

June 4, 2018

  
25  
YEARS  
TRANSFORMING

COMMUNITIES  
NEIGHBORHOODS  
LIVES

Alfred M. Pollard, General Counsel  
Attention: Comments/RIN 2590-AA83  
Federal Housing Finance Agency  
400 Seventh Street, SW, Eighth Floor  
Washington, D.C. 20219

Re: Notice of Proposed Rulemaking and Request for Comments –  
RIN 2590-AA83 – Affordable Housing Program Amendments

Dear Mr. Pollard:

Thank you for the opportunity to comment on the FHFA’s proposed rulemaking regarding the Affordable Housing Program (“AHP”) of the Federal Home Loan Banks (FHLB). I serve as the Executive Director of NeighborWorks® Southern New Hampshire, a non-profit community development corporation with a focus on affordable housing development, neighborhood revitalization, and creating homeownership opportunities for first time home buyers. As an affordable housing developer, NeighborWorks® Southern New Hampshire has sponsored more than a dozen AHP projects through the Federal Home Loan Bank of Boston over the past 25 years, providing hundreds of units of affordable housing in our community. On a more personal level, I have also served on the Affordable Housing Advisory Councils of both the Atlanta and Boston Banks.

As an active participant in the Affordable Housing Program, we are particularly concerned with the proposed rules associated with the AHP amendments. We have been eagerly awaiting the publication of the draft rules since the topic of the “AHP Refresh” came up a few years ago. Our main concern with the program has been that over the past 25 years AHP has not kept up with the ways in which we need to structure affordable housing transactions, and the program has become so overly regulated that it is often the “tail that wags the dog” when structuring our project financing.

Although the new proposal attempts to provide each district with some flexibility by establishing “Targeted Funds,” the requirements still remain too prescriptive. Although the amendment proposes to allow for a more “outcome based” program, we don’t see that these rules provide the FHL Banks with the necessary flexibility that true “outcome based” funders like charitable foundations or the United Way extend when they invest in an affordable housing program or project.

**TRUSTEES**

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The level of detail that the proposed rule stipulates to further regulate projects is exemplified in Sections 1291.21(b) and 1291.15(b)(2) under Project Sponsor Qualifications, adding further layers of bureaucracy to a project development system that is already regulated by many other agencies and lenders. Adding the Suspended Counterparty Program regulations to all levels of a development team that is already subject to local jurisdiction review and evaluation is burdensome to the applicant.

The proposed rule also calls out that FHFA is considering changes to the retention agreement requirements for owner occupied units. We would encourage the elimination of this requirement as it has become more challenging to administer these instruments on first time home buyer projects since financial regulatory reform has occurred. The HOME Investment Partnership Program model that is cited in Section 1291.15 is an example of an instrument that no longer effectively works in conjunction with today's lending requirements. In fact, we can no longer use HOME funds as a subordinate second mortgage for down payment and closing cost assistance because of FHA underwriting requirements that conflict with HOME rules regarding the definition of "net proceeds."

One of the greatest challenges associated with using the AHP program in an affordable housing rental project is demonstrating the need for AHP subsidy. The limited availability of resources for affordable housing development has continued to place more and more pressure on developers to bring AHP funds to the financing table. Low Income Housing Tax Credits, HOME, CDBG, and other local resources all have limits on how far they can go. As a result, we are seeing more transactions with more amortizing debt on a per unit basis than we've ever experienced in the past.

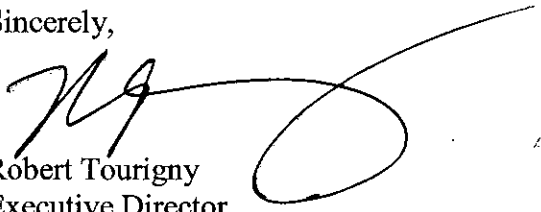
The AHP methodology for establishing a need for subsidy conflicts with other underwriting requirements, particularly that of state housing finance agencies, syndicators and other lenders. In reality, AHP makes up such a small part of a transaction, that it is really helping the other funding sources reach further, gain leverage, and hopefully in the end, fund more projects. Some state housing agencies mandate building technologies and energy standards that are greater than in other states. Do those projects not need AHP subsidy? Some states apply per unit investment limits and cost caps. Should they be deprived AHP?

AHP should be the most flexible funding source in these transactions and should be allowed to fill gaps as needed without the limitations on the debt coverage ratio that the state may be forcing to go higher, or limiting the amount of reserves that the syndicator requires, or not allowing the project to pay for essential supportive services. The Banks need to be able to award AHP funding based on the total sources and uses of the project. Submittal of an operating pro-forma for review as part of the application process is certainly appropriate. It is no longer necessary to underwrite the "need for subsidy" since other funders are already doing this analysis to assure that projects are being "over-subsidized."

Lastly, we are concerned about the clarification under Section 1291.14 that "community organizations" may include for-profit organizations. We would not want this interpretation to be construed as a way of shifting the composition of the bank's Advisory Council away from the community based non-profit sector, which has proven to be a successful model.

We commend the Federal Housing Finance Agency for working to update the AHP regulation. In light of the concerns above, however, we respectfully ask that you reconsider parts of the proposed amendments, especially those we've highlighted. Thank you for the opportunity to share our position on this very important and valuable program. If you should have any questions, please feel free to contact me at [rtourigny@nwsnh.org](mailto:rtourigny@nwsnh.org) or (603) 626-4663.

Sincerely,



Robert Tourigny  
Executive Director