



June 12, 2018

Alfred M. Pollard
Attention: Comments/RIN 2590-AA83
General Counsel
Federal Housing Finance Agency
400 7th Street SW, 8th Floor
Washington, DC 20219

RE: RIN 2590-AA83, Affordable Housing Program Amendments

Dear Mr. Pollard:

On behalf of the state Housing Finance Agencies (HFAs) it represents, the National Council of State Housing Agencies (NCSHA) thanks you for the opportunity to comment on the Federal Housing Finance Agency's (FHFA) May 2, 2018 proposed rule amending the Federal Home Loan Banks' (FHLBs) Affordable Housing Program (AHP).

NCSHA represents state HFAs as well as those for the District of Columbia, New York City, Puerto Rico, and the U.S. Virgin Islands. HFAs share a public-purpose mission of providing affordable housing to the people of their jurisdictions who need it. They have established a multi-decade record of safe and sound lending that has made it possible for millions of people of modest means to purchase their first homes or access affordable rental housing. They have achieved much of this work with the federal Low Income Housing Tax Credit (Housing Credit) and tax-exempt private activity Housing Bond programs, which HFAs administer in nearly every state.

Many HFAs have utilized AHP financing to support their affordable housing activities. AHP especially serves as source of critical gap financing for Housing Credit and/or Housing Bond projects that makes up for the gap between other subsidies the project receives and the actual costs of construction. From 2011-2016, the last six years for which NCSHA has comprehensive data, 17 HFAs used over \$193 million in AHP awards to assist with the development or rehabilitation of 242 affordable housing properties.

NCSHA commends FHFA for seeking to revamp the regulations governing AHP so that the 11 FHLBs have more flexibility and discretion to allocate their funding toward the unique affordable housing needs impacting their jurisdictions. To this purpose, we support FHFA's proposals to give the FHLBs more authority to determine how to allocate their AHP

funding and to allow the FHLBs to set up special targeted funds dedicated to addressing specific housing needs. We also strongly agree with FHFA's proposal to align AHP program monitoring requirements with those of other federal housing programs.

However, we are concerned that certain provisions of the proposed rule would seriously undermine FHFA's efforts to make the AHP program more efficient and could in fact make the program more cumbersome and less effective. We address these concerns below.

Before answering some of the specific questions FHFA poses in the proposed rule, we would like to share some general comments.

Outcome Requirements for Statutory and Regulatory Priorities

The proposed rule would establish an outcomes-based framework for awarding AHP funds that would require the FHLBs to allocate a certain percentage of their annual AHP allocations that come through both their General Fund and any Targeted Fund they establish toward meeting certain statutory and regulatory priorities. Specifically, FHLBs would have to allocate at least 55 percent of such funds to projects that meet the statutorily established priority for projects using excess government properties and projects sponsored by nonprofits and government entities.

In addition, the FHLBs would also be required to distribute at least 55 percent of their General Fund and Targeted Fund awards to projects that meet three regulatory priorities: underserved communities and populations; creating economic opportunities; and affordable housing preservation. The proposed rule further delineates what type of activities would qualify under each regulatory priority. Finally, at least 55 percent of all units in rental projects receiving AHP funds would have to be affordable to households earning 50 percent of area median income or below (AMI).

The current AHP scoring methodology provides incentives for projects that meet certain priorities, including most of those outlined in the proposed rule, but does not impose hard quotas on the share of AHP funding they must receive.

Contrary to making the AHP program more flexible, the proposed framework would actually complicate the AHP awarding and scoring process. The FHLBs would be forced to develop new scoring models that give priority to projects that meet the prescribed priorities so as to ensure they meet their obligations. This would considerably reduce the amount of AHP funding the FHLBs could dedicate to meeting unique local housing needs and hinder their efforts to adjust their AHP programs to meet developing needs in their markets.

While all of the affordable housing priorities and activities identified in the proposed rule are important, we feel that adopting static national standards cuts against FHFA's goal of

providing the FHLBs more flexibility in administering AHP. We respectfully request that FHFA rescind this proposal.

Input from State HFAs

The FHLBs are required to consult their advisory councils and “other groups” when developing their Targeted Community Lending Plans. We recommended the regulations be amended to specifically include state HFAs as one of the “other groups” the FHLBs should consult. As described above, state HFAs are affordable housing specialists who are keenly attuned to the affordable housing needs of their states and have a track record of strong performance. The FHLBs would benefit immensely from receiving HFAs’ on-the-ground perspective.

In addition, the FHLBs should also be encouraged to examine the Consolidated Plans that state and local governments submit to the U.S. Department of Housing and Urban Development (HUD) as a condition of their participation in several HUD programs. The Consolidated Plans contains much valuable information and analysis about communities’ affordable housing needs that would certainly prove valuable to the FHLBs in developing their Targeted Plans.

Questions from FHFA

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

As mentioned above, the AHP program is generally used to provide needed gap financing for projects to make up for the difference between the financing and/or subsidies received through other programs and the actual costs of construction. Without AHP funding, some projects could be substantially delayed or even canceled. Imposing a cap on the amount of subsidy each program sponsor or project could receive could prevent some projects from receiving the funding they need to fully close the financing gap.

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?

NCSHA fully supports the intention of the 55 percent threshold. Addressing the lack of affordable housing for low and very-low income families is a crucial national priority. HFAs have long financed the development and preservation of affordable housing options for this population.

However, some HFAs have raised concerns to NCSHA that it may not be feasible to secure funding for projects meeting this threshold without some form of state or federal rental assistance being attached to the units. In addition, the threshold could effectively prohibit

AHP from being used to develop mixed-income housing developments. Research has suggested that it is very beneficial for low and very-low income households to live in economically diverse housing and communities.

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?

Increasing the threshold for homeless households, households with special needs, and targeted populations to 50 percent in order for the project to meet the proposed rule's regulatory priorities would significantly reduce the FHLBs' discretion to direct their AHP funds towards projects best aimed toward their districts' housing needs. In addition, some experts caution against concentrating too many homeless households or households with other specific needs together, as it could make it more challenging for individuals to integrate with their communities.

We have also heard concerns from HFAs that, in rural areas, it could be infeasible to identify enough potential residents that have particular specific needs or are part of a targeted population to fill the units and meet the threshold. This could preclude many rural affordable housing developments from receiving AHP funds.

With regard to Question 30 specifically, it is important to note that the Olmstead Act requires that individuals with disabilities be integrated into their larger communities to the greatest extent practicable. This means that project sponsors often strive to set a lower limit on the percentage of persons with disabilities within a project.

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

NCSHA fully supports the proposal to reduce the FHLBs' monitoring obligations for projects receiving AHP funding that also receive financing through HUD's Section 202 Supportive Housing for the Elderly Program and Section 811 Supporting Housing for Persons with Disabilities Program, as well as the United States Department of Agriculture's (USDA) Section 515 Rural Multifamily Program and Section 514 Farmworker Multifamily Program. As FHFA notes in the proposed rule, the income, rent, and retention requirements for these programs, which each support a critical housing need, are largely in line with those used for AHP projects and are already supervised by HUD and USDA. Consequently, it is prudent to simplify the FHLBs' monitoring requirements.

Moving forward, we ask that FHFA work with HUD, USDA, and other federal agencies to identify opportunities for reducing AHP monitoring requirements for projects that receive AHP funds in combination with other federal programs, such as HOME, Section 8 Project-Based Rental Assistance, and the Community Development Block Grant. While these programs do not have the same standards as AHP, there may be opportunities for information-sharing that would eliminate the need for detailed long-term monitoring by the FHLBs. We also urge FHFA to consider whether it is feasible to examine state and local government affordable housing programs to determine if they too can be subject to less monitoring.

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

NCSHA is not aware of any comprehensive data currently available on the noncompliance rates of projects funded under the Section 8 PBRA program. HUD has in recent years taken steps to better track the performance of projects in its PBRA portfolio and warn owners if there signs of early distress. HUD also regularly publishes information on properties' inspection scores.

As we said in our answer to question 39, we urge FHFA to work with HUD to determine if there is any ways that the FHLBs' monitoring obligations for Section 8 PBRA properties receiving AHP funds can be loosened, as the proposed rule would do for properties financed through other federal programs.. We would be happy to assist with such an endeavor.

Thank you for your consideration of our comments. Please do not hesitate to contact me if we can provide additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Garth Rieman", with a long horizontal flourish extending to the right.

Garth Rieman
Director of Housing Advocacy and Strategic Initiatives