August 19, 2024

The Honorable Sandra L. Thompson
Director
Federal Housing Finance
Agency
Division of Bank Regulation
400 Seventh Street SW, 7th
Floor Washington, DC 20219

RE: Request for Input: Federal Home Loan Bank Application Process for Affordable Housing Programs

Dear Director Thompson:

The National Multifamily Housing Council ("NMHC") and the National Apartment Association ("NAA") (together, the "Associations"), and their members – owners, managers, developers, and financiers in the nation's multifamily housing industry. On behalf of the Associations, we provide these comments to the Federal Housing Finance Agency ("FHFA") in response to its Request for Input for ways to improve the Federal Home Loan Banks' (FHLBanks) application processes for Affordable Housing Program (AHP) funding ("RFI"). The Associations appreciate and commend FHFA's ongoing commitment to assess the status of the FHLBank system and seek public input as it considers additional changes to the current system in order to enhance the benefits each FHLBank offers to communities nationwide and, in doing so, extend the reach of the applicable programs and initiatives to further the FHLBank system's statutory mission.

(I) BACKGROUND

For almost 30 years, NMHC and NAA have partnered to provide a single voice for America's apartment industry. Their combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management, finance, and supplier partners/service providers. NMHC represents the principal officers of firms that own, develop, manage, and finance apartments. As a federation of more than 145 state and local affiliates, NAA encompasses over 95,000 members, 141 affiliates, and more than 11.6 million apartment homes globally. The apartment industry today plays a critical role in housing this nation's households by providing apartment homes to approximately 38.9 million residents, contributing $3.4 trillion annually to the economy.

The Associations are acutely aware of the affordable housing crisis facing communities around the country. Each year, more and more Americans are unable to afford rental payments for their homes due to the lack of supply, barriers to development, and regulatory burdens. In fact, the total share of cost-burdened households (those paying more than 30 percent of their income on housing) increased steadily from 28% in 1985 to 36.9% in 2021 and is growing, while others have been priced out of their applicable communities altogether.[1]

The Associations appreciate the importance of the FHLBank system to the current nationwide housing market. However, the FHLBank system has traditionally focused on advancing single family housing for communities across the country. We appreciate that FHFA has recognized that there is more that the Federal Home Loan Banks can do in the multifamily space to help address the country's affordability crisis. Notably, during 2023 the FHLB system AHP programs awarded 343 rental housing projects a monetary award that totaled $266.2 million that supported 17,598 rental units. However, it is unclear whether those rental units were part of a traditional multifamily buildings, defined as 5 units or greater. The FHLB system can do more.

The current economic environment and FHFA's decision to conduct a review of the FHLBank system provides the perfect opportunity for the FHFA and broader FHLBank system to add additional and much-needed focus on multifamily housing efforts and, in doing so, advance its affordable housing and community development statutory mission in a more effective and efficient manner. Accordingly, the Associations respectfully urge FHFA to focus on multifamily housing in exploring and implementing improvements to the FHLBank system given the positive impacts such investments will have in helping to solve the nation's affordable housing crisis for all communities, particularly underserved, urban, and rural communities. However, while the Associations encourage the FHFA's improvements to the FHLBank system, they request that FHFA consider the limits to its authority in adopting regulatory changes and take only those actions it is permitted to take pursuant to statutory law and work with Congress to enact changes that are not within its purview.

(II) RECOMMENDATIONS FOR IMPROVING ACCESS TO AND THE EFFECTIVENESS OF THE AFFORDABLE HOUSING COMPETITIVE APPLICATION PROCES

The Associations recommend the following actions for FHFA's consideration.

A. Remove Barriers to Access Affordable Housing Programs

[1] NMHC tabulations of 1985 American Housing Survey microdata, U.S. Census Bureau; 2021 American Housing Survey, U.S. Census Bureau.

As a general matter, there is an extremely complex regulatory environment surrounding Affordable Housing Programs ("AHP"). FHFA, in coordination with FHLBs, should focus on reducing regulatory hurdles. As noted in the RFI, the majority of awardees are non-profit organizations with some limited awards to state agencies and for-profit builders. Each FHLB has the discretion on how to award grants but the regulator also has the discretion and authority to encourage opening the application process and awards to more broadly include for-profit developers who are often seeking gap financing for the development of affordable multifamily properties using LIHTC or project based vouchers. FHLB-specific programs such as AHP have other regulatory and process burdens that disincentivize certain housing developers from participation. The Associations urge FHFA and the FHLB system to focus on reducing regulatory and process burdens on all parties so that less time is spent on compliance thereof and more time is focused on developing, financing, and ultimately completing more housing units nationwide.

FHFA should be focused on eliminating duplicative or confusing regulatory requirements and instead streamlining programs for an easier AHP regulatory process with the FHLBanks. The clear solution to solving the affordable housing crisis in the United States is to boost (i) affordable housing supply nationwide and (ii) related tax and other subsidies and incentives for public-private partnerships, developers, and other market participants. The Associations can and want to do more in coordination with the FHLB system.

B. Expand the AHP and CIP Programs

The RFI indicates that FHFA aims to expand access to many of the FHLBank's affordable housing and community development programs and initiatives, notably, through its focus on improving the Community Investment Program ("CIP"). Although not a part of the AHP process there is an opportunity for FHFA to ask the FLHB to expand their platforms in the multifamily space by providing better liquidity for this asset class. The Associations strongly urge FHFA to expand the reach of the FHLB programs into the multifamily housing space to more effectively and efficiently serve underserved communities and satisfy its statutory mission. For example, the FHLBanks should extend the term of advances and other funding beyond five years to better meet the needs of multifamily borrowers. This will provide greater flexibility for housing market participants, while enabling multifamily housing borrowers to benefit from the program more effectively and efficiently.

C. Multifamily Housing Should Be an Integral Aspect of Expanding AHP

The Associations offer the following suggestions for the FHLBs:

- FHLB Members and Program Participants to Expand Their Products and Services in the Multifamily Housing Space: Each FHLB contributes 10% of their annual profits to AHP, of which such funds are used by applicable members that work with housing developers, community organizations, credit unions, among others, to provide liquidity and other opportunities for expanding AHP. We commend the FHLBs for their voluntary action in 2023 that expanded their contribution to the available funds in their AHP programs by 50 percent. The Associations encourage FHFA and the FHLBs to consider innovative programs that would incentivize not only larger entities that are members of individual FHLBs but also smaller institutions as well as CDFIs, to become more involved in the multifamily housing market.
    - FHFA and/or each FHLB should develop new and innovative programs that directly support increased investments in the multifamily housing space. For example, under the criteria underlying FHFA's annual Scorecard for Fannie Mae and Freddie Mac (collectively, the "Enterprises"), as well as pursuant to the Housing and Economic Recovery Act of 2008, FHFA and the Enterprises are required to focus the scope of certain programs on smaller affordable housing complexes, which typically are 5-50 units. Accordingly, their reach is limited in part due to the use of DUS and Optigo networks as well as a limited set of lending institutions that are involved with such efforts. In contrast, the FHLB system, including its 6,800 members, is not subject to such limitations and therefore has a far greater reach in terms of originating multifamily loans across communities nationwide. Increased direct support by FHLBs in the multifamily housing space will enable more families and communities to receive loans and other financial assistance to access such affordable housing units.
- FHLB Members Should Focus on Standardization: As noted in the RFI, greater autonomy has been granted to the FHLB members over the years to give them latitude to meet their statuary requirements. This flexibility to meet the needs of their specific geographic coverage of their bank members is important and leads to more tailored focus on regional needs. There is however a central role that FHFA can play to streamline, guide and enhance the AHP process.
    - As noted earlier, giving greater access to for-profit developers who often seek gap financing for their affordable-focused developments is an important step for FHFA to undertake.
    - Seek standardization of documents and processes: As the regulator of the Enterprises FHFA must recognize that they have a long and successful track record of creating standardization of documents and processes. FHFA should ask the FHLBs and the Enterprises to work together to come up with a standardized set of application documents and processes that each of the member FHLBs uses for their AHP grant awarding evaluation. This work should also recognize that

AHP funds play a minor but important role in the development of multifamily housing. Standardization should include process timelines that meet other financial resources in the capital stack as well as reporting requirements and finally the affordable housing requirements should meet other financial components of the capital stack. As to the last item, the requirement of 20 percent of the units must be at 50 percent of AMI is more restrictive than what is required by LIHTC in which AHP funds are often used. LIHTC has the option of 20 percent at 50 percent of AMI but also allows 40 percent of the units at 60 percent of AMI. The AHP guide for affordability should be changed to match that of the LIHTC program requirements.

(III) <u>Conclusion</u>:

On behalf of the Associations, we applaud FHFA's efforts to review the Federal Home Loan Banks' (FHLBanks) application processes for Affordable Housing Program (AHP). As noted in this comment letter, multifamily housing has traditionally not been a major focus of the FHLBank system. Given the fact that the increased supply of multifamily rental housing at all price points in all markets will play a vital role in promoting economic growth and encouraging household stability for all American households, the Associations strongly urge FHFA and the broader FHLBank system to consider incorporating the multifamily housing sector into its various programs and initiatives.

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