PRESERVATION OF AFFORDABLE HOUSING

June 11 2018

Alfred Pollard, General Counsel
Federal Housing Finance Agency
400 Seventh Street SW, Eighth Floor
Washington, DC 20219

RE: RIN 2590-AA83, Comments on Proposed Amendments to Affordable Housing Program (the "Notice")

Dear Mr. Pollard:

On behalf of Preservation of Affordable Housing, Inc. (POAH), thank you for the opportunity to comment on FHFA's proposed amendments to the Affordable Housing Program ("AHP"). We appreciate the thorough process that the Federal Housing Finance Agency ("FHFA") has undertaken in an effort to provide the Federal Home Loan Banks (the "Banks") with discretion to leverage their Advisory Boards and local knowledge to be more responsive to district needs. The AHP has long been a critical gap resource enabling desperately needed affordable rental housing projects to proceed, and we applaud FHFA's efforts to ensure it continues to function effectively in that role.

POAH is a national nonprofit specializing in the acquisition, rehabilitation or redevelopment, and long-term preservation of at-risk affordable housing. Since its founding in 2001, POAH has successfully preserved or built more than 10,000 units of affordable rental housing in 11 states and the District of Columbia at more than 100 properties.

POAH is a member of Stewards of Affordable Housing (SAHF), a nonprofit collaborative of thirteen multi-state nonprofit affordable housing providers who own more than 130,000 affordable rental homes, and we generally endorse SAHF's comments on the proposed changes to the AHP. We submit these separate comments to underline or expand on SAHF's comments in a number of areas we feel are particularly critical to our work.

Before addressing FHFA's specific requests for comment, we offer two general comments for your consideration:

1. **Prioritize Deeply Affordable Rental Housing:** Given the ever-widening affordability gap for low-income households, we strongly urge FHFA to take this opportunity to increase the AHP's investment in affordable rental housing for Extremely Low Income (ELI) households. As noted below, we support the creation of a regulatory priority for ELI projects, and would also propose the addition of a mandatory ELI scoring item within the scoring framework for the General Fund. By the same token, although we support homeownership as a worthy goal, we oppose the proposal to increase the maximum allowable percentage of AHP investment in homeownership activities, since that increase would necessarily draw resources away from critically needed rental housing.

2. **Improve the Application Process:** As noted above, the AHP is an essential gap financing resource for many worthy projects, but our experience suggests that the program's impact could be enhanced through improvements to the application process. First, the AHP regulations should provide a process for applicants to cure flaws or omissions in applications, prior to final scoring. Worthy projects are commonly excluded from the AHP competition based on errors or omissions in their application which could easily be corrected, were there a mechanism to do so. Second, many Banks require that applicant projects have secured commitments for most or all other financing sources, which can introduce the need to coordinate across misaligned application/award timelines, and may also mean that AHP funding simply enhances projects which are already fully financed. If Banks were permitted (or encouraged) by FHFA to make conditional funding awards – contingent on securing other necessary sources – this approach would allow AHP awards to provide critical early support to projects, and play a larger role in determining which projects move ahead.

Our responses to a selection of FHFA's specific requests for comment follow.

Subpart B—Program Administration and Governance

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

We understand and support FHFA's intent to ensure the Banks have flexibility to respond to local housing needs, and we agree that the current single-competition structure may not allow the Banks to target funding for multiple specific project types. However, we support the funding priorities expressed in the current scoring criteria for the Competitive Application Program ("CAP"), and we are concerned that adding separate Targeted Funds could dilute or reduce AHP investment in those priorities, even under the "outcome requirements" framework. We would also be concerned that allowing up to three different Targeted Funds at each Bank could create unmanageable complexity for Banks and sponsors alike.

IF FHFA determines to proceed with the Targeted Fund concept, we would recommend that the Funds be limited to rental housing projects exclusively, in order to ensure that AHP resources currently devoted to rental housing are not diverted; and we would recommend limiting Banks to just one Targeted Fund, in addition to the CAP, to ensure a manageable and predictable process.

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?*

We feel that 40% is a reasonable cap, assuming a strong minimum allocation to the General Fund is also maintained (and we would prefer a higher General Fund allocation, at 55% or 60%).

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?

We would recommend that in transactions preserving existing affordable housing (including the programs listed in FHFA's Duty to Serve regulation, but excluding 79 Rental housing with energy or water efficiency improvements), any households who are occupying previously/currently income-restricted units but who are "over-income" for purposes of the new/proposed AHP income-targeting regime be "grandfathered" for purposes of compliance with AHP income-targeting, and that in lieu of a funder-approved relocation plan, sponsors simply be required to lease units in compliance with the income-targeting commitments on turnover for such units. We are concerned that the relocation plan concept may tend to promote displacement of existing residents, or potentially disadvantage preservation transactions.

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

While we understand the intent of such a policy, we would be concerned that the effect of a per-sponsor cap would be to exclude projects which would otherwise be funded, in favor of projects which are less reflective of the AHP's or the Bank's funding priorities.

Subpart E – Outcome Requirements for Statutory and Regulatory Priorities

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?

As noted above, POAH would encourage increased focus of AHP resources on deeply affordable rental housing. We strongly support retaining the current scoring system's requirement that 20% of points be allocated based on income targeting, but would recommend requiring more affordability for the maximum score on that metric (both a higher percentage of units and a lower percentage of AMI). We would support the layering-on of the "outcome requirement" for affordability across the award pool, and feel the 55% at 50% AMI is a reasonable benchmark. We would propose adding an additional "outcome requirement" for 10% of overall units affordable at 30% of AMI, given the urgent nationwide need for more rental units affordable to ELI households. We agree that only rental units should count toward the satisfaction of these requirements.

29. Is the proposed increase in the minimum threshold from 20 to 50 percent for the number of units reserved for homeless households appropriate?
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?
31. Is the proposed 50 percent minimum threshold for the number of units in a project reserved for other targeted populations appropriate?

We would not support this change. While in some cases it is appropriate to set aside most or all of a project's units for a special population, in many others such a concentration of units can be counterproductive, potentially isolating special populations from the wider community (and potentially violating Olmstead principles). Projects primarily for homeless households or other special populations can also often be challenging to site or finance.

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

Yes. We feel that setting aside 20% of units for ELI households is an appropriate threshold for this regulatory priority – and we strongly support the introduction of this priority as a consideration in the allocation of AHP funds. We would support the creation of a new scoring item within the existing regulatory scoring framework to promote increased AHP investment in rental housing for ELI households.

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?

Yes, we generally agree that these are important priority categories, although we do not feel that the proposed outcomes framework should completely replace the existing scoring framework. We strongly support the inclusion of preservation as an element of the outcomes framework.

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

We agree with the specific needs described under each regulatory priority, with one exception. We feel strongly that affordable homeownership preservation should not qualify under the preservation priority, because its inclusion in that category could allow Banks to satisfy their regulatory priorities without addressing rental housing preservation, which is a critical and universal need across the US.

35. Do the Banks 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?

We feel that the Banks' ability to assign up to 50% of scoring weight within the First and Second District Priority areas should allow them to effectively target their AHP resources to one or more specific needs, with the remaining scoring priorities representing important, generally applicable priorities (subsidy efficiency, sponsor type, service provision, etc.).

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

We would strongly urge FHFA to retain the existing regulatory scoring system, with adjustments as needed (see #37 below), because it expresses important national priorities and provides important predictability for sponsors. We appreciate the value of the proposed outcome requirements as a way to ensure aggregate program performance, but we feel the existing scoring rubric will remain an important way to ensure each project funded effectively advances AHP program goals.

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

We appreciate the addition of (1) affordable housing preservation and (2) housing affordable to ELI households within the new regulatory priorities. We would strongly encourage FHFA to add these items as scoring criteria within the existing regulatory scoring system – ELI housing perhaps within the 20% income-targeting item.

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?

Yes. We would encourage FHFA, and by extension the Banks, to rely as fully as is feasible on the monitoring systems already in place for other federal subsidy programs, including relying as completely as possible on state LIHTC agencies' robust compliance monitoring systems for LIHTC projects. For LIHTC in particular, noncompliance is vanishingly rare, and the costs of duplicative compliance are very real.

Thank you for the opportunity to provide these comments. If you have any questions, please contact me at (617) 449-1016 or aspofford@poah.org.

Sincerely,

Andrew Spofford
Chief of Staff
Preservation of Affordable Housing, Inc.