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June 11, 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

Dear Mr. Pollard,

Thank you for the opportunity to comment on the proposed rulemaking of the Affordable Housing Program (AHP) of the Federal Home Loan Banks (FLHB). Minnesota Housing is the state of Minnesota's Housing Finance Agency (HFA), and is an associate member of the Federal Home Loan Bank of Des Moines. We are concerned that the proposed regulations could have adverse impacts regarding the effective use of the AHP in production of affordable housing.

Outcome Framework and Re-Ranking

The outcomes-based framework may result in less flexibility, making it more difficult for HFAs to design plans to best utilize federal assistance and to meet specific local concerns.

The proposed allocation methodology is significantly more complicated and prescriptive which does not allow the FHLBs to be responsive to local needs or emerging issues. Because the proposed rule would require a significant percentage of AHP funds to be awarded to specific types of projects and sponsors, it would effectively displace the important needs assessment unique to every FLHB district. The proposed outcome framework to replace the current ranked scoring system negatively impacts the predictability and transparency of the AHP, as lower scoring projects may be rewarded through a re-ranking. This process could drive away potential applicants and makes the AHP a less-attractive funding resource.

A scoring-based system is strongly preferred over an outcomes-based framework and will allow FLHBs to respond to local needs, encourage all projects types to apply, and maintain program transparency.

Proposed Changes to AHP Scoring Requirements

FHFA proposes two new outcome requirements: targeting projects that serve very low income households and targeting projects that meet the housing needs of underserved communities and populations, create economic opportunities, or preserve affordable housing.

In order to meet the proposed regulatory outcome of targeting to very low income households, a FLHB would have to achieve a share of 55% of units in a project targeted to low income households. The current rule requires at least 20% of units in a rental project be occupied by and affordable to very low income households. This increased share may conflict with ability to do more mixed income developments, including activities with the new Low Income Housing Tax Credit (LIHTC) income averaging provisions.

Under the regulatory priority for underserved communities and populations, FHFA proposes five specified housing needs, including homeless households and housing for people with disabilities. For these two specified housing needs, the proposed rule would require at least 50 percent of the units in a rental project be reserved for these specified populations in order to achieve consideration under this outcome measure. We recommend retaining the current rule's 20% minimum. In particular, for persons with disabilities, requiring 50% unit set-aside for a project is contrary to the Olmstead decision that seeks to promote opportunities for people with disabilities to live in integrated community settings.

Sponsor and Affiliate Capacity

The proposed rule expands the sponsor qualification criteria that evaluate not only the ability of the projects sponsor, but also the sponsor's team members such as general contractors. Other financing program sources, such as LIHTC, are often in projects that are also financed with AHP funds.

FHFA should allow FHLBs to rely on the underwriting of HFAs and other funders with comparable standards in terms of cost reasonableness, viability of operations, development team capacity and need for subsidy.

The proposed changes introduce new compliance provisions that are onerous for project sponsors and too prescriptive in ways that do not improve the effectiveness of FLHBs oversight. FHFA should allow FLHBs flexibility to focus on compliance activities where they are most needed based on the facts and circumstances of each project and sponsor.

Financing Owner Occupied Housing

The proposed rule increases the amount of funds that may be allocated to down payment products but, in actuality, to comply with the FHFA's outcome requirements, the percentage of AHP funds available for down payment products may be the same or less. We join our Minnesota partners in recommending that the current AHP scoring model be retained and allowing up to 40% of the annual AHP contribution to be allocated to the down payment set aside program.

If there are any questions about these comments, please contact me at 651-297-3120 or by email at jessica.deegan@state.mn.us.

Sincerely,

Jessica Deegan
Director of Federal Affairs