June 8, 2018

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

RE: Proposed Rulemaking and Request for Comments: Affordable Housing Program Amendments (RIN 2590-AA83)

Dear Mr. Pollard:

As the Affordable Housing Advisory Council (AHAC) for the Federal Home Loan Bank of Des Moines (FHLBDM), with 343 years of collective experience working in affordable housing and community development, we respectfully submit these comments to the Federal Housing Finance Administration (FHFA) in response to the Affordable Housing Program (AHP) proposed rule. We are thankful for the extension of time, which allowed for meaningful public input and appreciate the effort the FHFA has made in response to the request for modernization of AHP by all FHLBank Districts in the U.S.

The district we represent comprises forty percent (40%) of the U.S. land mass and eleven percent (11%) of its population. We have thirteen (13) states and three (3) U.S. Territories. Approximately one-third (1/3) of our District's population is rural, forty-five percent (45%) is suburban, and twenty-three percent (23%) of residents reside in highly urbanized areas. Two-percent (2%) of the U.S. population is Native, and thirty percent (30%) of the Native population resides in the FHLBDM district. More than seventy percent (70%) of the Des Moines Bank's 1,300 Members have assets under $500 million.

It is with this context in mind, that our comments illustrate the challenges and unintended consequences that the proposed rule imposes on a vastly diverse district with varying affordable housing needs. We view the proposed rule 1) will make the AHP more difficult, more prescriptive and more national in scope than in its current form, and 2) does not meet the intent of the original modernization process that was initiated four years ago between the FHLBanks, their respective AHAC's and the FHFA.

The AHP is a vital gap-financing tool that has allowed for the development and preservation of tens of thousands of units of affordable housing across the country. In our own district, the AHP has funded 2,271 projects, building and preserving more than 79,000 affordable rental and homeownership units/homes.

The FHLBDM has been a leading advocate for modernizing the AHP and was at the forefront of the conversation (beginning in 2014) that requested further flexibility allowing the AHP to respond to the ever-evolving affordable housing needs in the communities that we serve and to the affordable housing finance environment.

After careful review, the AHAC of the FHLBDM finds that the AHP proposed rule, taken as a whole, does not provide the requested flexibility. Rather, it increases regulatory control and program complexity, and reduces award transparency. These factors impact not only the FHLBanks, but also its Members, Sponsors, and the communities they serve.

There are three components of the proposed rule that we will touch upon: allocation of funds, need for subsidy, and administration.

ALLOCATION OF FUNDS

The core of the proposed rule is an outcomes framework that stems from a national perspective of need. This is problematic for a number of reasons.

First, needs vary widely between the FHLBanks and even within the FHLBank regions. As described above, the FHLBDM is a large and very diverse region. In the Supplementary Information of the proposed rule, there are numerous national statistics to explain the rationale for the rule (homeownership rates, prevalence of homelessness, need for special needs housing, needs of Native Americans, etc.). The problem with this data is that it paints a picture about national averages rather than the granular picture about the very different needs experienced in different communities across the country.

For example, there is a high poverty rate (15.2%) in Idaho, but a low homeless rate (.11%). Washington, has the opposite dynamic—a lower poverty rate (10.1%) and a higher rate of homelessness (3%). Clearly, Washington has a high need to address homelessness through the AHP, while Idaho might be better served by creating affordable housing for families in poverty. Under a national outcome framework that sets homelessness as a high priority, the projects in Idaho, which are meeting a significant area need, would be at a disadvantage to compete for vital gap financing resources.

Second, homeownership programs are another example where community context illustrates how different approaches fit different parts of the region. In Iowa, homeownership is relatively affordable and is the primary focus of AHP dollars, while in Hawaii housing prices are so expensive that homeownership programs are almost non-existent, putting Hawaii at a disadvantage to compete for AHP funding (this assumes an outcome framework that ten percent (10%) of total AHP awards must meet the Home purchase statutory priority).

Thus, if the national outcomes are not the highest need in a community, or if that community does not have the resources or systems to support projects associated with those outcomes, it will simply fail to receive AHP funding for the projects that might meet the critical needs of that community. The average needs expressed by the emphasis on national priorities will handicap the FHLBanks' ability to meet the very specific needs of the communities that the AHP is intended to serve.

Third, the landscape is continually changing. The AHP statute has always emphasized a priority for donated property and nonprofit sponsorship. At the time that the statute was written, there were significant REO inventories and proposed military base closures, but with the passage of time, this statutory priority is rarely a factor in funded projects and illustrates why regulatory flexibility is necessary. Over the years, some communities have moved from needing revitalization to addressing other needs. Poverty levels change, costs of housing shift, key employers shut their doors and natural disasters occur. The AHP needs to have the flexibility to respond to these changing needs.

Additionally, another problem with the outcomes framework is that it creates a very difficult implementation puzzle, and a complex and opaque solution for failing to accurately predict results. Under the outcomes framework in the proposed rule, the individual FHLBanks must develop scoring systems that *guarantee* that the outcomes are met. The design of such a scoring system will, of necessity, require an overemphasis on the priorities expressed in the outcomes. In effect, the FHLBanks are required to draw a target and hope that a sufficient number of applications hit the center. In the case of the FHLBDM, we processed over 300 applications last year resulting in more than 80 awards in our competitive program. Under an outcomes framework model, the FHLBDM will not be able to predict the achievement of the outcomes in advance. To compensate for this risk, the scoring system must lean very heavily toward the national outcomes. In fact, the regulations recognize this potential to miss the target, and as a result, created a complex and iterative re-scoring process that could leap frog over projects with higher overall scores. This will reduce predictability and transparency, will require significant staff effort, and will ultimately diminish support and interest in the AHP.

<u>NEED FOR SUBSIDY</u>

In the past, the need for AHP funds has been defined as the difference between sources and uses. The proposed rule complicates this equation by requiring the FHLBanks to view Sponsor underwriting through a more conservative lens as it relates to cash flow, capital, and operating reserve benchmarks.

Affordable rental housing developments are complex and layered with many funding sources, and are often underwritten to incorporate reserves and debt coverage ratio benchmarks driven by first position lenders and tax credit investors. Reserve benchmarks are often sized to offset risk for investors and protect the Sponsor from having to access their liquidity requirements from tax credit investors. Requiring the FHLBanks to underwrite the Sponsor at a greater level than a first position lender and/or a tax credit investor creates obstacles, which make the overall underwriting process less efficient and effective. A more conservative underwriting process also creates additional Sponsor barriers to accessing AHP funds.

It is also difficult to understand why the proposed rule would complicate how projects are underwritten, especially when AHP funds are one small piece of the financing puzzle of projects. On average, the AHP funding award is 8.4 percent of total financing sources.

Preventing AHP funds from being awarded to projects that rely on cash flow to finance supportive services presents a potential conflict with the proposed outcome framework's minimum threshold requirements for homeless and special needs units to increase to fifty percent (50%) of units (from twenty percent (20%) of units). Projects with a greater proportion of units reserved for special needs populations are more likely to require substantial supportive services to be operationally feasible, yet long term supportive service funding is extremely limited and/or virtually unavailable. While short term funding can sometimes be secured from local foundations or government agencies, it cannot be underwritten for a project's compliance period. One result of these dynamics is the need to have adequate cash flows that can be used to leverage service partnerships and ensure proper coordination between the property and support services. It is particularly ironic that the proposed regulations works to emphasize more special needs units, but at the same time reduces the viability of these projects.

ADMINISTRATION

The proposed rule missed an opportunity to simplify AHP administration, minimize redundancies, and optimize how well it coordinates with other funders. It introduces unnecessary administrative burdens for Sponsors by adding new provisions that focus on cures rather than modifications and require overreaching capacity and organizational review.

A more complex and prescriptive system will also have an impact on the number of future applicants. An increasingly complex system that is difficult for staff to implement and explain will be a disincentive for developers and their finance partners to participate in the AHP. The FHLBDM has worked tirelessly, since its merger in 2015 with the FHLB of Seattle, to broaden engagement of affordable housing developers, as well as local Members. For example, Idaho developers from the former Seattle Bank, having grown accustomed to little or no AHP funds being available, were enticed back to the AHP only to find that the scoring criteria limits the ability to participate. They had hoped for more flexibility in scoring priorities. With a more prescriptive program, we will once again limit the ability for certain states to benefit from the AHP.

Another proposed change that creates a major problem for Sponsors is the change in corrective actions in cases of noncompliance. The proposed rule further subjects the Sponsor's assets and other financial resources as sources for repayment of AHP funds if a project cannot be brought back into compliance. In effect, the AHP shifts from a grant program to one that requires the Sponsor to act as a guarantor. This can cause major implications for developers, particularly those who utilize low-income housing tax credits, and will discourage developers from applying for AHP funds. This guarantor role may also lead equity investors to become even more risk averse in their assessment of projects and project Sponsors. If one of the principles of the current proposed rule is to be in alignment with other finance programs to the maximum extent possible, this goes against this objective.

Finally, the outcomes framework of the AHP proposed rule compromises the value of the input from the AHACs. AHACs are a group consisting of leading local affordable housing and community development practitioners. By establishing an outcomes framework, the proposed rule greatly reduces the ability of AHACs to apply their expertise in crafting strategies that are tailored to the unique needs of their states and districts. The FHLBDM AHAC members bring a collective tenure of 343 years in the affordable housing industry to their advisory task. We know that the Board of Directors of the FHLBDM relies on our local housing expertise to inform how the AHP can be most responsive to local priorities within the FHLBDM district. Without having a local voice, the AHP could fall on deaf ears and lose its ability to positively impact the communities our Member banks serve.

The FHLBDM AHAC is committed to the success of the AHP program. As practitioners, funders and advocates in the field, we know that AHP's impact will be measured by its ability to provide flexibility, predictability and transparence in our process to support the development of much needed affordable housing. We have appreciated the opportunity to provide comment on the FHFA's proposed rule. We believe that the proposed regulation is not ready for implementation, and simply retaining the existing regulation is not a good outcome. We hope that this comment process has helped to clarify some of the most important issues, and opportunities for regulatory reform.

We would welcome the opportunity to continue to work together to develop a modernization platform that aligns with the FHLBDM communities' diverse needs.

Sincerely,

The Affordable Housing Advisory Council of the Federal Home Loan Bank of Des Moines

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