NATIONAL HOUSING CONFERENCE

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Submitted Electronically
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Federal Housing Finance Agency
400 Seventh Street SW, Eighth Floor
Washington, D.C. 20219

Re: Proposed Rulemaking and Request for Comments: Affordable Housing Program Amendments (RIN 2590-AA83)

I am writing on behalf of the National Housing Conference to provide comments on the proposed amendments to the Federal Home Loan Banks (FHLBanks) Affordable Housing Program (AHP). NHC appreciates the opportunity to comment on the proposed amendments and recognizes the significant effort that the Federal Housing Finance Agency (FHFA) has devoted to the AHP and the proposed rulemaking. We particularly appreciate the FHFA's participation in a webinar that we hosted so our members would have an opportunity to hear a detailed presentation on the proposed amendments and ask questions directly to FHFA staff.

The National Housing Conference has been defending the American Home since 1931. In fact, our first convening was on behalf of President Herbert Hoover to help address the rapidly compounding banking and housing crisis that became known as the Great Depression. Our recommendations led to the creation of the Federal Home Loan Bank System. Today, many of our members use AHP funds to help produce affordable housing in every state of the nation. This letter speaks only for NHC as an organization, and we defer to those members, many of whom are submitting their own letters, to speak for themselves on any areas where they may have their own views.

The AHP has been extraordinarily successful in bringing much-needed funding to critically important affordable housing programs and production. While AHP awards represent less than ten percent of the total financing of an affordable unit, it plays a vital role in closing gaps that often exist. Each layer of subsidy in an affordable housing deal may add additional requirements that affordable housing developers must balance. It is important that the proposed amendments maximize the FHLBanks' ability to support other, more significant sources of subsidy, like Low Income Housing Tax Credits without adding undue administrative burdens or requirements, especially when FHFA can have confidence that other regulatory entities such as state tax credit allocating agencies are executing effective oversight in the allocation and administration of these other more significant subsidy sources. Keeping the AHP as simple and streamlined as possible is a top-line priority so it can effectively and efficiently bring much-needed affordable housing units on line without increasing already high compliance costs.

When the AHP amendments were first proposed, we were hopeful that FHFA would use the opportunity to simplify the existing rules and requirements, and not seek to add additional regulatory burdens to those receiving AHP grants. We are concerned that the current draft does the opposite,

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increasing the regulatory burden rather than reducing it. We strongly encourage FHFA to thoroughly consider the comments of the organizations that actually receive AHP grants as well as the FHLBanks themselves, as you incorporate public comments into the final amendments.

One area of concern is the prohibition against an FHLBank board of directors designating a committee to meet with the Advisory Council. This negates the traditional practice of interaction between Board committees focused on affordable housing and Advisory Councils. This outcome is not desired by either the Boards or Advisory Councils and does not purport to address any existing concern.

Another area of concern is how the proposal seeks to address extremely low-income (ELI) households. AHP's support for units serving ELI households is important and should be continued. However, targeting that preferences multifamily rental projects with a high percentage of very low-income households is difficult to reconcile with other federal programs, such as HOME, CDBG and LIHTC, that set affordability thresholds at 60 or 80 percent of median income. These would also create incentives for concentrations of populations of extremely low-income households and people with disabilities, which are generally discouraged and sometimes prohibited by law. Underwriting transactions to comply with overlapping program requirements and deep affordability also constrains cash flow, particularly where there is no rental subsidy, which limits borrowing capacity and creates funding gaps and operational challenges. A broader but a more flexible affordability requirement would allow each regional FHLB to attract a more diverse pool of affordable housing projects, including mixed-income projects, to better compete for AHP funds.

We recommend that maximum points be awarded for projects where 100 percent of units are reserved for households with incomes at or below 80 percent of median income and the average income across all units does not exceed 60 percent of median income. As a point of comparison, the Treasury Department has for several years now proposed allowing the LIHTC to be more compatible with income mixing, by proposing to allow a weighted average approach to tenant income limits rather than a strict 60 percent AMI ceiling. AHP regulations should allow more flexibility for each region to allocate funds based on affordability requirements for rental properties that are more compatible with properties housing people with a range of incomes.

Regarding the three proposed regulatory priorities described in proposed § 1291.48 – underserved communities and populations, creating economic opportunities, and affordable housing preservation-- we are concerned that the proposed outcomes structure, in combination with the requirement that Banks pay a financial penalty for noncompliance, will in practice restrict the Banks' flexibility to meet district needs. We understand that the Banks will be very reluctant to re-rank proposals in order to meet the outcome standard. We are concerned that the Banks are likely to develop scoring systems that will favor the regulatory priorities so much that proposals for other activities will have little chance of funding. Applicants will quickly learn that submitting proposals for other activities is futile. We recommend that FHFA permit the Banks to establish their own priorities in ways that will not preclude other activities.

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However, if FHFA is intent on pursuing its proposed outcomes approach, we strongly urge that activities that stabilize or revitalize low-income neighborhoods be added as an eligible activity under the "underserved communities and populations" section. We are deeply concerned by this omission. Many low-income neighborhoods continue to struggle in the aftermath of the Great Recession and are among the most "underserved communities" in the United States by almost any measure. Although housing preservation and homeownership assistance can support neighborhoods, new housing construction and demolition of obsolete properties are often essential to helping struggling neighborhoods. An important strategy to retain affordable housing for LMI people is to stabilize and revitalize the neighborhoods where they live.

Many of these neighborhoods have vacant and abandoned homes that cannot be rehabilitated cost-effectively. In many cases the homes are functionally obsolete and would have limited marketability even if they are rehabilitated. Demolition is an important strategy that several states and localities have pursued aggressively to prevent further abandonment, property value decline and crime. Federal programs such as HUD's Neighborhood Stabilization Program and Treasury's Hardest Hit Fund have supported targeted demolition. In fact, because the Hardest Hit Fund must be used to reduce foreclosures, Treasury allowed demolition as an eligible activity based on solid research showing that targeted demolition stabilizes nearby property values and reduces foreclosures.

One area of the proposal that we strongly support is the reduction in the FHLBanks' monitoring requirements. As we have noted, AHP is an important gap-closer for many projects, but current rules can add unnecessary complexity to transactions. For AHP to be most effective, rules should allow awards to be subordinate to other affordability commitments, which are generally equal to or stricter than AHP requirements. Similarly, AHP can rely on the compliance monitoring, developer fee limits, and other program terms of funding sources to which it is subordinate. Unfortunately, there are many examples of how extended negotiations around the interaction between an AHP loan and other capital sources have added time and cost to the development process, even to the extreme of having awards rescinded or the recipient dropping the AHP award from the project funding. Greater willingness to adapt and subordinate would allow AHP funds to go farther and be more effective as the final gap-filler, especially in complex transactions.

We thank FHFA for the opportunity to offer suggestions and welcome opportunities to explore these and other possible innovations in the AHP.

Sincerely,

David M. Dworkin

David M. Dworkin
President and CEO