



DIAMOND AND ASSOCIATES

June 1, 2018

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**

Mr. Pollard,

Thank you for the opportunity to comment on your recent release of proposed rulemaking regarding the Affordable Housing Program (“AHP”) of the Federal Home Loan Banks (FHLBanks). This comment is submitted by the principal and employees of Diamond and Associates. Diamond and Associates is an affordable housing consulting firm headquartered in Philadelphia, PA that has worked with multiple sponsors which have been awarded AHP projects through the FHLBank Pittsburgh, FHLBank New York, FHLBank Boston, FHLBank Atlanta, and FHLBank San Francisco.

Over the course of the last 5 years, Diamond and Associates has secured over \$13 million in AHP funding for fifteen (15) developments. The AHP funding has been essential to fill financing gaps or provide “first in” committed funding for both rental and homeownership developments; creating 607 rental units, 21 homeownership units, and provided much needed repairs to over 130 owner occupied units. In fact, AHP is one of the few affordable housing funding sources that provides a clear, straight forward, scoring system which allows us to accurately determine whether a development is likely to finance their development with this funding. This system helps save time and money for clients due to the clarity provided by the current scoring system. While we support an effort to provide more flexibility to individual FHLBank districts to support urgent needs, we believe that the new amendment creates uncertainty in the scoring system and doesn’t allow for true flexibility.

Specifically, we are concerned with the outcomes-based framework as proposed in the AHP regulation amendments. The outcomes-based framework prioritizes the overall housing goals of the Federal Housing Finance Agency (FHFA). The unintended consequence of this approach is

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that the proposed outcomes establish preferences for certain project types over the needs of local preferences, which lessen AHP's connection to and support for community development. Lastly and most importantly, the outcome's based framework could make AHP less transparent.

Housing sponsors and developers manage multiple layers of capital and operating financing that requires years to assemble. Developers must blend AHP into the total financial package, typically with several additional sources of funds with their own requirements, as well as the complexities of real estate development. This makes it imperative for funding to be as streamlined, transparent and operationally efficient as possible. The outcomes- framework as proposed in the amendments introduces a complex award structure that makes the AHP process unclear and, ultimately, a less-attractive funding resource. A scoring-based system, which has worked well for 28 years, is strongly preferred over an outcomes-based framework. The scoring-based system allows FHLBanks to encourage all project types to apply, connect AHP to community development strategies, and maintain program transparency.

In addition to the major transparency concern, we also have the following additional concerns listed below for your review:

- The proposed amendments change the threshold amount needed for projects to qualify as serving targeted populations from 20 percent to 50 percent. This new threshold is not compatible with other funders and does not recognize the benefit of a mixed-occupancy development, which allows developers to cross-subsidize units in a project. Specifically, multiple housing tax credit allocating agencies and the Department of Housing and Urban Development Section 811 rental subsidy program does not allow set asides of some targeted populations to be over 25 percent. We recommend retaining the current 20-percent threshold amount.
- Under the proposed amendments, AHP project modifications may be delayed, and AHP sponsors unduly burdened, due to a new "cure-first" requirement. We recommend that the proposed cure-first requirement be eliminated and the FHLBanks retain their current practice of verifying that any modified project would still have scored high enough in the funding round to receive the AHP award had the sponsor applied for AHP funding with the modifications in place.
- The proposed amendments require FHLBanks to evaluate the ability of the sponsor and all members of the development team to perform the responsibilities committed to in

the application. The entire development team may not be in place at the time of AHP application, making it impossible to assess total capacity. We recommend retaining the FHLBanks' current practice of reviewing the prior experience of the development team at the time of application.

- The proposed amendments eliminate the five-year retention requirement for homeownership projects. Although this is a beneficial change in most instances, it introduces a risk of misuse in certain situations when the AHP per-unit amount is relatively high that FHLBanks need to have the flexibility to address. We recommend allowing FHLBanks the discretion to impose a retention requirement over a certain amount.
- The “need for subsidy” and “project costs” sections of the proposed amendments do not specifically allow for the maximization of coordination with other funding sources. Requiring an FHLBank to independently underwrite a project's need for subsidy and viability is unnecessary and increases the burden on sponsors in cases where other funding sources have already underwritten the project. We recommend allowing FHLBanks to rely on the underwriting of other funders with comparable standards in terms of cost reasonableness, viability of operations, development team capacity and need for subsidy.
- The amendments require rental projects with supportive services to create two operating pro formas: one for housing operations and the other for supportive services. The requirement causes projects to arbitrarily separate costs and funding streams. We recommend allowing projects to include supportive services in a project's operating pro forma.

Diamond and Associates is grateful for FHFA's effort to update AHP regulations. However, in light of the concerns above, we respectfully ask that you reconsider parts of the proposed amendments, especially the required outcomes- framework and those that reduce transparency, and; add to the administrative work of FHLB staff. AHP funding is an essential source of gap financing and is one of few sources that continue to grow each year. Please continue to structure the program in a way that provide transparency and seamless coordination with other affordable housing financial sources. Thank you for hearing our ideas

on this very important subject. If you have any questions, please feel free to contact Matthew Keen at 215-732-3600 x 105 or matthew@diamondandassociates.com

Sincerely,



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