHP scoring rubric (preservation of existing affordable housing, energy efficiency, rural areas) and it stood out that manufactured housing is not included. Including manufactured housing as a priority in AHP rules would signal that separate agencies under FHFA authority can be aligned to advance the same priority.

b. Adapt scoring criteria so they recognize the benefits of manufactured housing

We noticed several areas in the AHP rules and implementation plans that were scoring for certain housing features but show an assumption that it would be stick built housing. Our suggestion is the criteria of the homes be broadened to include the features of manufactured housing as well.

The criteria for sustainability items could be adapted to reflect the energy efficiency and sustainability of manufactured housing as well as stick built housing. The small footprint and factory building process means there is very little construction waste to manufactured homes. Yet the current application scores higher if you recycle building waste. We would suggest there is as much or more value in the way manufactured homes reduce waste as there is in stick built homes recycling waste.

Manufactured homes also have a federal Energy Star program to designate energy efficient homes. Yet there is a mismatch with the AHP sustainable building practices that are scored for points that are aimed at stick built homes. We recommend the Energy Star certification for manufactured homes is more effective than the individual items listed for scoring stick built homes and could be a valuable basis for scoring evaluation.

Another example is re-use of existing buildings that is scored for stick built homes, with no scoring mechanism for the equivalent in manufactured housing communities. It would help stabilize manufactured home communities to re-use approved lots that have become vacant over time, or replacing abandoned homes, the same way that stick built homes get reused. This is preservation of existing affordable units through filling unusable lots with manufactured homes, and would be a good way for manufactured housing communities to have the same scoring benefit for re-use as stick built housing.

2. Expand access to AHP investment in revolving loan funds.

We are encouraged that the FHFA plans to further study and amend the AHP revolving loan fund provisions. Here are our recent observations on revolving loan funds in the AHP.

a. Adapt the guidelines for program-based revolving loan funds

Program-based revolving loan funds are challenged to apply and score well under the current project-based criteria. A revolving loan fund program has much less control over the specifics of the homes because we are not building the homes. We will not own the homes. We are not the project developer, so we will not have site control or usually know homebuyers' addresses in advance. This is the nature of program-based revolving loan funds.

Program based revolving loan funds will typically not be eligible for transportation, rural, reuse, or donated points because those require project addresses in advance. Because the AHP application now reads like a project application where the sponsor designs and builds the project for a specific location, it is challenging to describe a county-wide or state-wide revolving loan fund financing program instead.

In addition, thought could be given to other scoring categories that reward what makes a revolving loan fund program worthwhile, so we have a chance to score competitively against other programs that can score in those categories. Revolving loan fund programs will typically never score well in the project-type categories, as we are essentially ineligible for points for donated properties, community stability, rural, or transportation categories that require addresses. That could represent a 15 point loss in scoring. Revolving loan funds do have a 5 point scoring priority in the Second District, but that is a 10 point net disadvantage for revolving loan funds.

We suggest scoring based on a commitment to impact and homebuyer benefit, but not specific addresses. For example, as a statewide revolving loan fund, we can commit to using the AHP funds for mortgage financing only in rural areas, and document the rural locations after the loans are made. We would suggest making those scoring awards based on commitment from the revolving loan fund to deliver the desired program impact and outcomes, but not require addresses or site control in advance.

We also suggest new scoring criteria be added that recognize and reward the impact of revolving loan funds that will re-use the funds for mission impact as the funds revolve in the future. Or in the alternative, program-based revolving loan fund applicants should be scored against other revolving loan funds separately from development projects that are eligible for more scoring categories.

b. Build guidelines that reflect the benefits of mortgage financing for homeownership

The homeownership guidelines were adapted from the rental section, but homeownership would benefit from standalone rules focused on homeownership. For example, there is a rental standard that no more than 30% of household income be used for housing expense, and that now also applies to homeownership. But no other mortgage industry practice applies a 30% ratio to homeowners. Other homeownership mortgage programs like FHA allows up to 40%, VA allows up to 41%, and Fannie Mae allows up to 45% maximum debt ratio. One reason is to reflect the asset building power for homeowners who can use their equity to support other household capital needs, so it is worth allowing more household funds to be invested in homeownership upfront. We recommend the maximum debt ratio for homeownership be increased.

c. Resolve inconsistency with AHP forgiveness requirements

Another area to amend the AHP rules for revolving loan funds is the AHP requirement that all AHP funds be forgiven after the five-year retention period. Many financing models used by revolving loan funds will not fit that requirement.

Revolving loan funds can use AHP subsidy to make mortgage financing affordable, paying costs or down payment assistance, or buydown of an interest rate. But as a revolving loan fund, we do not forgive those funds, we revolve them. The high impact is the funds are repaid to us and revolve out again for another homeowner.

If AHP funds are used in a blended loan pool to bring down the interest rate on a 30-year mortgage, we need those funds to revolve for 30 years, not be forgiven after 5 years. If AHP funds are used in a silent second mortgage for down payment assistance, the funds might be structured to be paid when the homeowner sells the property, as a "due on sale" type loan.

Right now the AHP funds must be forgiven after the 5-year retention period, so any "revolving" is in the first five years only. Most home purchase financing is for a term longer than 5 years, so the use of AHP funds is limited. The solution would be for the AHP Note and Mortgage recapture provisions be discharged after 5 years but a first mortgage be allowed to continue repayments back to the revolving loan fund for the full term of the loan.

d. Resolve stricter 5-year retention provision for RLF homebuyers compared to non-RLF homebuyers

The 5-year retention provision is stricter for revolving loan funds in one important aspect that creates a big disadvantage. If an AHP homeowner has to sell in the first five years, the retention provision requires them to pay back a pro rata portion of their AHP subsidy, essentially forgiving 20% per year. For non-RLF homebuyers, the recapture requirement is avoided if they sell to another low- or moderate-income household, or if the retention agreement remains in place in case of a refinance. For RLF buyers, the recapture requirement applies no matter who they sell to and no matter the conditions of their refinance. This is a big disadvantage for RLF homebuyers, which could be easily remedied by applying the same homeowner retention mechanism to all.

f. Clarify requirements for homebuyer education

We would ask for clarity around standards for homebuyer education. In a recent AHP application and award, we did not commit to homebuyer education or get any scoring for it, yet our homebuyers are still required by AHP to go through homebuyer education. We recommend that AHP implementation plans and scoring clarify whether first-time homebuyers are all required to get homebuyer education. And also, if first-time homebuyers are all required to have homebuyer education, then scoring points should be awarded for that.

3. Reduce sponsor administrative burdens

Our final comments note instances where the proposed rule would increase sponsor administrative burdens.

a. Under the proposed "cure first" requirement, awarded AHP projects that are not able to completely fulfill the commitments made in their AHP applications would be required to attempt to "cure" the issue before requesting a modification to their project. Where changes in market conditions make a cure impossible, this only delays a practical modification and increases risk to the sponsor. We recommend that AHP retain the current practice of verifying that any modified project, had it applied for AHP funding with the modifications in place, would still have scored high enough in the funding round to receive the AHP award.

b. Under the proposal, sponsors would be required to demonstrate that all members of the project development team, including all affiliates and team members such as the general contractor, satisfy AHP sponsor capacity requirements. This requirement will add a documentation burden for sponsors and require us to make certain assertions or assumptions about the development team and project at a point in time when the development team may not be fully formed or in place. We recommend allowing the Banks to evaluate the facts and circumstances of each project and determine a sponsor's track record of performance.

Thank you for the opportunity to comment on these important issues, and for your attention and consideration.

Sincerely,

Jennifer Hopkins

Jennifer Hopkins
Director of Single Family Housing