

# LNWA

LEON N. WEINER & ASSOCIATES, INC.  
HOMEBUILDER • DEVELOPER

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June 8, 2018

**Via FHFA Website Submittal**

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 the FHFA's recent release of proposed rulemaking regarding the Affordable Housing Program ("AHP") of the Federal Home Loan Banks ("FHLBanks"). I am the President of Leon N. Weiner & Associates, Inc. ("LNWAI"). LNWAI is a for-profit builder, developer, management agent and owner of affordable, multi-family rental housing headquartered in Wilmington, Delaware. Our firm has previously sponsored AHP developments through FHLBank of Pittsburgh.

LNWAI has developed over 10,000 homes over the years utilizing almost every affordable multi-family production program available including AHP. Specifically, LNWAI and its affiliates have developed 15 affordable apartment communities consisting of 1,139 units financed with funding from the AHP program. Further, our company utilized AHP funds to help homebuyers between 30% and 50% of area median income purchase 90 new for-sale homes in the City of Wilmington, Delaware. AHP has been a financial linchpin for all of these properties and filled financial gaps that otherwise had no source of funding; thus, making these critically needed homes possible. AHP is important.

The Proposed rule would require the FHLBanks to develop and implement an "outcomes based approach" ("Outcomes Framework") for scoring the project applications for both the AHP general and targeted funds. This approach would differ greatly from the existing project selection process and presents the primary challenge of the proposed rule. We had hoped that the proposed amendments would provide FHLBanks with more flexibility in their scoring methodologies to allow AHP to adapt to the changing landscape of housing needs in local districts. However, the proposed amendments introduce this Outcomes Framework concept for awarding AHP funds which prioritizes the Federal Housing Finance Agency's (FHFA's) overall housing goals. The unintended consequence of this approach is that the proposed outcomes essentially eliminate FHLBank discretion in addressing local housing needs, establish preferences for certain project types and make AHP less transparent.

Housing sponsors/developers manage multiple layers of capital and operating financing that take years to assemble. Developers must blend AHP into the total financial package while

dealing with 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 scoring process unclear and ultimately a less-attractive funding resource. A scoring-based system is strongly preferred over an Outcomes Framework and will allow FHLBanks to sufficiently respond to local needs, encourage all project types to apply and maintain program transparency.

We also have the following additional concerns about the proposed amendments:

- 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. In addition, financing programs such as the Rural Development 515 program, allow production of relatively small developments (<40 units). In our opinion, setting aside 50 percent of the units in this type of small project will challenge the long term financial viability of AHP funded projects due to the fact that most special needs populations have very low annual incomes. 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. Unfortunately, instances arise when a cure is not possible, and a modification is the only solution. 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.
- 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.

- AHP has been a very important financial piece in the production and preservation of LNWA's affordable multi-family rental portfolio. The hallmark of the program has been its transparency whereby projects are funded from the highest scoring application to the lowest scoring application until funding runs out. The proposed amendment forces FHLBanks to possibly select lower scoring applications in order to meet the Outcomes Framework. We recommend eliminating the required Outcomes Framework so that the transparency and integrity of AHP are maintained and only really well-crafted, high scoring projects are funded.

We commend FHFA for working to update the AHP regulation. However, in light of the concerns above, we respectfully ask that you reconsider parts of the proposed amendments, especially the required Outcomes Framework. Thank you for hearing our ideas on this very important subject. If you have any questions, please feel free to contact me at (302) 761-7306 or [GBrooks@LNWA.com](mailto:GBrooks@LNWA.com).

Sincerely,



**GLENN R. BROOKS**, President  
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