June 12, 2018

Mr. Alfred M. Pollard, General Counsel

Attention: Comments/RIN 2590-AA83

Federal Housing Finance Agency

400 Seventh Street, SW, Eighth Floor

Washington, DC 20219

Re: Notice of Proposed Rulemaking and Request for Comments

 RIN 2590-AA83 – Affordable Housing Program Amendments

Dear Mr. Pollard:

Thank you for the opportunity to comment on the proposed – Affordable Housing Program (AHP) Amendments published in the Federal Register on March 14, 2018. Given the complexity of the proposal and the importance of the AHP to housing organizations, we also appreciate the extension to the comment period granted in May.

NeighborWorks Montana is celebrating is 20th year this year, providing homebuyer education and counseling through a network of service providers in the state, as well as down payment assistance loans and lending to developers building and preserving affordable housing. While we are not a developer nor have we received direct AHP funds, we do financing for projects that receive those funds and we provide loans and education and counseling to borrowers who receive FHLB down payment assistance. In addition, I served as the Montana representative of the Affordable Housing Advisory Council for the Seattle FHLB from 2010-2015. I also participated in early meetings with the FHFA and other advisory council members on the concepts that led to this proposed rule.

For almost thirty years, the program has served the Banks and their regions very successfully. It is however, time to modernize the program so that it betters aligns with other housing assistance programs and becomes less rigid in scoring, compliance and redundant monitoring and oversight. Flexibility is needed in order better serve the specific needs of each Banks’ district. However, rural and other hard-to-serve areas or populations that may not compete as well against areas with more housing resources are evidence that the program can be adjusted to bring balance and opportunity.

NeighborWorks Montana appreciates the efforts of the Federal Housing Finance Agency (FHFA) to update and streamline the Affordable Housing Program while attempting to maintain the flexibility which is key to the success of the program. We recognize the challenge of creating a program flexible enough to maximize the best use of a wide range of funds in distinct regions with differing priorities. Before addressing a number of the specific questions posed by the rule, we have some general comments on the rule.

* We are concerned about the overall complexity of the rule particularly with regard to the outcome framework. Advisory Committee reports over the years show the unique ways each bank is focusing on their region’s needs. While the outcome measurement and requirement is laudable in theory, the proposed methodology is too restrictive. It will hinder the flexibility of the program, an attribute that all support, and thus is counterproductive especially when the overall outcomes of the current AHP appear to track the results the regulation would mandate. The propose framework appears harder to administer and less easy to use.
	+ In addition, the outcomes for each project need to be about what is important in that community, and from there up to the bank level. It is difficult to see how a restrictive framework at the national level helps community projects succeed.
* We support the maximum possible share of AHP set-aside resources for homeownership increasing from 35% to 40%. Homeownership units are difficult to finance in many markets in Montana. We recently completed a new construction project in Billings Montana and it took over $100,000 of zero percent deferred loans to get borrowers at 50-55% of median income into homeownership so this is not just an issue in big cities.
* We support focus on downpayment assistance programs as a separate grant program from the AHP. The sustainability of homeowners is enhanced by the comprehensive counseling that is provided by organizations such as ours. If an electronic form of home buyer education is allowed for down payment or closing costs assistance loans, at least one hour of counseling with an in-person counselor should be required.

**Responses to Specific questions raised in the rule for response:**

**Subpart B—Program Administration and Governance**

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?

NeighborWorks Montana supports owner-occupied retention agreements or due on sale clauses. We don’t give any of our money away-- but rather recycle it when it is returned at the time of a sale. These agreements ensure that affordable homeownership resources are maintained in the community and are not lost to flipping. We do understand, however, that in cases where the FHLB funds are the smallest slice of the funding with several deferred loans that it might make sense to waive that requirement.

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?

NeighborWorks Montana supports the increase in the maximum permissible grant to households from $15,000 to $22,000 under the Homeownership Set-Aside Program.

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 Bank or its designee (typically the member) be revised to require that the notice be provided to both the Bank and its designee if a retention agreement requirement is retained in the final rule?

NeighborWorks Montana allows for rate and term/no cash out refinancing on first mortgages when there are due on sale subordinate liens. However, we do understand that this could be challenging for the FHLBs to administer.

**Subpart C – General Fund and Targeted Funds**

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 reality is that under the current requirements a revolving loan fund would be difficult to impossible to get to score high enough to receive AHP funds. The proposed language appears to make that even more unlikely to happen. I have looked at programs numerous times, and even with proposed lending to Native American’s through a revolving loan fund it could not score high enough.

**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?

It is difficult to get people at lower incomes into homeownership. In many cases multiple layers of subsidy are required, especially when reaching down to the 50-60% of AMI. A higher subsidy limit could be adopted by the FHLB based on the needs in its market as determined by research and its Advisory Council. We support this change.

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?

Yes

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?

It is extremely difficult to do homeownership targeted at the 0-50% of AMI, and still difficult in the 50-80% of AMI. The threshold level of 55% at 50% AMI is too aggressive. For rental properties, having too many very low-income people in one place can lead to other issues. Communities should determine their needs and projects should be designed to meet those needs. These needs cannot be engineered by managing the outcomes to an extreme. We are concerned if 55% at 50% AMI is required, it will inhibit mixed income development and make it difficult to reconcile the program with other federal programs such as HOME, CDBG and LIHTC (that set affordability at 60 or 80 percent of AMI.) as well as to get projects to cashflow.

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?

The FHLBs should be using the data from their research and the advice from their Advisory Council’s to set the scoring system. It should not be prescribed at the federal level.

**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 as the reductions are based on reliance on other government programs.

**Subpart G – Remedial Actions for Noncompliance**

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

It appears that this rule would require the FHLB to attempt to recapture the grant funds, even if the issue was no fault of the sponsoring entity. Sometimes things go wrong in projects and that is why grant funds are so important. The wording of this proposal seems to imply that these are not grants and rather are loans, which need to be collected even if it is from other assets of the sponsoring organization. This seems to defeat the whole point of having a grant program. I am also concerned that member banks, not wanting to have to pursue the assets of a nonprofit they work with, would decline to submit applications for fear of getting in this situation. In Montana, we all know each other, banks and non-profits work together all the time. This proposal just seems counterintuitive and could inhibit use of the program entirely.

Thank you for the opportunity to comment. If you have any questions, please feel free to reach out to me at PO Box 1025, Great Falls, MT 59403 or mrude@nwmt.org.

Sincerely,

Maureen J. Rude

Executive Director