

KeyBank Real Estate Capital



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June 12, 2108

Mr. Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
400 Seventh Street S.W.
Washington, DC 20219
Attention: Comments/RIN 2590-AA83

RE: Notice of Proposed Rulemaking – Affordable Housing Program

Dear Mr. Pollard,

KeyBank is a nationally recognized affordable housing lender and the only national bank to have achieved nine consecutive “outstanding” CRA ratings by the OCC. The Affordable Housing Program has been an important component of the Bank’s success of providing debt and equity to affordable housing developments on behalf of the Bank’s clients.

The Proposed Rule changes to the existing Affordable Housing Program will have a negative impact on the Bank’s ability to continue to provide gap funding for the Bank’s clients. Below is a summary of the changes the Bank is in opposition with:

1. KeyBank takes time to work directly with clients to assist in the development of AHP applications. Comparing a project’s characteristics against the scoring system allows KeyBank to advise its clients as to whether or not a project has the potential to receive an allocation of subsidy from one year to the next. This is due in large part because the scoring system of the FHLBank of Cincinnati changes very little from year to year and the outcome of each round is transparent and easy to understand.

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If the outcome-based framework structure is adopted, KeyBank believes that this will hinder the ability to predict with any degree of certainty competitiveness of a potential application. Although the AHP program is not without its complexities, frequent users have come to rely on the predictability and steadfastness of the AHP program. The scoring-based structure is a hallmark of the program and should not be eliminated.

Additionally, KeyBank views the AHP as a return on its investment in the FHLBank of Cincinnati and therefore attempts to maximize the amount of subsidy the Bank can be awarded each year. Eliminating the scoring system in favor of the outcome-based approach will hinder the Bank's ability to submit what it deems to be competitive applications for the purpose of receiving the maximum allocation from the Cincinnati FHLB on behalf of the Bank's clients.

2. KeyBank believes that the proposed rule to increase the percentage of units reserved for homeless and special needs households from twenty percent to fifty percent will have the potential of affecting the financial viability of some projects to maintain compliance for the fifteen-year retention period for rental projects.

By increasing the percentage it is possible that rental projects that do not necessarily specialize in special needs or homeless housing may experience cash flow issues for units that are reserved for either population. For example if a 10-unit project reserves 5 units for special needs, and in year 3 a special needs unit vacates, the project must fill that unit with a special needs household. However, if the next available tenant does not meet that criterion the project is forced to decide to; 1) be in a state of noncompliance with the AHP regulation, or 2) keep the unit vacant until the appropriate tenant can be located thus causing the project to experience cash flow issues for an unoccupied unit. For those projects that are carrying permanent debt, the ability to pay the full principal and interest may cause additional unintended consequences.

Additionally, KeyBank sees this to be problematic for the FHLBanks as this could increase the number of project modifications that are done after project completion. This could dramatically increase the possibility that projects would no longer be able to maintain a fundable score when compared against the outcome-based framework. The transparency for the modification process would also be eliminated. Recapture of subsidy will become a real unintended consequence in this instance.

3. KeyBank along with a large portion of the Bank's clients has come to rely upon the willingness of the FHLBank of Cincinnati, to which the Bank is a member, to allow their AHP subsidy to be utilized outside of their operating district of Ohio, Kentucky and Tennessee. The Bank is concerned that if the outcome-based framework is adopted the FHLBank of Cincinnati along with its ten sister banks will eliminate the possibility of using AHP funds beyond their district states. The Bank perceives the outcome-based framework rule as being directed solely to the individual FHLB's operating district. Even if the "General Fund" scoring framework were to continue to allow out-of-district funding, the Bank believes that the increased competitiveness of the General Fund would be such that it will eliminate the possibility of out-of-district funding.

KeyBank is a national lender with membership only in the FHLBank of Cincinnati. It is important to the Bank and our clients that the FHLBanks continue to allow out-of-district funding.

4. KeyBank is in opposition to requiring that the Project Owner identify and provide documentation that identifies the capacity of all the project's partners. At time of application a large number of KeyBank clients have not yet identified all of the project's partners. In many cases the project has not yet been put out to bid for the general contractor by the time the AHP is awarded.

Requiring this additional element to the application process may cause many applicants to wait until the project is in the middle of development before applying for AHP funds. This issue combined with the outcome-based framework will make it impossible for an applicant to know when to apply and what other funding sources are available in the event the project does not receive an AHP award. Many projects may not be able to overcome the gap financing shortfall at such a late time in the project's development.

Additionally, it is difficult to conceive that the FHLBanks have witnessed projects that were not completed due to the lack of capacity by a development team member. It stands to reason that if the project is experiencing issues with a team member that the project's owner would find a suitable replacement and continue on with the development. Because all approved projects are required to submit a Periodic Progress Report until all AHP funds are disbursed, the process and the regulatory timelines would dictate to a project owner to keep the project moving forward despite challenges with project partners.

Finally, KeyBank cannot determine from the Proposed Rule how a homeownership project would document capacity of team members. More specifically how an agency that relies almost entirely on volunteer labor would document capacity of team members. It seems unlikely that a project sponsored under these conditions would not meet the regulatory criteria.

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In closing, KeyBank would like to offer this observation of the AHP program. Since inception the AHP program has been a vital source of gap funding for the Bank's clients. AHP has the very distinct reputation of being a reliable, consistent and transparent program. The Bank's clients are very used to the existing scoring system and have no complaints about it. However, a consistent theme that the Bank has witnessed over the years is that the AHP program is not as forward-thinking in its approach to financial feasibility compared to other funding sources. Additionally, clients have noted that project feasibility tends to vary from one FHLB to the next and responses by the FHLBanks tend to place blame on the FHFA for inconsistent bulletins issued by the FHFA.

If the intent of the collaborative working group was to modernize and streamline the AHP program, KeyBank believes that the Proposed Rule changes have fallen short of the goal. Although the Bank would welcome changes to how the AHP program works in conjunction with other funding programs, the Bank believes that it is not necessary to upend the existing regulatory and statutory language regarding the scoring system.

Thank you for giving the Bank the opportunity to express its concerns and comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura Sandmann", with a long, sweeping underline that extends to the right.

Laura Sandmann

Vice President, National FHLB Housing Coordinator