



AFFORDABLE HOUSING PROGRAM GUIDELINES FOR DETERMINING INCOME ELIGIBILITY

In accordance with the final rule of the amended regulation that governs the Affordable Housing Program (“AHP”) as promulgated by the Federal Housing Finance Agency (“AHP Regulations”) and relocated in the Federal Register under 12 CFR Part 1291 effective October 8, 2008, the Federal Home Loan Bank of New York (“FHLB-NY”) is responsible for monitoring and verifying sources of annual income for households approved to occupy units benefiting from AHP subsidy.

The FHLB-NY will request and review current and verifiable income source documents from applicant stockholder institutions (“Members”) or project sponsors. The FHLB-NY will implement the following guidelines in order to confirm the annual earnings and eligibility of households who have been approved to purchase and/or occupy AHP-subsidized units as well as a project’s overall ability to achieve the committed occupancy targets which were stated in an application to the AHP:

1. What constitutes “income?”

According to § 813.106 of the U. S. Department of Housing and Urban Development (“HUD”) regulations, annual income shall include, but is not limited to:

- a) Anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each additional member of the family over the age of 18 years;
- b) The full amount (before any payroll deductions) of all wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- c) The net income derived from operation of a business or profession;
- d) Interest, dividends, and other net income of any kind from real or personal property;
- e) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of period receipts, including a lump sum payment for the delayed start of a periodic payment;
- f) Payments in lieu of earnings, such as unemployment and disability compensation, worker’s compensation, and severance pay;
- g) Welfare Assistance;
- h) Alimony and child support payments;
- i) All regular pay, special pay and allowances of a member of the Armed Forces.

2. What does *not* constitute “income?”

According to § 813.106 of the HUD regulations, annual income does *not* include the following:

- Income from the employment of children (including foster children) under the age of 18 years;
- Payments received for the care of foster children;
- Lump sum additions to family assets (e.g., inheritances, capital gains, insurance policy death benefit payments, settlement for personal/property losses, medical expense reimbursements);
- Income of a live-in aide;
- Educational scholarships paid directly to a student, educational institution, or a veteran;
- Earned income tax credits;
- Unreliable and non-recurring income (e.g., gifts, employee stock option buyouts, etc. As indicated above in 1.b, overtime pay, commissions, fees, tips and bonuses do not constitute unreliable and non-recurring income as defined here.) ; and
- The value of food stamp allotments (per §913.106 of the HUD regulations).

3. Criteria for determining household eligibility

Although it is not the intention of the FHLB-NY to dictate loan underwriting policies to its Members or project sponsors, the FHLB-NY is responsible for enforcing the federal regulations governing the operation of the AHP (“AHP Regulations”) in regard to the eligibility of households who are selected to purchase and/or occupy AHP-subsidized units. As such, Members and project sponsors are encouraged to utilize the following guidelines whenever qualifying households for AHP-assisted projects:

a) Owner-occupied projects

For purposes of owner-occupied AHP units, the AHP Regulations specify that household must be determined to be income-eligible at the time that the sponsor has qualified said households to participate in the project.

- For projects involving the construction or rehabilitation of homes for sale to income eligible buyers that do not involve a sweat equity component, the date that the contract of sale is executed is considered the time the household is approved to participate in the project.
- For projects involving sweat equity, the time of approval is the date that the sponsor enters an agreement with the household concerning the number of sweat equity hours and other requirements the household must complete to purchase a home.
- For projects to assist households to purchase existing homes, the time of approval is the date that the sponsor enters an agreement with the household regarding the program’s requirements to obtain down payment assistance, closing cost assistance or a mortgage buydown.
- For projects to assist existing homeowners with rehabilitation grants, the time of approval is the date that the sponsor commits the funds to the household.
- For First Home Clubsm projects, the time of approval is the date that the household is enrolled in a formal credit counseling program and begins to save systematically in a dedicated account.

b) Currently occupied rental housing

- For projects involving the acquisition or rehabilitation of occupied rental housing, the income eligibility determination of the existing, non-displaced tenants shall either be made at the time that the sponsor has taken title to the property or upon the completion of rehabilitation, as determined by the FHLB-NY.
- In any case, tenant income source documentation cannot pre-date the application to the AHP.

c) Rental housing created through new construction or rehabilitation of vacant buildings

- The determination of income eligibility shall be made at the time that the household initially occupies the project unit.

4. Income Source Documents

Acceptable forms of income source documents may include the following:

- Completed and signed U.S. Income Tax Returns
- Year-End Wage and Tax Statements (i.e., Internal Revenue Service W-2 Forms)
- Paychecks with accompanying earnings/deductions statements
- Completed and properly executed verification of employment letters
- Social Security Supplemental Income notices
- Financial statements verifying payments received from annuities, pensions, insurance policies, etc.
- Financial statements verifying stock portfolio earnings, dividends, and other interest income
- Letters or case management forms from public assistance agencies
- Approved HUD Section 8 certificates
- State housing agency (e.g., Department of Community Affairs) verifications of income
- Court orders verifying alimony awards and child support payments

5. Other income

True household income should be an annualized forecast of current year-to-date earnings. The FHLB-NY will include in its review of household income all sources of earnings, including income derived from overtime, bonuses, commissions, or special allowances. The FHLB-NY may, in its sole discretion and on a case-by-case basis, consider a household's continued eligibility under the AHP if said household's documented base income is indeed 80% or less of area median at time of approval and the forecasted value of any overtime or other augmented income is neither historically recurring nor reliable.

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