



Federal Home Loan Bank  
NEW YORK

June 12, 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:

On behalf of the Federal Home Loan Bank of New York, we appreciate the openness and engagement shown by the Federal Housing Finance Agency staff throughout this entire effort leading up to and including the review period for the Notice of Proposed Rulemaking. We understand the challenges facing the FHFA as it seeks to achieve its stated objectives of modernizing and simplifying the Affordable Housing Program while enabling it to continue fostering the creation of safe, decent and progressive affordable housing.

Since the Notice of Proposed Rulemaking (NPR) was issued in March, the Federal Home Loan Bank of New York has undertaken an extensive review of the proposed changes and their implications for the Affordable Housing Program (AHP) in the Second District. This review included consultations with the members of our Affordable Housing Advisory Council, national and local non-profit organizations, industry experts, Member financial institutions, and other stakeholders with insights on the ever-changing needs and funding landscape for affordable housing.

Separately, you have received a letter signed and endorsed by the Presidents of the eleven Federal Home Loan Banks (FHLBanks). The Community Investment Officers and their respective staffs at the other FHLBanks were similarly detailed and rigorous in their review of the NPR. Collectively, the FHLBanks are in agreement: The outcome framework, as proposed, is unnecessary; entails additional risks for the FHLBanks; and restricts the FHLBanks' ability to prioritize their unique district needs, which change over time.

Therefore, the FHLBNY also encourages the FHFA to retain a scoring-based approach, as in the current regulation and as discussed during the past four years of engagement between the Community Investment Officers and FHFA staff. A scoring approach ensures flexibility while also enabling the FHFA to satisfy its statutory priority-setting obligations and allowing room for the FHLBanks to meaningfully address their own unique district priorities. It also provides adequate information (competitive round results) with which the FHFA can effectively monitor individual FHLBanks' achievement of the statutory and regulatory priorities.

The FHLBanks, under separate cover, submitted a robust proposal for a revised scoring approach. In short, such an approach should entail the following components:

- 100 total points, across a number of scoring categories to be determined by the FHFA and by each FHLBank;
- 50 points to be assigned to categories defined by the FHFA that address statutory and regulatory priorities; one of these categories, targeting, would be worth a minimum of 15 points, and each of the other categories would be worth a minimum of 5 points;
- 50 points across a number of scoring categories to be determined by each FHLBank, with each category receiving a defined minimum number of points. The FHLBanks can select from the list of FHFA priorities or identify their own particular district needs, as in today's Second District Priority category.

Fundamentally, the outcome approach as proposed freezes the program in time; creates a far less nimble program; and it codifies an understanding of the affordable housing industry that is at odds both with today's best practices and the standards followed by other major funding sources. From the very beginning of this effort, the FHFA's stated objective was to modernize the AHP Regulation to meet the changing affordable housing challenges and needs across each of the FHLBanks' districts. The FHLBANY, like the FHFA, is eager to see a new regulation that will prepare the program to effectively operate today and into the future.

However, if the FHFA is committed to an outcome-based approach, the FHLBANY respectfully requests certain revisions that would make meeting the outcomes more feasible within the competitive structure of the AHP, mitigate risk inherent in the proposed threshold requirements, and avoid unintended consequences that could jeopardize the FHFA's stated intentions and negatively impact the stellar reputation and effectiveness of the Affordable Housing Program.

In particular, there are three areas where the outcome approach needs revisions.

- **Thresholds for underserved communities** — The current rule requires that projects seeking points under a priority for homeless or special needs housing reserve at least 20% of their units for those populations. That gives each FHLBank the flexibility to define a threshold that is in line with other district funding sources (e.g. LIHTC, HUD, USDA) and keep pace with industry best practices, and of course to justify our chosen definition. However, the Proposed Rule substantially increases to 50% the concentration of a project's units that must be reserved for homeless and special needs households. We acknowledge that there are some projects that do reserve in excess of 50% of their units for these populations. However, in higher cost areas such as New York City, Long Island, the U.S.V.I. and most New Jersey counties, this is more likely to be the exception and not the norm, primarily because it is not financially or operationally feasible to do so.

Beyond financial feasibility, the proposed change ignores what the affordable housing industry now knows about longer-term success in housing for formerly homeless and special needs populations: mixed-income / economically diverse housing has proven to provide better social and economic upward mobility for these disadvantaged individuals and families. The social and economic opportunities provided in middle and higher income areas (education, employment, health and family services, etc.) help break the cycle of poverty for these households. Today, there is a clear trend away from institutional-type housing that isolates homeless, very low income and special needs households, and a growing emphasis on inclusive housing. Requiring 50% of a project's units to be concentrated in homeless and special needs households is a step backward in time and not a characteristic that one would associate with modernization of an

affordable housing program. We respectfully request that you reconsider these high threshold requirements in light of the industry trend toward more inclusive and diverse housing opportunities and the fact that most other major funding sources have lower threshold requirements.

There is a real need for homeless and special needs housing in the Second District. But requiring a 50% threshold would likely result in very few for-profit and non-profit rental housing developers applying for FHLB NY AHP funds. Therefore, it will be difficult for the FHLB NY to select “serving homeless and special needs populations” as a priority; it is an outcome that we would most likely not be able to achieve. That would unfortunately result in considerably fewer AHP-supported units for homeless and special needs housing within our district, not more.

- **Re-ranking of projects** — The provision to re-rank projects in the General Fund simply to ensure that regulatory outcomes are met is at complete odds with the competitive nature of the program, and it threatens the program’s reputation for transparency and fairness. Rather than requiring FHLBanks to re-rank applications, the FHFA’s staff should examine a given FHLBank’s intent as expressed through its scoring criteria. This would include an evaluation of how thoughtful, ambitious and practical the FHLBank was in establishing its criteria, definitions and point values. This analysis would mirror the kind of good-faith review of Fannie Mae and Freddie Mac’s goals for their Duty to Serve requirements. Quite unlike Fannie Mae and Freddie Mac, which can fully control their specified outcomes, an AHP that is offered under a purely competitive structure can influence desired outcomes through scoring, but, rightly so, cannot control the outcome. We respectfully request that the FHFA recognize the importance of maintaining the program’s pure competitive nature and therefore eliminate the re-ranking provision.
- **Financial penalty** — During the review period for the Proposed Rule, the FHFA policy staff gave informal comments that, should a FHLBank fail to meet the outcome requirements in a given year, the Agency would be unlikely to require the FHLBank to fund additional projects above and beyond the statutory requirement of 10% of the bank’s prior year’s net income. Unfortunately, these comments are not sufficient. The rule, when codified, will likely be in place for several years, if not decades. Future FHFA staff, either in policy or the examination teams, will have at their disposal a tool that the FHLBanks see as a risk arising from the program. Therefore, FHLBanks will very likely overcompensate for this risk by more heavily weighting points toward addressing the FHFA-identified priorities, at the expense of any local needs, in effect further limiting the flexibility of the AHP.

The Proposed Rule’s enforcement actions should focus on assessing an FHLBank’s clear intent and its effort to achieve that intent. Where an FHLBank falls short of its intent, the FHFA should require that the FHLBank evaluate areas of the scoring deficiencies and make determinations of any necessary changes for future Implementation Plans. We respectfully request that the FHFA reflect on the success of FHLBanks in meeting the stated priorities throughout the program’s history and allow that record to strengthen the FHFA’s confidence in the FHLBanks continuing that level of commitment, without needing the uncertainty of a financial penalty to do so.

In addition to the above recommendations regarding the outcome approach, we suggest four additional revisions to the Proposed Rule:

- **Retention agreements for homeownership projects and set-aside programs** — We support allowing the FHLBanks the flexibility to choose whether or not to require a retention agreement for homeownership projects and homeownership set-aside grant recipients. We acknowledge the FHFA’s desire to have all FHLBanks aligned in not requiring retention agreements for homeownership grants in the spirit of “fairness”. However, the reality is that the FHLBanks exercise discretion across many facets of the competitive and set-aside programs. As a result, there exist several differences in the implementation of the AHP programs across districts. These varying features reflect each FHLBank’s efforts to be responsive to the advice of their respective Affordable Housing Advisory Councils and members and meet the unique needs and challenges of their respective districts. The discretion to determine when a retention agreement for a homeownership set-aside or competitive program grant is advisable should simply be viewed as another program feature that each FHLBank can determine based on evidence and consultation.

The FHLBANY strongly supports the idea that low, and moderate-income homebuyers should receive the full benefits of homeownership, including earning equity from home appreciation and the freedom to leverage that equity into a bigger home or better neighborhood, through the sale of their home without penalty. We are not in favor of an “all or none” approach and therefore we offer a middle ground option, should the FHFA be committed to have uniformity across the FHLBanks. We propose that the Agency: 1) Require that there be no retention agreements for homeownership grants (set-aside or competitive) up to the \$22,000 per-household set-aside limit (as may be adjusted annually by the FHFA). Essentially retention agreements would not be required for homebuyer and owner-occupied rehab set-aside grant recipients, as well as similar homeownership grant recipients through competitive AHP projects; and 2) Require retention agreements for competitive program homeowner grant recipients above the \$22,000 set-aside limit (as may be adjusted annually by the FHFA). This structure would be a reasonable compromise that achieves the FHFA’s desire for parity across districts, while also streamlining the administrative burden for both the FHLBanks and members that participate in homeownership (homebuyer and owner-occupied rehab) set-aside programs. The set-aside programs are typically much higher in transaction volume, and the time and effort in executing, recording, tracking and enforcing retention agreements is not commensurate with the actual incidence of recaptures (as noted by the FHFA in the preamble of the Proposed Rule). The FHLBANY has also not experienced any notable incidences of property flipping within the district.

- **Supportive services: a necessary operating expense** — The Proposed Rule would continue to prevent projects from using AHP funds to cover the operating costs of providing supportive services. The affordable housing community collectively recognizes the absolute necessity for providing supportive services for homeless and special needs households and how essential these services are to the sound and effective operation of the affordable housing provided. Mandating, through regulatory priority, that the AHP support special needs and homeless housing efforts, while not recognizing supportive services expenses along with other customary operating expenses, such as property management costs, security costs, maintenance costs, fails to appreciate how both the affordable housing and the supportive services are inextricably intertwined. Under the Proposed Rule, projects that secure state or local operating subsidy for these services would be forced to create essentially fictitious pro formas, making it harder for the FHLBANY to reconcile operating budgets with other, more significant funding sources. It also imposes additional and unnecessary operational costs on project sponsors over the life of the project.

- **Calculation of recapture amount for homebuyer and owner-occupied rehab grants** — The recapture amount for homebuyer grants and owner-occupied rehab grants in excess of \$22,000 (as adjusted) should be based on a simple pro-rata basis. The effort in calculating “net-gain” presents significant challenges, which are outside the control of the participating member. If the member is not involved in the sale transaction, they will not have the sale price information, and a household is not required to provide this information. In such circumstances, a member will receive a request for payoff figures which must be provided within a defined regulatory timeframe. If the household does not supply information regarding the sale transaction, the member must still comply with the regulatory timeframe for issuance of the payoff letter. Our members report that some households are unwilling to supply the requested sale and capital improvement information; the households may not have even retained such records. Hence the “net gain” calculation is not feasible.
- **Clarification on definitions and expansion of “economic diversity”** — The Proposed Rule, in several instances, refers to definitions of key terms that are to be found in other statutes or regulations. In some cases, the source definition is unclear or absent altogether. All relevant definitions should be in the AHP’s governing regulation itself, to prevent confusion today and as other rules change over time.

Relatedly, the FHLBNY requests that the FHFA reconsider the current regulation’s definition of economic diversity, and expand it to explicitly include the development of mixed-income housing in middle income and high income neighborhoods in addition to low- and moderate-income neighborhoods. This would give the FHLBanks the flexibility to set definitions that respond to the best evidence on the impact of living in high opportunity areas for low income families.

Thank you again for your continued engagement on these important issues. Paul Héroux, the Bank’s Community Investment Officer, is available to discuss the FHLBNY’s interpretations of the NPR and our desired changes. He can be reached at (212) 441-6808 or at heroux@fhlbny.com.

Sincerely,



José R. González  
President and Chief Executive Officer  
Federal Home Loan Bank of New York



Paul B. Héroux  
Community Investment Officer  
Federal Home Loan Bank of New York

## Appendix

The FHLB NY endorses the responses made to the 41 questions in the letter from the Presidents of the FHLBanks. Below please find some comments to supplement those responses, from District II in particular:

### Subpart B—Program Administration and Governance

#### **1. What are the benefits and risks of allowing the FHLBanks to establish Targeted Funds?**

Under the current regulation, an FHLBank can use the Second District Priority scoring category to specifically incentivize particular types of projects. But there is a catch: This incentive is more meaningful if the sub-category is allocated a high point value, but if that is the case, *all* projects of that type will have a significant advantage in the competitive process. Ring-fencing particular project types within Targeted Funds would allow an FHLBank to not only incentivize those projects, but also to control how much funding they receive as a group. In other words, they would not crowd out worthwhile projects in the General Fund.

#### **2. Is the proposed allocation of 40 percent of total AHP funds to Targeted Funds an appropriate percentage, or should the percentage be higher or lower?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

#### **3. Would the proposed expansion of the contents of the TCLP impede the FHLBanks' ability to respond to disasters through the AHP?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

#### **4. What are the benefits of the proposed expansion of the contents of the TCLP and their linkage to the AHP Implementation Plans?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

#### **5. Is the requirement that members' AHP agreements with LIHTC project sponsors include a provision requiring the sponsors to provide prompt written notice to the Bank if the project is in noncompliance with the LIHTC income-targeting or rent requirements at any time during the AHP 15-year retention period practical, and should it also be required of project sponsors in the event of noncompliance by their projects with the income-targeting or rent requirements of the government housing programs discussed under the Monitoring section?**

Practically speaking, while this requirement would be included in members' AHP agreements, in the event of noncompliance, there is no guarantee that sponsors/owners would be cognizant of this requirement and fulfill their obligation under the agreement. Sponsors/owners may not remember to revisit the agreement—especially if the noncompliance occurs in subsequent years—as the agreement is read and signed before AHP funding. This adds a new requirement and burden on sponsors to actively monitor LIHTC projects for 15 years.

**6. What are the advantages and disadvantages of an AHP owner-occupied retention agreement, would eliminating it impact FHFA's ability to ensure that AHP funds are being used for the statutorily intended purposes, and are there ways to deter flipping other than a retention agreement?**

FHLB NY believes the primary advantage of AHP owner-occupied retention agreements is that they keep housing affordable for the retention period, which is beneficial to families and communities. Also, it serves as a deterrent for investors or landlords looking to purchase or rehabilitate homes and profit from AHP-assisted units, particularly under the Competitive AHP where homebuyers and homeowners may receive a significant amount of down payment assistance, closing costs assistance and rehabilitation subsidy.

The FHLB NY recognizes that there are several disadvantages of AHP owner-occupied retention agreements. First, retention agreements may prevent low- or moderate-income households from benefiting from the appreciation in the value of their homes if they choose to sell. It may also be a financial burden on households needing to complete a repayment. Additionally, retention agreements may cause confusion among members and borrowers about rules of repayment, particularly when a borrower refinances but stays in the home. Finally, the secondary market has discomfort purchasing loans with retention agreements on property, so members may struggle to sell loans post settlement.

While a protective restriction on the AHP-assisted unit (e.g., retention agreement, deed restriction, lien) is likely the best tangible deterrent to flipping because it can be tracked and enforced, as noted in the preamble of the proposed regulation, the majority of AHP-assisted households do not sell their homes during the five-year retention period. To the extent that AHP-assisted households are sold, it is usually to low- or moderate-income households or where there is no net gain, thereby rendering the retention agreement irrelevant.

We believe that eliminating the retention agreement would be beneficial in most instances. As discussed in the preamble of the proposed regulation, the FHFA has found little to no evidence that AHP-assisted units are targets to be used by investors or landlords to purchase or rehabilitate and sell quickly. This is likely due to the units' low prices and locations, namely that they are not typically in neighborhoods with rapidly appreciating housing prices. Accordingly, this is a beneficial change for households that need a moderate amount of AHP to rehabilitate, construct, or purchase a home.

However, for projects requiring larger amounts of AHP subsidy per unit, elimination of the retention agreement introduces the risk of misuse. Specifically, elimination of the retention agreement may increase property "flipping" for AHP projects with a relatively high per-unit AHP subsidy, particularly in rapidly appreciating markets. Therefore, FHLB NY supports the recommendation allowing the FHLBanks the discretion to impose a retention requirement in a manner that the FHLBanks deem useful. However, if the system recommendation is not accepted, FHLB NY requests the FHFA consider FHLB NY's recommendation made in this letter.

**7. Should the proposed increase in the maximum permissible grant to households from \$15,000 to \$22,000 under the Homeownership Set-Aside Program impact the decision on whether to eliminate the retention agreement?**

As described in the letter above, the FHLBanks should have the discretion to require a retention agreement or not, as they deem useful and appropriate, for homeownership funds. The proposed set-aside subsidy increase from \$15,000 to \$22,000 should not have an impact on the FHFA's decision to eliminate the retention agreement. The letter above also describes an alternative proposal, if the FHFA wants all FHLBanks to have a uniform approach to retention agreements.

**8. Should the current provision in retention agreements requiring that notice of a sale or refinancing during the retention period be provided to either the FHLBank or its designee (typically the member) be revised to require that the notice be provided to both the FHLBank and its designee if a retention agreement requirement is retained in the final rule?**

No. The FHLBANY prefers to leave the retention agreements for rental projects unchanged and would propose no changes to the owner-occupied retention agreement if the FHLBanks were given discretion to require retention on owner-occupied properties. Requiring notice to the Member would provide little to no benefit as the FHLBanks have established a precedence of addressing issues of non-compliance directly with the project sponsor. Furthermore, this may be viewed as an additional requirement on the membership, which may discourage use of the AHP.

**9. Should the AHP retention agreement, if retained in the final rule, require the AHP-assisted household to repay AHP subsidy to the Bank from any net proceeds on the sale or refinancing of the home or from the net gain?**

If the final rule retains the AHP retention agreement, FHLBANY believes that the recapture amount should be based on a simple pro-rata basis.

**10. What are the merits and disadvantages of the net proceeds and net gain calculations from the standpoint of the AHP-assisted households and the FHLBanks, and are there other subsidy repayment approaches FHFA should consider, if the AHP retention agreement requirement is retained in the final rule?**

FHLBANY believes the net gain calculation may reduce the opportunity for flipping.

However, the effort in calculating "net-gain" presents significant challenges, which are outside the control of the participating member. If the member is not involved in the sale transaction, they will not have the sale price information, and a household is not required to provide this information.

Our members report that some households are unwilling to supply the requested sale and capital improvement information; the households may not have even retained such records. Hence the "net gain" calculation is not feasible.



**11. What approaches would provide a reasonable basis to assume that the subsequent purchaser of an AHP-assisted unit is likely to be low- or moderate-income, including proxies that could serve this purpose?**

If the AHP retention agreement requirement is retained in the final rule, FHLBNY believes that three proxies, as described in the preamble to the proposed regulation, would provide a reasonable basis to assume the subsequent purchaser of an AHP-assisted unit is likely to be low- or moderate-income. First, a certification from a third party that the subsequent purchaser's income is at or below the low- or moderate-income limit would be acceptable. Examples of such third parties that could reasonably verify income include counseling entities, service-based nonprofit organizations, government assistance agencies, Social Security Administration, child support entities, LIHEAP administration, and accountants. Secondly, evidence that the subsequent purchaser is receiving direct homebuyer assistance from another government program would be acceptable. Examples of government programs providing homebuyer assistance include USDA, FHA loans, FHA 203K Home Loans, Veteran Administration Loans, Ready Buyer/HomePath Mortgages, FHA conventional Loan 97, and Freddie Mac Home Ready. Additionally, several other mortgage products have income guidelines that would require borrowers to have AHP target low- to moderate-income. Thirdly, FHA or other underwriting standards indicating that the income required to purchase the AHP-assisted unit at the purchase price is low- or moderate-income would be acceptable.

**12. What proxies would be reasonable for assuming a subsequent purchaser's income, including the following or others: certification from the subsequent purchaser or a third party that the subsequent purchaser's income is at or below the low- or moderate-income limit; evidence that the subsequent purchaser is receiving direct homebuyer assistance from another government program with household income targeting requirements substantially equivalent to those of the AHP; the purchase price of the AHP-assisted unit is less than the median home price in the area; the AHP-assisted unit is located in a census tract or block group where at least 51 percent of the households are low- or moderate-income; or FHA or other underwriting standards indicating that the income required to purchase the AHP-assisted unit at the purchase price is low- or moderate-income?**

As indicated in our response to question 11, FHLBNY believes that there are three reasonable proxies for assuming a subsequent purchaser's income including: 1) a certification from a third party that the subsequent purchaser's income is at or below the low- or moderate-income limit; 2) evidence that the subsequent purchaser is receiving direct homebuyer assistance from another government program; and 3) FHA or other underwriting standards indicating that the income required to purchase the AHP-assisted unit at the purchase price is low- or moderate-income.

**13. Should there be an exception to the AHP subsidy repayment requirement in the AHP retention agreement, if retained in the final rule, where the amount of AHP subsidy subject to repayment, after calculating the net proceeds or net gain, is \$1,000 or less?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**14. If the AHP retention agreement is retained in the final rule, should the rule clarify that the obligation to repay AHP subsidy to a Bank shall terminate not only after any event of foreclosure,**

**but also after transfer by deed in lieu of foreclosure, assignment of an FHA mortgage to HUD, or death of the owner(s) of the unit?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

Subpart C – General Fund and Targeted Funds

**15. How should preservation of rental projects be encouraged through the AHP while discouraging displacement of current occupants with higher incomes than those targeted in the AHP application submitted to the Bank for approval, and is the proposed requirement for a relocation plan approved by the primary funder reasonable?**

Preservation of affordable housing is a FHFA priority in the proposed regulation. This priority will encourage the conservation of affordable housing units in our district. In fact, this is a scoring category that we currently offer. In our experience with housing initiatives that preserve affordable housing units, in scenarios where households must be relocated, a formal relocation plan is required and the sponsor must execute that plan. We believe this is a fair way to discourage displacement.

**16. Are the current AHP requirements for sponsor-provided permanent financing reasonable, do the sponsors have a need for AHP subsidy in light of their particular financing model, and does the current method in the regulation for determining their need for AHP subsidy understate or overstate the amount of AHP subsidy needed?**

Typically the sponsor-provided permanent financing projects that we see are Habitat for Humanity projects.

District II is a high cost area and Habitat for Humanity's goal is to obtain land, develop the site and sell a reasonably priced home to income-eligible families. In many cases their only source of capital funding is monies raised from their fundraising efforts or from the repayment of previous mortgages issued to existing Habitat for Humanity mortgagees.

FHLBANY believes the regulation should continue to recognize the unique nature of this business model.

**17. Should sponsors using the sponsor-provided permanent financing model be considered revolving loan funds and, if so, should they be subject to the current or different AHP revolving loan fund requirements?**

By definition there are similarities between a revolving loan fund and a sponsor-provided permanent financing model since funds are recycled on an ongoing basis. However, unlike a revolving loan fund, sponsor-provided permanent financing models such as Habitat for Humanity projects are project specific and have readily available information that can be vetted during the application process.

Thus, FHLBANY believes this type of structure is acceptable and does not need to be subject to any additional requirements.

**18. What are the potential advantages and disadvantages of allowing the Banks to impose a maximum subsidy limit per project sponsor?**

FHLBNY believes one advantage of allowing the FHLBanks to impose a maximum subsidy limit per project sponsor, as discussed in the proposed regulation, is that it may present an opportunity for other types of sponsors to participate.

A disadvantage of allowing the FHLBanks to impose a maximum subsidy limit per project sponsor is that this could restrict competitive applications from attaining an AHP commitment.

FHLBNY believes the FHLBanks should be provided the discretion to impose a sponsor limit.

**19. What are possible approaches for re-ranking applications to meet the outcome requirements while at the same time maximizing the extent to which the highest scoring applications are approved?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**20. Are the current AHP revolving loan fund provisions reasonable, and how could the financing mechanisms of revolving loan funds be used successfully with AHP subsidies?**

The FHLBNY has not received applications using revolving loan funds. However, there may be value in offering another opportunity to expand resources for affordable housing.

Therefore, FHLBNY supports the proposed separate rulemaking on the revolving loan fund provisions.

**21. Why have certain AHP scoring criteria for revolving loan funds been difficult to meet, how would AHP subsidy be repaid in the event of project noncompliance, and how can a revolving loan fund demonstrate a need for the AHP subsidy?**

Please see the response to #20. FHLBNY has not received applications using revolving loan funds.

**22. Would the proposed outcome requirements for the statutory and regulatory priorities facilitate use of AHP subsidies by revolving loan funds, and if so, how?**

Please see the response to #20. FHLBNY has not received applications using revolving loan funds.

**23. What are the potential positive or negative impacts of eliminating the owner-occupied retention agreement requirement for revolving loan funds?**

As discussed in this letter, we support the system comment letter's recommendation that Banks should have discretion in determining whether or not retention agreements are used.

**24. Are there loan pools currently existing in the market that meet the conditions in the current regulation, how are the loan pools addressing current housing market needs, and what are the potential positive or negative impacts of eliminating the owner-occupied retention agreement requirement for loan pools?**

FHLBNY has not received applications using revolving loan funds.

Subpart D – Homeownership Set-Aside Programs

**25. Are there any potential positive and negative impacts of increasing the subsidy limit per household from \$15,000 to \$22,000, and should the subsidy limit be higher or lower?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**26. Is the proposed use of FHFA’s Housing Price Index to automatically adjust the subsidy limit upward over time appropriate, or are there other housing price adjustment indices that would be preferable and why?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

Subpart E – Outcome Requirements for Statutory and Regulatory Priorities

**27. Does the proposed outcome requirement of 10 percent of an FHLBank’s total AHP funds constitute prioritization for the home purchase priority, or should the percentage be higher or lower?**

Most of the FHLBanks already meet or exceed the outcome requirement of 10 percent of an FHLBank’s total AHP funds for the home purchase priority on a consistent basis. This is primarily achieved through an FHLBNY’s homeownership set-aside programs. FHLBNY believes that, though 10 percent is a reasonable amount, the outcome requirements are not necessary and should be eliminated.

**28. What is the utility of the proposed outcome approach to income targeting, and are the proposed 55 percent threshold, its applicability solely to rental units, and income-targeting at 50 percent of AMI appropriate?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**29. Is the proposed increase in the minimum threshold from 20 to 50 percent for the number of units reserved for homeless households appropriate?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**30. Is the proposed increase in the minimum threshold from 20 to 50 percent for the number of units in a project reserved for households with a specific special need appropriate?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**31. Is the proposed 50 percent minimum threshold for the number of units in a project reserved for other targeted populations appropriate?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**32. Is the proposed 20 percent minimum threshold for the number of units in a project reserved for extremely low-income households appropriate?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**33. Do the three proposed regulatory priorities described in proposed § 1291.48 – underserved communities and populations, creating economic opportunities, and affordable housing preservation – constitute significant housing priorities that should be included in the regulation, or should other housing priorities be included?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**34. Should the specific housing needs identified under each regulatory priority be included, or are there other specific housing needs that should be included?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**35. Do the FHLBanks have sufficient flexibility under the current scoring system to target specific housing needs in their districts, including awarding subsidy to address multiple housing needs in a single AHP funding period?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**36. Should the current regulatory scoring system be maintained without change?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**37. Should any of the current mandatory scoring criteria and minimum required point allocations be modified to reflect other specific housing needs?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**38. Should the current Bank First and Second District Priorities be combined and the list of housing needs in the Bank First District Priority eliminated?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

Subpart F – Monitoring

**39. Are the proposed reductions in the Banks’ monitoring requirements reasonable, taking into consideration the risks of noncompliance and the costs of project monitoring?**

Please refer to responses in the letter from the Presidents of the FHLBanks.

**40. Is data available on the noncompliance rates of projects funded under the PBRA Section 8 Program?**

No. FHLBNY does not collect data on the noncompliance rates of projects funded under the PBRA Section 8 Program.

Subpart G – Remedial Actions for Noncompliance

**41. Are the facts and circumstances described in proposed § 1291.60 appropriate for consideration by an FHLBank during reasonable subsidy collection efforts, and are there other factors that should be considered as well?**

Please refer to responses in the letter from the Presidents of the FHLBanks.