Minnesota Housing Partnership Comments:
Federal Home Loan Bank Affordable Housing Program Proposed Rule Changes

Comments/RIN 2590-AA83

Minnesota Housing Partnership (MHP) convenes, guides, and supports a diversity of partners working to improve conditions of home and community. Building on decades of experience, we strengthen development capacity and promote policies that expand opportunity, especially for people at the lowest income levels. We are rooted in Minnesota and work across the country to strengthen ability of organizations to build and preserve housing and community assets, and to drive efforts to secure the policies and funding needed to advance affordable housing opportunities.

MHP values the FHLB AHP program as a critical resource that provides support to respond to local housing needs. Although the AHP proposed rule offers some improvements for program flexibility, overall it increases the program's complexity and threatens its ability to respond flexibly and does not seem to align with the FHFA's stated objective of providing more flexibility for the FHLBanks to respond to local and regional housing needs.

I. Impact on Housing Sponsors

Part 1 – Allocation of AHP

The proposed rule significantly complicates how AHP funds are allocated and limits how responsive it is to local, and changing, housing needs.

1. The proposed outcome framework controls at least 65% of the entire year's AHP contribution and may control as much as 85% of that contribution. This is a significant step backward from the current methodology for AHP, which incentivizes certain types of projects but does not impose hard requirements for them. Because certain outcomes would be required under the FHFA's proposal, the FHLBanks would be compelled to develop AHP scoring criteria that will achieve them. This has the result of:
   a. Undermining the FHFA's stated objectives of allowing the FHLBanks more flexibility to meet local needs because it will be FHFA outcomes, not district needs, that the AHP is engineered to respond to. This dynamic also undermines the FHFA's stated objectives for requiring FHLBanks to develop Targeted Community Lending Plans. Specifically, FHFA

required outcomes, not the results of market research required by the proposed Targeted Community Lending Plans, will be the primary driver for the Banks' AHP scoring criteria. Thus, the Targeted Community Lending Plans become an administrative burden without a meaningful purpose.

   b. Compromising the value of the input the FHLBanks receive from their Affordable Housing Advisory Councils (Advisory Councils), a group that consists of leading local affordable housing and community development practitioners. The FHLBanks currently rely on Advisory Councils for information about local housing needs and how AHP can be most impactful in local communities, and are opposed to any proposal that compromises their contribution.
   c. Creating a static list of nationally prescribed requirements that are not adaptable to future and changing affordable housing needs. Additionally, as described further below, the proposed threshold requirements for some of the proposed FHFA outcome requirements incorrectly assume that there are capital and operating sources of financing available to develop the types of projects required.
   d. Introducing the likelihood for unintended consequences, such as concentrating AHP awards in geographies where capital and operating sources of funds are available to support development of the types of projects favored by the proposed outcomes.
2. The proposed re-ranking of otherwise competitive projects is a necessary tool for complying with the requirements of an outcome-based model, however, it is a problematic disrupter to AHP's predictability and transparency. This proposal has the result of:
   a. Creating an illogical circumstance in which high scoring and competitive projects are denied an AHP award. In practice, there may be several cycles of re-ranking projects needed to comply with FHFA outcomes because simply substituting one project for another may satisfy compliance with one or more FHFA outcome requirements, but not all of those requirements. Thus, it is possible to imagine a scenario in which one or more high-scoring and otherwise competitive projects are replaced by one or more low- scoring and otherwise not competitive projects for the sole purpose of meeting FHFA outcome requirements.
   b. Negating the value of the FHLBanks offering technical assistance to project sponsors for how they could improve the competitiveness of a proposed, or denied, AHP application.
3. The proposed minimum threshold requirements for special needs and homeless projects may not be achievable in some markets. Additionally, projects that serve lower income households are dependent upon capital and operating subsidies, the availability of which are scarce nationally and may be more prevalent in certain markets. Thus, this proposal may have the unintended consequence of concentrating AHP funds in certain geographies.

Proposed Solution: Retain the current AHP scoring based model.

Part 2 – Evaluating the Need for AHP Subsidy

The proposed rule missed an opportunity to simplify AHP administration, minimize redundancies, and optimize how well it coordinates with other funders. That said, the proposed rule effectively streamlines some long-term monitoring processes for rental projects, which is a step in the right direction.

1. Although the "Need for AHP Subsidy" language in the proposed rule is reasonable, the language used in the preamble suggests a continuation and potential escalation of current practices that have been obstacles to AHP effectively and efficiently coordinating with other funders. This proposal, as explained in the preamble, has the result of:
   a. Imposing an administrative burden on sponsors to extensively document that projects that exceed AHP: (i) cash flow benchmarks were unable to secure debt financing as a substitute to the AHP; and (ii) capital and operating reserve benchmarks have justifiable circumstances for doing so.
   b. Preventing AHP from being awarded to projects that rely on cash flow to finance supportive services (except in circumstances in which that cash flow is generated by federal rental assistance that includes funds for supportive services that cannot be bifurcated). This is in potential conflict with the proposed outcome framework's minimum threshold requirements for homeless and special needs units to increase to up to 50% of units (from 20% of units) because projects with a greater proportion of units reserved for these populations are more likely to require supportive services to be operationally feasible.
   c. Creating circumstances in which previously awarded and potentially disbursed AHP funds are repaid by the sponsor to the FHLBank, which could occur if the project's financial circumstances change.

Proposed Solution: Allow FHLBanks 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.

Part 3 – Administrative Burden for Sponsors

The proposed rule introduces unnecessary administrative burdens for sponsors by adding new provisions to require:

1. Projects to pursue a cure for noncompliance before a project modification may be considered. There are some circumstances in which this may be an appropriate approach but there are other circumstances in which it is unnecessary. For example, if a

project were in its first years of retention and its income and rent commitments changed significantly, a FHLBank would likely require the project to adhere to its original commitments. However, if a project was in its final years of retention, had otherwise been in compliance, and had one or a few units that were not complying with income or rent commitments, a FHLBank may determine that a modification would be an efficient tool for resolving the noncompliance.

2. Sponsors to demonstrate that all members of the project development team, including all affiliates and team members such as the general contractor, satisfy FHLBank sponsor capacity requirements.
3. Sponsors to subject their organizations assets and other financial resources to review by the FHLBank when evaluating if the repayment of AHP is needed to cure noncompliance of a project.

Proposed Solution: Allow the FHLBanks to evaluate the facts and circumstances of each project and sponsor's track record of performance.

I. **Impact on Members**

Part 4 – Changes to How AHP Provides Financing for Owner-occupied Housing

1. The proposed rule theoretically 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. The proposal allows up to 40% of the annual AHP contribution to be allocated for down payment "set aside" program(s). Currently, the up to 35% of the annual AHP contribution may be allocated for this purpose.

The proposal also would require that at least 10% of the annual AHP contribution be for home purchase, which could be satisfied through a FHLBank's down payment set aside program. However, the FHFA outcome requirements further require that at least 55% of the annual AHP contribution meet at least two of three regulatory requirements that are applicable to the competitive program. Because a FHLBank would be required to meet this outcome, it will take cautionary measures to ensure compliance. For illustrative purposes, assume that a FHLBank targets an additional 10% for each FHFA outcome requirement. For example, if a FHLBank is required to allocate 55% of its annual AHP contribution to FHFA outcomes, the FHLBank is likely to set a target of 65% (or more).

It is also important to understand that if a FHLBank wishes to adopt a third regulatory priority for its competitive program, then the FHFA outcome threshold increases to at least 65% of the annual AHP contribution. Add to this an illustrative 10% cautionary measure for setting a target greater than the minimum required for compliance, and 75% of the annual AHP contribution is awarded to FHFA outcome requirements.

In both scenarios, 35% and 25%, respectively, of the annual AHP contribution is available for the down payment set aside program – not up to 40% as the proposal suggests.

Proposed Solution: Retain the current AHP scoring based model and allow up to 40% of the annual AHP contribution to be allocated to the down payment set aside program.

2. The proposed rule would increase the maximum subsidy for the down payment set aside program to $22,000 per household, an increase from $15,000 per household.

3. The proposed rule would eliminate retention for owner-occupied housing, thereby streamlining program administrative requirements.

Thank you for the opportunity to respond. We look forward to seeing the revised final rule that ensures FHLB's continuing ability to serve our communities.

Respectfully,

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