

July 12, 2024

Federal Housing Finance Agency  
Constitution Center  
400 7<sup>th</sup> Street, SW  
Washington, DC 20219

Re: FHFA Request for Comments on the Efficiency and Effectiveness of the FHLBanks' AHP Program

To Whom It May Concern:

Please accept the following comments on behalf of Travois in response to the request for public input on the efficiency and effectiveness of the Federal Home Loan Banks' (FHLBank) Affordable Housing Program's (AHP) competitive application process and suggestions for potential improvements.

Travois is a certified B Corporation focused exclusively on promoting housing and economic development for American Indian, Alaska Native, and Native Hawaiian communities. Since its establishment in 1995, Travois has consulted on more than 225 affordable housing developments totaling over 6,400 homes with Indigenous nations and Tribally Designed Housing Entities (TDHE) across the country. Ninety-one (91) of these developments also included AHP grant funding. Travois has helped Tribes and TDHEs secure over \$47.1 million in AHP funds from the seven FHLBank districts (most recently, Des Moines, San Francisco, Indianapolis, and Chicago). Our involvement includes AHP applications, disbursements, SAPR reporting, Project Completion Reporting, and ongoing compliance reporting.

We believe we bring a unique perspective as an entity that directly (1) works with Tribal Nations to access AHP funding and (2) submits about 8-10 AHP applications annually across multiple districts. Our comments reflect this perspective and are divided within the categories defined by the request for input.

**Question 1: Are there particular components of the FHLBanks' AHP application processes that could be made more effective or efficient, and if so, how? Are any of the FHLBanks' specific documentation requirements for AHP applications unnecessary for verifying that the applicant meets the AHP eligibility requirements and scoring criteria? Are there ways to streamline the application process while maintaining the FHLBanks' ability to verify applicants' compliance with the AHP eligibility requirements and scoring criteria?**

Travois has several recommendations to improve the efficiency and effectiveness of the AHP application process. We appreciate the simplicity of an interactive, online portal application system, such as those utilized by Des Moines and Chicago. It is an efficient and effective application tool that can and should be used across all FHLBanks. It is also preferred that all portal systems be substantially similar and not vary widely from district to district. It is worth FHFA & FHLBank's time to see if there could be cost efficiencies from simply replicating the same system across every bank.

Further, the application could be simplified and more efficient if as much information as possible is inputted into the portal itself (vs. separate attachments uploaded). For example, the project ownership chart, sponsor experience, scoring commitments, etc. should not also require separate PDF documents to be uploaded into the system. There could be a page within the portal application system that simply asks for information.

An online portal application could also input its own data for categories such as rural locations from the USDA, census tracts, or HUD income limits. Those are elements of the application that could be automated on FHLBank's end. This would ensure accuracy and eliminate unnecessary work for the applicant.

A critical component of optimal portals, however, is the ease by which an applicant can access said portal. This is often an arduous process for applicants and their consultants. We understand the reason for two-factor authentication or passwords expiring after a certain period. The increased "security" is not without tradeoffs, however, and creates barriers for applicants to access the portal at application and submit reporting on time. Most of the information inputted into the AHP application is not private, proprietary, or sensitive financial information.

In this same vein, we recommend every district use the same AHP Workbook template. Each workbook is a variation of the same thing, but it would make sense to find the optimal structure and replicate it across the various districts. The FHLBank Des Moines workbook is simple and efficient, and we love how the underwriting benchmarks are incorporated into the workbook itself to quickly show the applicant any deviations from the benchmarks. Our only recommendation is that it also be combined with any construction cost "calculators".

We also recommend only requiring one signature document (a general certification of the entire application and its commitments) plus an optional MOU for supportive services (if applicable in the district).

**Question 2: How do the FHLBanks' AHP application processes compare to those of other providers of gap funding with respect to scope, complexity, and documentation requirements?**

If the AHP funds are combined with LIHTC funding, the AHP applications are not overly burdensome. Many items required for AHP applications are already prepared for a LIHTC application. As described above, there are ways to simplify the application process via simple portal applications with basic financial workbooks. However, a major area of improvement is the underwriting of construction costs at every stage of development. We answer more questions about the cost of construction for a \$650,000 AHP grant than we do for a \$20M LIHTC funding source. We actively work with about 10 state housing agencies on the LIHTC program, and none of them evaluate construction costs at the level of detail as FHLBanks. Ultimately, state housing agencies are satisfied if the total development cost is within a reasonable variance of their benchmarks. If the project is less than the subsidy per unit maximum and balances its sources and uses, why does the exact construction cost matter?

In our experience, FHLBanks over-evaluate construction costs. For example, the FHLBank Des Moines requests detailed narratives for any construction cost variance of a trade with repeated

follow-up questions at three stages (application, disbursement, and PCR). For example, a common question type we receive from FHLBank Des Moines is:

*The Rental Feasibility Workbook at Disbursement shows On-Site Improvement costs of \$478,058 compared to \$1,269,897 at Application, a decrease of \$791,839. Please describe and quantify with specific dollar amounts the factors and/or conditions that contributed to this decrease in On-Site Improvement costs.*

The honest answer every time is that application budgets are budgets. They are the best estimate at a point in time of the cost of an individual trade. Frequently, we are budgeting 12+ months before actually bidding on a project. Also, general contractor bids and schedules of values are not an exact science. For the same project, contractors may categorize trades completely differently, and it has nothing to do with different materials, labor, changing conditions, etc. This evaluation process could be eliminated to save applicants and FHLBanks time.

**Question 3: Do FHLBanks' AHP application processes leverage other funders' applications/requirements? Are the AHP application processes duplicative or complementary of other funders' underwriting requirements and processes? Do the AHP application processes create the need for additional information and documentation?**

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**Question 4: Should the AHP regulation allow the FHLBanks to differentiate their AHP application requirements for projects requesting subsidy that constitutes a small percentage of the total funding in the project? If yes, why? Do other gap funders differentiate their application requirements for smaller projects?**

The AHP program is largely compatible with the LIHTC program, one of the primary funding sources for Tribal affordable housing developments. The priorities within the scoring criteria and the underwriting requirements are typically compatible between LIHTC and AHP. This alignment is a key factor in the selection of AHP as a gap funding source.

We are not aware of any other gap funders that differentiate their application requirements for smaller projects. However, it would make a lot of sense for FHLBanks to defer completely to state housing agency underwriting on projects with a combination of LIHTC and AHP funding. The level of underwriting occurring by state housing agencies and LIHTC equity investors is all-encompassing and includes development team capacity, development financial feasibility, operational feasibility, compliance history, market demand, cost reasonableness, guarantor capacity, civil and architectural plan reviews, and more. States and investors are providing 75%+ of the sources in the capital stack. The projects are closely monitored from funding to financial closing to construction completion to the last day of the 15-year+ compliance period by the state agency and the investor. A very basic review of the project status and additional details on AHP-specific commitments should be all that is necessary from FHLBanks' perspective.

**Question 5: What role do consultants provide in applying for AHP funds? What are the reasons that an AHP applicant may use a consultant? To the extent that applicants are using the services of consultants to apply for AHP subsidy, how does the practice compare to the use of consultants for other sources of gap funding?**

As an affordable housing consulting organization, our clients depend on us to manage and complete affordable housing funding applications on their behalf, particularly LIHTC and AHP applications. The primary reasons that our clients depend on us as a consultant to assist them with these applications include:

- The new development of affordable housing units is not the primary day-to-day function of most Tribal housing authorities. Staff are responsible for managing hundreds of existing rental units with limited staff, providing supportive services to tenants, overseeing rent collection, maintenance, and operations, communicating with the Housing Board of Commissioners and Tribal leadership, and more. Consultants are hired on an as-needed basis and bring funding-specific expertise. Tribal housing staff make every decision related to project scope, location, scoring commitments, etc. and consultants focus on the minutia of putting together funding applications.
- Since our clients are often combining both LIHTC and AHP sources, there is significant overlap in terms of required documentation and information. It reduces confusion, errors, and duplications to have the LIHTC consultant also assist with the AHP application.

It would be useful for all the FHLBanks to have similar guidelines around consultant application access. From our perspective, Des Moines has an ideal way of relating to consultants. They allow consultants full access to the application throughout the process (via consultant accounts tied to the application). They include consultants in email correspondence for questions during the application review and disbursement review phases. By including the consultant, Des Moines is ensuring that questions are answered quickly. This is critical for efficiency and benefits both the FHLBank and the applicant.

We have worked with FHLBanks that exclude consultants from much of the AHP process. In these scenarios the FHLBank does not allow consultants access to the portal, nor do they ask questions and make requests through the consultant. This has repeatedly resulted in confusion about what information is needed, duplicated efforts, miscommunications, scrambling to meet deadlines, and time unnecessarily spent – the opposite of effective and efficient. Excluding consultants creates a barrier for applicants who now have to take precious time to upload documents and complete a job they hired a qualified, competent consultant to complete.

**Question 6: Are there effective practices the FHLBanks could implement to coordinate the underwriting review process across multiple funding sources in a project?**

See answer to Question #4.

**Question 7: What is the single most important change you would recommend for improving the AHP application process?**

The single most important change would be to remove member banks in the AHP application process. It is a burden for both the sponsor and the member banks. The challenges we have seen include, but are not limited, to:

**Identification of Member Banks:** Each year, we find challenges with identifying member banks for Tribal projects. Many member banks are not interested in sponsoring without a construction or permanent loan on the transaction. In some cases, the Tribe's banking institution will agree to sponsor but not always. We cold-call, email repeatedly for months to get a firm commitment, ask FHLBank districts for leads, and hold conference calls with reluctant bank officers explaining the program and reassuring them of the minimal risks. It is a tremendous burden for all involved.

**Fees for Serving as a Member Bank:** We also want to draw attention to the practice of some member banks that charge fees to serve as a member bank on an application. This practice seems antithetical to the program designed to assist underserved populations.

**Risk to Applicant and Financial Feasibility of the Project:** We have had situations where a member bank agreed to support an AHP application and changed their mind in the 11<sup>th</sup> hour. Other times, the member bank stopped responding to emails in the days before the deadline risking the submission. In other instances, a member bank held up their member approval of the application and disbursement until it could be reviewed by their "credit committee" because of the perceived risk of recapture of the AHP award (based not on the developer or project but on the AHP regulations that state that member bank can be held responsible if a sponsor does not follow through on its commitments). Member banks can essentially control the fate of a development without any actual financial investment in the project. It is wholly excessive.

Of note, projects serving the lowest-income households in the hardest-to-reach areas are the ones at the greatest disadvantage with this existing structure. Most Tribal LIHTC projects are subject to NAHASDA regulations which limits rents to no more than 30% of a household's adjusted gross income. In combination with the very low-income populations served, rental revenue is very low and not high enough to service hard debt of any kind. Tribal housing developers are disproportionally impacted by this AHP system since there is no money to be made by a member bank on their projects. The system needs to change.

Other important changes we would like to mention:

**Retention Agreements:** Travois requests that every FHLBank district have a Rental Retention Agreement template for Tribal projects on trust land. Tribal trust land is the primary land base for many Tribal Nations, and it is a fundamental component of Indigenous sovereignty and the established government-to-government relationship between Tribal Nations and the U.S. federal government. Districts that do not have this eliminate the strong majority of Tribal projects for applying for funding in their district. This is a relatively easy fix and can be quickly implemented across all the regions with legal assistance from attorneys educated in Indian law and FHLBank staff education.

**Funding Multiple Districts:** We would like for all districts to allow for projects to apply and be funded in multiple districts for one project. A few of our projects found success recently with funding from both the FHLBanks Des Moines and San Francisco districts. These funds were absolutely critical to the financial feasibility of the projects.

**Public Comment Periods:** We believe every district should hold public comment periods on their Implementation Plans at least every two years. Though these are not “public funds,” the FHLBank system was created for the public benefit, and developers, property managers, and supportive service providers should be allowed to regularly provide feedback.

**Question 8: What concrete steps would you recommend for simplifying the AHP application process and why?**

To summarize, the concrete steps we would recommend for simplifying the AHP process are:

- (1) Replicate the same AHP application portal systems across every district (Des Moines as an example).
- (2) Reduce required attachments and signature documents as much as possible.
- (3) Replicate the same AHP workbook across every district (Des Moines as an example) and combine it with any associated construction cost calculator.
- (4) Remove all AHP in-depth underwriting at application, disbursement, and PCR if a project combines LIHTC and AHP funding sources. Require project status updates, updated workbooks, and proof of AHP-specific commitments only.
- (5) Allow consultants to create portal accounts if the sponsor approves of access.
- (6) Remove the role of the member bank in the AHP grant allocation process. Funds could be wired directly to Sponsor’s financial institution and ongoing compliance could be monitored by FHLBank regular’s ongoing compliance requirements plus the regulatory agreement recorded against the land. Noncompliance could be punished via the same methods that other housing funding agencies utilize (negative points in future rounds, disqualification of developer from funding source in the future, etc.).
- (7) Replicate a retention agreement for projects on Tribal trust land in every FHLBank district. Des Moines’ template works very well in our experience.
- (8) Remove any prohibitions on projects being awarded AHP grants from multiple FHLBank districts.
- (9) Institute mandatory public comment periods on the AHP Implementation Plans annually or every two years.

Thank you for the opportunity to provide comments on the FHLBanks AHP program. This program is critical for Tribal affordable housing development, and we thank FHFA for taking the time to improve the program and the application process.

Sincerely,

A handwritten signature in black ink, appearing to read "Erinn RB", written in a cursive style.

Erinn Roos-Brown  
Project Manager  
Travois, Inc.