June 12, 2018

**Affordable Housing Program Amendments**

**Submitted by Chris Venne, Senior Housing Developer**

**Community Frameworks**

Community Frameworks is a non-profit affordable housing developer based in Washington State. For many years, our organization has used resources from the FHLB Affordable Housing Program to help create and/or rehabilitate affordable housing units in our service area. We have worked primarily with the FHLB of Seattle (now merged with FHLB Des Moines) and to a lesser extent the FHLB of San Francisco and FHLB of Cincinnati.

We have reviewed the proposed amendments to the AHP program and offer these comments from the perspective of an affordable housing practitioner who competes for AHP awards along with funding awards from a variety of other sources including Federal, state, local and private sources. Most affordable housing projects require multiple funders. Typically, FHLB is a supplemental funder, not the primary funder. Primary funding typically comes from the Low Income Housing Tax Credit (LIHTC) program or from our Washington State Housing Trust Fund. FHLB AHP funds are an important source of gap funding for our projects. They work best for us when AHP priorities and regulations mesh well with those of our primary funders. In many cases, though, AHP priorities and/or regulations preclude funding for solid, well-conceived projects designed to meet critical local needs. To the extent that the proposed amendments increase flexibility and create opportunities for a wider range of projects to compete for funding, we strongly support those changes. To the extent they limit flexibility, create greater administrative burden or appear to be out of sync with the real world situations we encounter in our work, we strongly oppose those changes. Our review has found some proposed changes to support and some to oppose.

The following are comments on specific elements of the proposed amendments:

Required National Outcomes The amendments propose a complex system to achieve specific percentage allocations of funds to three national priorities: Underserved Populations, Economic Opportunity and Preservation. We generally support these outcomes (depending on the definitions). The allocation system does seem complex and it likely takes some ability away from the local FHLBs to prioritize their own local needs but that is not an overarching issue for us as practitioners. There are some changes in how these priorities are defined and what projects can be included that we welcome.

* Underserved Populations: Special needs categories have been expanded to include DV, veterans, large households and others. 50% of units would need to be allocated to these populations to meet this priority. That is higher than the 20% currently required. Including 20% of units at 30% AMI would also meet this priority; or including housing in designated underserved rural areas. On balance, these changes will benefit our typical projects.
* Economic Opportunity: In addition to the current empowerment activities, it would be possible to meet this priority by having mixed income housing in a low-income area or having low income housing in a moderate or high-income area.
* Rental Preservation: This has traditionally been only preservation of projects with HUD or USDA rental assistance. In the proposed rules, you could achieve this priority with a project that does energy or water efficiency improvements or preserves a project with any form of governmental assistance from HUD, USDA, LIHTC, or other local or state funding sources.

We strongly support these changes in the definitions for these priorities. They add much needed flexibility and are a better reflection of the housing needs we see in the field and type of projects that are most likely to be successful in meeting those needs.

Rescoring of Applications to Meet Priorities: The amendments propose that after applications are initially scored and ranked, if they do not meet the prescribed national outcome goals, they would be re-ranked to achieve the required goals. This seems like an unnecessary step that could only have a negative impact on the transparency and predictability of the whole scoring system. We always test the scores we think our applications might achieve before we spend the considerable amount of time and resources necessary to submit a complete AHP application. If we cannot rely on the predictability of the scoring system, it will add a significant element of risk to the decision to apply for AHP funds. We oppose the rescoring proposal.

Enhanced Sponsor Evaluation: The proposed amendments propose an “enhanced” evaluation of members of the whole development team including general contractors. It is not specific about any other members of the development team beyond GC’s, like architects, development consultants, etc. The rule says that an evaluation should happen at application and at disbursements. It is unclear what would be involved in this enhanced review and some other funders require GCs be selected through a procurement process much later in the development process.

FHLB regulations are already more complex and prescriptive than almost all of the other funders that we utilize. AHP disbursements, for example, typically take three to four times the staff hours to complete compared to those of any other funder. Because of this, we rarely do more than a single AHP disbursement for a given project. We have no objections to assuring that there are no “bad actors” on a project development team (we don’t want them either), but we fear that the enhanced review proposed will add another layer of complexity and administrative burden to an already burdensome system. If there were a simple way to add this review to the application process, we would not oppose it. However, we would strongly oppose adding another element to the already overly complex disbursement requirements.

Treatment of Projects with Services: This is an important issue because there is an increased emphasis on providing services in housing projects that serve homeless and special needs populations. Project sponsors typically struggle as much or more finding funding for services as they do in finding capital funds for development. A wide variety of approaches have been utilized to secure service funding and it is difficult to evaluate these approaches with a single prescriptive method.

FHLB has traditionally not wanted either service income or service expense in their housing pro formas. This has caused difficulties in cases where rental subsidies are intended, at least in part, to cover service expenses. In the proposed new rule, if there is income that covers both operations and service and cannot be segregated (like PBRA) both the service income and expense should be in the pro forma. This does clarify one issue related to rental assistance, but it may not address other related issues. Rental assistance payments may provide some of the funding for services, but typically, there would be other service funders as well. Unless all service funding and all service expenses are included, the pro forma is incomplete. Calculations of net cash flow and comparisons to the FHLB cash flow guidelines can only be accurate when all income and expenses are included.

A simple solution to this issue would be to include a question in the AHP application on the sources and uses of service funding and to allow reviewers at the local FHLB organizations to make informed judgements on the viability of operating budgets that include services and the level of any net cash flow. No single prescriptive formula is likely to work well for all service-enhanced projects.

Occupied Projects: Under the current rules, FHLB requires that occupied projects meet AMI and special needs categories at the time of application. The proposed rule states: “These projects would be allowed to satisfy AHP’s income and rent restrictions at move-in rather than at the time of application so long as the project has a relocation plan approved by another funder for the households that would not meet AHP’s requirements.” This is a very ambiguous statement. First, it is not clear what “at move-in” means. If a project is occupied, there may not be a move-in until an existing tenant moves out. That could be months or even years after rehabilitation is complete. Other funders use different language. For example, providing that AMI targets may be met “by attrition” or by saying that the “next available units” must be utilized to achieve AMI targets. In addition, it is not clear what a relocation plan from another funder means. Many of our other funders do not want our projects to cause displacement. Typically, they would allow AMI goals to be met by attrition over time without any displacement. These other funders have plans that address relocation by specifically prohibiting it. Would this meet the new requirements? If the proposed rule requires a true relocation plan, it probably means that over-income tenants would have to move at some point early in the process. In effect, that is not really different from the current rule. Since our project rarely have households with incomes over 80% AMI, over-income households are still likely to be low-income households. We strongly believe that it would not be appropriate to displace a household at 55% AMI or 60% AMI to make it available to a household at 50% AMI simply because that is what the AHP targeting requires. We oppose this rule unless the language is clarified and the displacement requirement removed.

The proposed change also does not speak to special needs set-asides. In an occupied project slated for rehabilitation, it is hard to know the specific composition of the tenant population. We would propose that set aside targets be met by attrition for the same reasons as outlined above for AMI targets.