



Federal Home Loan Bank
NEW YORK

Affordable Housing Program 2016 Implementation Plan

As Amended and Adopted March 17, 2016





INTRODUCTION	4
Submission of Household Information	4
APPLICATION PROCESSING	5
Requirements for Competitive AHP	5
Schedule for Funding Periods	5
Median Income Standards	5
Minimum Eligibility Requirements	7
Owner-Occupied Housing	7
Rental Housing	8
Project Feasibility	8
Additional District Eligibility Requirements	9
Scoring Guidelines	10
Scoring Criteria	10
Methodology to Break Scoring Ties	22
PROGRESS REPORTING	23
Time Limits on the Use of AHP Subsidy	23
Progress Reporting Requirements	24
Drawdown Requisitions	26
MONITORING	28
Retention Periods	29
Initial Monitoring	29
Long-Term Monitoring	31
Site Visit Criteria	33
RECAPTURES AND DEOBLIGATIONS	35
The Recapture Period	36
Events of Non-Compliance	36
Recapture	36
Alternatives to Recapture	39
De-Obligation of AHP Subsidy	41
REQUIREMENTS FOR FIRST HOME CLUB	42
Enrollment Periods	42
Program Overview	42
Median Income	44
Funding FHC Subsidy	44
Enrollment Extension Options	44
Retention Periods	45
Monitoring Practices	45



<u>Recapture and Events of Non-Compliance</u>	<u>45</u>
<u>Re-Use of Repaid AHP Subsidies</u>	<u>46</u>
<u>Revolving Loan Funds and Loan Pools</u>	<u>46</u>



Introduction

The Federal Home Loan Bank of New York ("FHLBNY") herein presents its amended 2016 Affordable Housing Program ("AHP") Implementation Plan ("Plan"). The Plan is written in accordance with the Federal Housing Finance Agency rules and regulations governing the Bank's Affordable Housing Program, 12 C.F.R. Part 1291(Regulations) and any applicable FHLBNY policies and standards.

FHLBNY reserves the right to amend the Plan as necessary throughout the year. By regulation, the Implementation Plan and any amendments are created in consultation with and reviewed by the FHLBNY's Affordable Housing Advisory Council (AHAC). The Implementation Plan and any amendments are approved by FHLBNY's Board of Directors.

Within 30 days of approval by its Board of Directors, FHLBNY shall publish the Plan on its website and provide notification to the FHFA.

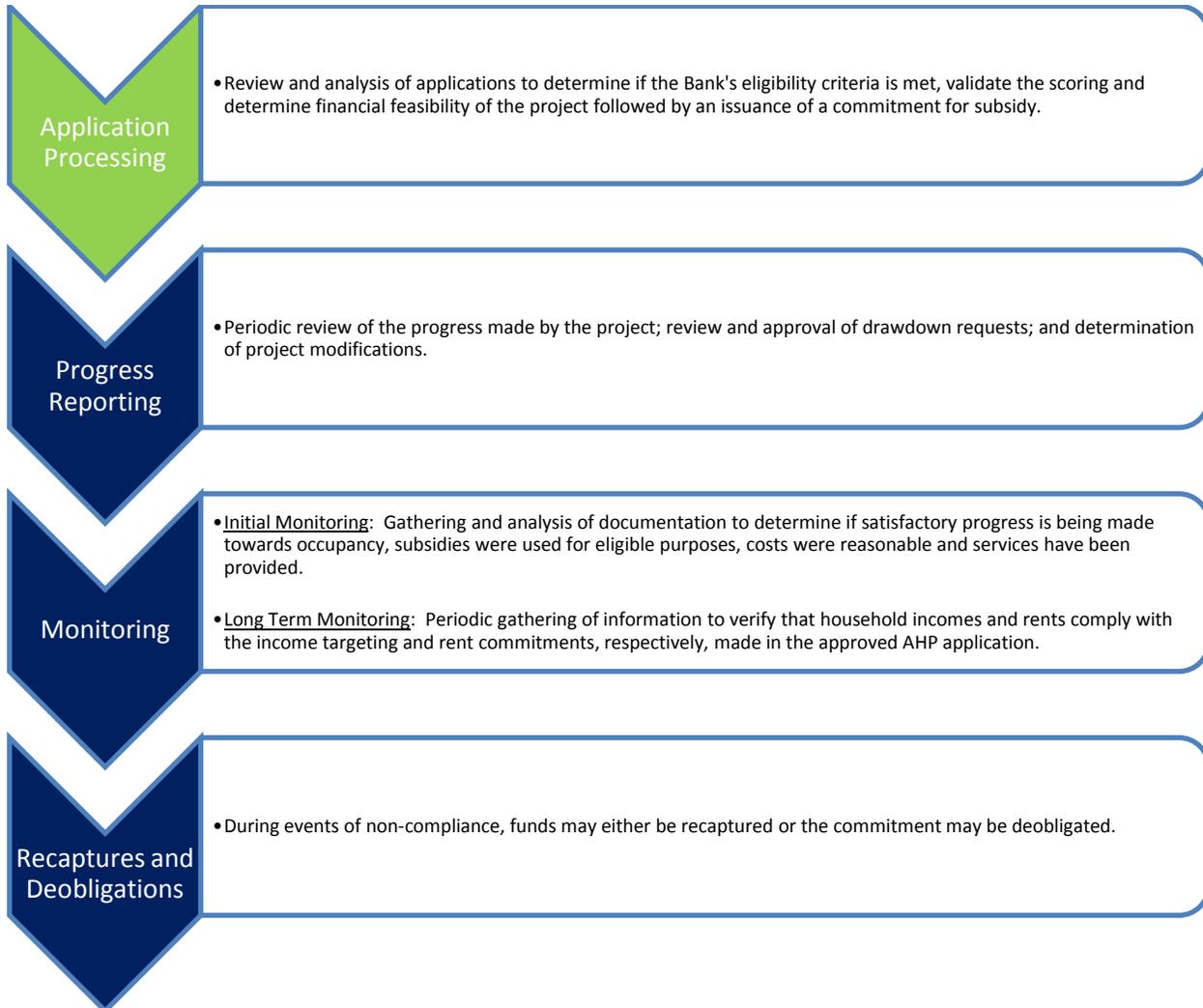
AHP is offered in two forms: a competitive program (Competitive AHP) and a homeownership set-aside program, First Home Club ("FHC").

SUBMISSION OF HOUSEHOLD INFORMATION

The Gramm-Leach-Bliley Safeguard Rule, the Identity Theft Act, Privacy State Laws and FACTA are some of the legislation enacted to protect consumers from identity theft. To protect borrower information that may be utilized to develop a 'credit profile' if intercepted by an unauthorized third party, the Federal Home Loan Bank of New York ("FHLBNY") requires that all household information be submitted in a secure manner.



APPLICATION PROCESSING



Requirements For Competitive AHP

SCHEDULE FOR FUNDING PERIODS

FHLBNY will conduct one Competitive AHP application period annually. The application deadline date for receipt of applications by the FHLBNY for the 2016 AHP Competitive offering will be announced approximately 45 calendar days prior to the deadline.

MEDIAN INCOME STANDARDS

FHLBNY has designated certain specific area median income ("AMI") standards that can be used to qualify AHP-assisted households, depending on the nature of the project.



Owner-occupied Projects must select one of the following:

1. The median income for the area, as published annually by U.S. Department of Housing and Urban Development (“HUD”);
2. The applicable median family income, as determined under 26 U.S.C. 143(f) (Mortgage Revenue Bonds) and published by a State agency or instrumentality;

Rental Projects must use the following:

3. The median income for the area, as published annually by HUD;

FHLBNY will verify that the occupancy targets identified at time of application to the Competitive AHP are consistent with occupancy targets represented to other funding sources. The selected AMI standard must ensure that the project can feasibly attain its proposed targets in conformity with the requirements of the AHP and any applicable federal or state financing programs. The standard chosen will be applied to the project for the life of the Competitive AHP project monitoring period. The FHLBNY may, on a case-by-case basis, allow a project sponsor the option to substitute one approved income standard for another, provided that only one income standard pertains to all households within a given project.



MINIMUM ELIGIBILITY REQUIREMENTS

FHLBNY requires all projects that apply for and receive Competitive AHP subsidy meet the following nine minimum eligibility requirements:

1. Using AHP subsidy to finance the purchase, construction, or rehabilitation of owner-occupied or rental housing;
2. Using the AHP subsidy within 12 months of approval to procure other financing or draw funds down;
3. Demonstrating site control by the project's Sponsor by providing satisfactory current executed third-party documentation that evidences the primary sponsor has obtained control of each parcel that comprises the Project;
4. Demonstrating project feasibility by providing development and operating budgets that reflect a need for AHP subsidy and reasonable costs; documentation from other funding sources that offer reasonable terms; and other information showing that the project is likely to be completed, and occupied;
5. Indicating that the AHP subsidy will not be used for non-eligible costs;
6. Using AHP subsidy for refinancing only if specific conditions are met;
7. Agreeing to execute and record appropriate documents to secure the AHP subsidy throughout the project's long term retention period;
8. Having a sponsor who is qualified and able to perform its responsibilities;
9. Agreeing with applicable Fair Housing Laws.

Owner-Occupied Housing

- a) AHP subsidy must be used exclusively to assist in financing the purchase, construction, or rehabilitation of a 1-to-4-family owner-occupied dwelling, condominium, or cooperative unit for a qualified household whose income does not exceed 80% of the area median, adjusted for family size, based on the median income standard that the project sponsor selected from the list specified in the Plan.
- b) At the time that a household is qualified for participation in an AHP-assisted owner-occupied housing project by the sponsor, the household must have an income that meets the income occupancy targets specified and approved in the competitive application to the AHP.
- c) A maximum of \$500 in AHP subsidy per household may be used to finance homebuyer education, only in cases where:
 - i. Such costs were incurred in connection with a qualified household who has attended and successfully completed a formal counseling program;



- ii. The cost of such counseling has not been covered by another funding source, including the Member;
- iii. The amount of the AHP subsidy funded to each household, including any homebuyer counseling costs, must be reflected in the AHP retention agreements; and
- iv. if applicable, proof of cost of homeownership counseling.

Rental Housing

- a) AHP subsidy must be used exclusively to assist in financing the purchase, construction, or rehabilitation of a single-family or multi-family rental housing project where at least 20% of the units (or beds, if applicable) in the project are reserved for and occupied by qualified households whose income does not exceed 50% of the area median income, adjusted for family size, based on the median income standard that the project sponsor selected from the options specified in the Plan.
- b) Upon initial occupancy of the AHP assisted rental unit, a household must have an income that meets the income occupancy targets specified and approved in the competitive AHP application
- c) For an AHP assisted rental project that is already occupied, a household must have an income that meets the income occupancy targets specified and approved in the competitive AHP application.
- d) A rental unit must be affordable, which means that:
 - i. The rent charged to a household for a unit that is to be reserved for occupancy by a household with an income at or below 80 percent of the median income for the area, does not exceed 30 percent of the income of a household of the maximum income and size expected, under the commitment made in the AHP application, to occupy the unit (assuming occupancy of 1.5 persons per bedroom or 1.0 persons per unit without a separate bedroom); or
 - ii. The rent charged to a household, for rental units subsidized with Section 8 assistance under 42 U.S.C. 1437f or subsidized under another assistance program where the rents are charged in the same way as under the Section 8 program, if the rent complied with this at the time of the household's initial occupancy and the household continues to be assisted through the Section 8 or another assistance program, respectively.

Project Feasibility

- a) It must be likely for a project to be completed and occupied. FHLB NY has established cost guidelines that will be used to analyze and evaluate all projects during the entire lifecycle of the project. FHLB NY reserves the right to consider exceptions to these guidelines, on a case-by-case basis, if reasonable explanations and adequate documents are presented in order to justify the exception.
- b) During the Competitive AHP application review process, FHLB NY will assess a project's demonstrated need for AHP subsidy, likelihood to be developed in a timely manner, and capacity to be operated in a financially sound manner. Projects that involve the use of AHP subsidy must demonstrate that the proposed targets are reasonable and AHP funds can be used effectively within



a three year period towards the completion of the project. FHLB NY shall evaluate all projects in accordance with the criteria as specified in section Time Limits On The Use of AHP Subsidy:

- c) A project's sponsor must be qualified and able to perform its responsibilities as committed to in the application for AHP subsidy. FHLB NY, in its sole discretion, will prohibit certain sponsor organizations from qualifying for any new funding reservations of AHP subsidy if they have already been issued an AHP funding commitment on behalf of a housing initiative that is programmatic in nature (i.e., down payment/closing cost initiatives or owner-occupied rehabilitation programs), not site-specific, and less than 50% of the existing AHP funding commitment has been drawn down.

NOTE: FHLB NY will give such sponsors credit for any pending AHP funding requisitions that were received at the FHLB NY at least two weeks prior to the commencement of a given AHP competitive offering.

- d) A project, as proposed, must comply with applicable federal and state laws on fair housing and housing accessibility, including, but not limited to, the Fair Housing Act, the Rehabilitation Act of 1973, the Americans for Disabilities Act of 1990, and the Architectural Barriers Act of 1969. The sponsor must also demonstrate how the project will be affirmatively marketed.
- e) All owners of AHP-assisted units must execute FHLB NY's standard AHP retention agreements at time of funding and duly record the AHP subordinate mortgage with the appropriate municipal clerk's office.
- f) If AHP subsidy is proposed to refinance an existing mortgage loan on a single-family or multi-family residence, the application must furnish adequate evidence that the equity proceeds generated from the refinance, for an amount consistent with the requested AHP subsidy, shall be used only for the purchase, construction, or rehabilitation of additional housing units that meet the minimum eligibility requirements as outlined in this Plan.

Additional District Eligibility Requirements

FHLB NY:

- a) Limits rental projects to a per unit average of \$30,000 in AHP subsidy
- b) Limits homeownership projects to a maximum of \$30,000 in AHP subsidy per dwelling (inclusive of all AHP subsidies provided under the FHLB NY's set aside program)
- c) Limits the amount of AHP subsidy available in any project to the lesser of ten percent (10%) of the total subsidy available during a given competitive offering, not to exceed the \$30,000 per unit limits above.
- d) Limits the amount of AHP subsidy to any project to no more than ten percent (10%) of the total subsidy available during a given competitive offering. In cases of multiple AHP application submissions that pertain to a single project that is programmatic in nature (i.e., down payment/closing cost initiatives, owner-occupied rehabilitation programs or sponsor financed-type



initiatives) the total AHP subsidy requested for all such submissions may be no more than ten percent (10%) of the total subsidy available during a given competitive offering.

SCORING GUIDELINES

The FHLBNY will only score those applications that meet the AHP eligibility standards. Each FHLBNY AHP scoring category, identified below, has been designated as either a fixed point or a variable point criterion in accordance with the following methodology:

- The criteria that comprise variable-point objectives may be satisfied in whole or in part. Therefore, the number of points awarded to an application for meeting a variable point objective may be partial and can vary, depending on the extent to which the project can realistically satisfy the criterion.
- Fixed-point objectives cannot be achieved in varying degrees and are either satisfied, or not. An application that adequately meets a fixed-point criterion shall be awarded the total number of points allocated to that criterion.

The FHLBNY has established 100 points as the highest possible score, allocated among 9 separate scoring categories. In accordance with the AHP Regulation, the Targeting objective must have a value of at least 20 points and each remaining category must carry a minimum value of 5 points.

Scoring Criteria

- a) Use of donated or conveyed government-owned or other properties
5 points - Variable

The creation of housing using a significant proportion of units or land donated or conveyed by the Federal government (regardless of the conveyance price) or any agency or instrumentality thereof, or by any other party, for an amount significantly below the fair market value of the property.

“Significant proportion” will be defined as 20% or more of the total number of proposed units. “Significantly below fair market value” will be defined as having an acquisition cost of no more than \$100 per vacant parcel of land or no more than \$250 per existing building.

Points will be awarded based on the percentage of total units in the project meeting the above criteria and receipt of acceptable documentation (e.g., a copy of a settlement statement, formal letter from the donor, or other third party documentation) that confirms the sales price and terms of the transfer.



b) Sponsorship by a not-for-profit organization or government entity
7 points – Variable

Eligible projects are sponsored by: either a private, not-for-profit corporation, as designated under the Internal Revenue Service (“IRS”) Code; or a state or political subdivision of a state, a state housing agency, a local housing authority, a Native American Tribe, an Alaskan Native Village, or the government entity for Native Hawaiian Home Lands. A project sponsor is defined as an organization that has ownership interest (including any partnership interest) or an organization that is integrally involved in a project, such as by exercising control over the planning, development, or management of the project, or by qualifying borrowers and providing or arranging financing for the owners of the units, where applicable. Points will be awarded as follows:

- i. If a sponsor of an ownership project is integrally involved in the development of a project as evidenced by the following, 7 points will be awarded.
 - ownership of the land or building(s) that comprise the project during the construction and/or rehabilitation phase of development, and/or;
 - responsibility as the primary contractor and/or construction manager of the properties that comprise the project,
- ii. If a sponsor of an ownership project evidences that they will perform at least one of the following roles, 3.5 points will be awarded:
 - screening or qualifying prospective project households;
 - arranging or providing mortgage financing;
 - conducting credit or homeownership counseling;
 - participating in the marketing of project units; or
 - other roles that demonstrate that the sponsor is integrally involved in the development of the project.
- iii. If a sponsor of a rental project owns or will own the land and/or the building(s) that comprise the project, 7 points will be awarded.

In order to confirm the sponsor’s ownership role, FHLB NY shall evaluate such supporting documentation as deeds, contracts of sale, purchase options, and lease agreements.
- iv. If a sponsor of a rental project that is utilizing Low-Income Housing Tax Credits (LIHTC) is a not-for-profit entity and will either become a general partner or hold a majority share of the general partner interest (e.g., 51% ownership interest or greater) within the final ownership structure/limited partnership of the project, 7 points will be awarded.



In order to confirm the sponsor’s ownership role, FHLB NY shall evaluate such supporting documentation as a tax credit allocation award notice, partnership agreement, or tax credit investor’s commitment letter.

- v. If a sponsor of a rental project that is utilizing LIHTC is a not-for-profit entity and will hold an ownership interest in the project, other than being a general partner, or holds a minority share of the general partner interest within the final ownership structure/limited partnership and is integrally involved in the project, 3.5 points will be awarded. In order to confirm the sponsor’s ownership role, the FHLB NY shall evaluate such supporting documentation as a tax credit allocation award notice, partnership agreement, or tax credit investor’s commitment letter.

c) Targeting

The extent to which a project creates housing for very low-, low- or moderate-income households.
20 points – Variable

For purposes of this scoring criterion, applications for owner-occupied projects and rental projects will be scored separately.

i. Rental Projects

FHLB NY shall confirm the percentage of units that a particular rental project has proposed to reserve for households who earn ≤ 50% of area median income (“AMI”), adjusted for family size:

- If the percentage is less than 20%, the project cannot meet the AHP statutory minimum requirement and shall be eliminated from the competition.
- If the percentage is greater than or equal to 60%, the project receives the maximum 20 point score.

Applications for projects with less than 60 percent of the units reserved for occupancy by households with incomes at or below 50 percent of the median income for the area shall be awarded points based upon the below formula.

$$24 \left[\frac{B - .20(A)}{.80(A)} \right] + 16 \left[\frac{C}{.80(A)} \right] + 8 \left[\frac{D}{.80(A)} \right] + 0[E] = Points$$

Where:

A = Total number of AHP-assisted units

B = Number of Units ≤ 50% of AMI

C = Number of Units > 50% and ≤ 60% of AMI

D = Number of Units > 60% and ≤ 80% of AMI

E = Number of Units > 80% AMI



ii. Owner-Occupied Projects

To meet the AHP statutory requirements, owner-occupied project applications must be for units that are targeted only to households who earn 80% or less of AMI. Project applications that include units targeted to households earning greater than 80% of AMI shall be eliminated from the competition.

Owner-occupied projects will be scored based upon the following formula:

$$20 [B / A] + 14 [C / A] + 3 [D / A] = \text{POINT(S)}$$

Where:

A = Total number of AHP-assisted units

B = Number of Units ≤ 50% of AMI

C = Number of Units > 50% and ≤ 60% of AMI

D = Number of Units > 60% and ≤ 80% of AMI

d) Housing for homeless households

5 points – Variable

The financing of rental housing, excluding overnight shelters, reserving at least 20% of the units for homeless households, the creation of transitional housing for homeless households permitting a minimum of six months occupancy, or the creation of permanent owner-occupied housing reserving at least 20% of the units for homeless households.

The term “homeless”, “homeless individual,” or “homeless person” shall mean an individual or family who is homeless or at risk of homelessness based on third-party evidence demonstrating that the individual or household:

- i. Lacks a fixed, regular, and adequate nighttime residence;
- ii. Has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
- iii. Lives in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing); or resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;



- iv. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing;
- v. Will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by (a) a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days; (b) the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or (c) credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause. In addition, the individual or household must have no subsequent residence identified and lack the resources or support networks needed to obtain other permanent housing; and/or
- vi. Is a family with children who (a) has experienced a long term period without living independently in permanent housing, (b) has experienced persistent instability as measured by frequent moves over such period, and (c) can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

Even if an individual or household's current living situation may appear to qualify under the above criteria, the FHLBNY will not consider the following individuals or households as having met the criteria for homelessness:

- Someone who is currently imprisoned or otherwise detained pursuant to an Act of the Congress or a State law;
- An unaccompanied youth who is under the age of 18 unless he or she is within 60 days of reaching the age of 18;
- An individual or family who has resided in transitional housing for 6 months or more (even if homeless prior to entry into transitional housing);
- Someone who is being discharged from an institution where he or she has been a resident for 90 days or less unless the person's living situation met one of the above criteria immediately prior to entering that institution; or



- Someone who was living in an institution for over 90 days and will not be discharged without a housing placement plan and/or where the cost of their current and/or proposed housing was and/or will be subsidized.

Points will be awarded based on the percentage of total units in the project meeting the above criteria as determined upon receipt of acceptable contractual evidence (e.g., referral letters, a grant award letter, executed contract or similar evidence from a third party entity) that requires the units within a certain project to be reserved for and occupied by a specified number of homeless households.

e) Promotion of Empowerment
5 points – Variable

Points will be awarded based on a given project's ability to provide affordable housing in combination with a program that offers certain services or activities that economically empower project residents.

Acceptable economic empowerment for rental projects will include the following:

- On-site case management programs that support the residents' ability to find or sustain employment or be self-sufficient or promote their economic betterment
- On-site youth programs, including daycare services or formal recreational activities that serve as a substitute for childcare and thereby enable heads of household to find or sustain employment
- On-site primary health care services for households and their children
- On-site vaccination or medical screening programs for households and their children
- On-site job training programs or employment opportunities
- On-site services that provide residents with credit counseling, budgeting courses, or other financial education services
- Resident management opportunities, including involvement in decision making affecting the creation of the project
- Resident management opportunities, including involvement in decision making affecting the operation of the project
- Project-specific private transportation services for households to and from places of employment



Acceptable economic empowerment for owner-occupied projects will include the following:

- Project-specific case management programs that support the owner-occupants’ ability to find or sustain employment or be self-sufficient or promote their economic betterment;
- Project-specific youth programs, including daycare services or formal recreational activities that serve as a substitute for childcare and thereby enable heads of household to find or sustain employment;
- Project-specific primary health care services for households and their children;
- Project-specific vaccination or medical screening programs for households and their children;
- Project-specific job training programs, employment opportunities or other educational services that economically benefit owner-occupants;
- Pre-purchase counseling for prospective first-time homebuyers, including all credit counseling, budgeting courses, financial literacy classes, or other financial services that economically benefit owner-occupants (as evidenced by a formal catalogue or syllabus, including an educational curriculum and a detailed synopsis of topics, that specifies the standard timeframe of the classes as well as the name of the agency or organization that will conduct the counseling);
- Foreclosure prevention (as evidenced by a formal catalogue or syllabus, as specified above);
- Predatory lending prevention and awareness counseling (as evidenced by a formal catalogue or syllabus, as specified above);
- Workshops for existing homeowners on maintenance, repairs, and improvements (evidenced by a formal catalogue or syllabus, as specified above);
- Resident management opportunities, including involvement in decision making affecting the development or design of the project;
- Resident management opportunities, including involvement in decision making affecting the operation of the project
- Individual Development Accounts (IDA’s) or “sweat equity” activities; and
- Project-specific private transportation services for households to and from places of employment.

A project will receive points based upon the following schedule:

1 activity:	1.25 points
2 – 3 activities:	2.5 points
4 – 5 activities:	3.75 points
≥ 6 activities:	5 points



f) First District Priority
20 points – Variable

- i. In-District Projects: Projects that are located in New York, New Jersey, Puerto Rico, and the U.S. Virgin Islands will receive 5 points.
- ii. Economic Diversity: Projects that incorporate mixed-income housing in the development scheme will receive up to 15 points.
 - a. Rental projects must have at least 20 percent or more units that are targeted to households greater than 60 percent of the AMI (the total number of AHP assisted units in the project will be used to determine the economic diversity score), and must be located in a low or moderate income neighborhood; or
 - b. Owner-occupied projects must have at least 20 percent or more units that are targeted to households greater than 60 percent of the AMI (the total number of AHP assisted units in the project will be used to determine the economic diversity score), and must be located in a low or moderate income neighborhood;

A Project will receive points based upon the following percentage of units above 60% of AMI (i.e., moderate income) :

≥ 20% to 32% reserved for moderate income (or higher*)	Units:	3 points
> 32% to 44% reserved for moderate income (or higher*)	Units:	6 points
> 44% to 56% reserved for moderate income (or higher*)	Units:	9 points
> 56% to 68% reserved for moderate income (or higher*)	Units:	12 points
> 68% to 80% reserved for moderate income (or higher*)	Units:	15 points

**Owner-occupied project applications may not include units targeted to households greater than 80% of AMI.*

or

- c. Either a rental or owner occupied project must have at least 75 percent of the very low income units in the project located in a census tract(s) with a median family income that is equal to or greater than 100 percent of the regional median family income (Metropolitan Statistical Area [MSA]/Metropolitan Division [MD] or non-MSA/MD) as published on the Federal Financial Institutions Examination Council’s (FFIEC) website. To receive points under this part of the definition, all properties in the project must be known and identified and the FFIEC printout must be included with the application for all project site(s). In instances where sites are known but addresses are not identified, FFIEC census tract documentation reflecting the exact property/properties must be provided.



A Project will receive points based upon the following schedule of units available to very low income households:

≥ 75% to 80% very low income Units located in the qualifying tract:	3 points
> 80% to 85% very low income Units located in the qualifying tract:	6 points
> 85% to 90% very low income Units located in the qualifying tract:	9 points
> 90% to 95% very low income Units located in the qualifying tract:	12 points
> 95% to 100% very low income Units located in the qualifying tract:	15 points

g) Second District Priority
20 Points – Variable

i. Rental Projects - A rental project that demonstrates readiness in accordance with the following criteria will qualify for a maximum of 20 points:

- Ownership: If the sponsor demonstrates ownership of the proposed project site(s), 5 points will be awarded;
- Approvals: If the sponsor/developer has obtained
 - (i) a building permit, 5 points will be awarded,
 - (ii) final site plan approval or evidences that the project may be developed as-of-right, 3 points will be awarded, or
 - (iii) preliminary site plan approval, 1 point will be awarded;
- Building Cost Determination: If the sponsor/developer has
 - (i) executed a contract with a construction firm, 5 points will be awarded.
 - (ii) If the sponsor/developer has secured a formal cost estimate based on approved architectural drawings (if required) or a detailed scope of work (if architectural drawings are not required), 2 point will be awarded;
- Funding Commitment Procurements: With the exception of projects where AHP is requested to provide 50% or more of the project’s funding, points will be awarded to sponsors who have procured or closed on at least 50% of a project’s proposed permanent funding sources. This percentage will be determined by dividing the total permanent funding sources procured by the total project costs less the amount of the AHP subsidy request in accordance with the following scale:
 - (i) 100% committed: 5 points
 - (ii) ≥75% and <100% committed: 3 points



- (iii) $\geq 50\%$ and $< 75\%$ committed: 1 point
- ii. Owner Occupied Projects – An owner occupied project that demonstrates readiness in accordance with the following criteria will qualify for a maximum of 20 points:
- Owner Occupied Project Type #1: Owner Occupied Rehabilitation Projects
 - (1) Project Plan – Sponsor must demonstrate that it has a fully mapped out development plan (5 points). The plan must include at least the following:
 - List of pre-qualified occupants
 - Explanation of selection and qualification process
 - Identify the contractors who will bid to do the rehabilitation work
 - (2) Cost Assessment – Sponsor must provide an assessment of the total project costs. This can be completed by a qualified member of the staff. (5 points)
 - (3) Other Financing – With the exception of projects where AHP is requested to provide 50% or more of the project’s funding, points will be awarded to sponsors who have procured or closed on at least 75% of a project’s proposed permanent funding sources. This percentage will be determined by dividing the total permanent funding sources procured by the total project costs less the amount of the AHP subsidy request in accordance with the following scale:
 - 100% committed: 10 points
 - $> 75\%$ and $< 100\%$ committed: 5 points
 - Owner Occupied Project Type #2: Habitat-Type Projects (with a sweat equity component)
 - (1) Project Plan – Sponsor must demonstrate that it has a fully mapped out development plan (5 points). The plan must include at a minimum the following:
 - List of pre-qualified occupants
 - Explanation of selection and qualification process
 - Identify the contractors who will bid to do the construction work
 - Identify the architect for the project and provide the architectural drawings
 - (2) Cost Assessment – Sponsor must provide an assessment of the total project costs. This can be completed by a qualified member of the staff. (5 points)
 - (3) Other Financing – With the exception of projects where AHP is requested to provide 50% or more of the project’s funding, points will be awarded to sponsors who have procured or closed on at least 75% of a project’s proposed permanent funding sources. This percentage will be determined by dividing the total permanent funding sources procured by the total project costs less the amount of the AHP subsidy request in accordance with the following scale:
 - 100% committed: 10 points
 - $> 75\%$ and $< 100\%$ committed: 5 points
 - Owner Occupied Project Type #3: Sponsor Developed Projects



- (1) Project Plan – Sponsor must demonstrate that it has a fully mapped out development plan (5 points).

The plan must include at least the following:

- List of pre-qualified occupants
 - Explanation of selection and qualification process
 - Identify the contractors who will bid to do the rehabilitation or construction work
 - Identify the architect for the project and provide the architectural drawings
- (2) Cost Assessment – Sponsor must provide an assessment of the total project costs. This can be completed by a qualified member of the staff. (5 points)
 - (3) Other Financing – With the exception of projects where AHP is requested to provide 50% or more of the project’s funding, points will be awarded to sponsors who have procured or closed on at least 75% of a project’s proposed permanent funding sources. This percentage will be determined by dividing the total permanent funding sources procured by the total project costs less the amount of the AHP subsidy request in accordance with the following scale:
 - 100% committed: 10 points
 - >75% and <100% committed: 5 points

- Owner Occupied Project Type #4: Closing Cost Assistance Projects

- (1) Project Plan – Sponsor must demonstrate that it has a fully mapped out development plan (10 points).

The plan must include the following:

- List of pre-qualified occupants
 - Explanation of selection and qualification process
- (2) Pre-Qualification Letter – Sponsor must demonstrate that each homebuyer has already obtained a pre-qualification letter from a mortgage company (10 points)

h) AHP Subsidy Per Unit (SPU)

10 points – Variable

Points will be awarded based upon the formula below.

$$[(\text{Maximum SPU} - X) / (\text{Maximum SPU} - \text{Minimum SPU})] * 10$$

Where:

Maximum SPU = \$30,000

X = SPU requested

Minimum Rental SPU = \$4,600

Minimum Owner-occupied SPU = \$6,400



Minimum SPU is for scoring purposes only. An applicant can request any subsidy within the given guidelines. For purposes of this scoring criterion, applications for owner-occupied projects and rental projects will be scored separately.

i) Community Stability
8 points - Variable

Projects that promote community stability may be awarded up to 8 points, as follows:

i. Preservation of Housing Units

If a project preserves existing occupied housing units, up to 8 points will be awarded, subject to a project's satisfaction of the following conditions:

Rental Projects

- Confirmation that a rental project is operational, has at least 50% of its units occupied at time of application to the AHP, and displacement of the current occupants will not occur or, if displacement of the current occupants will occur, adequate procedures and a formal relocation plan are in place that will minimize the impact of such displacement;
- The project will undergo rehabilitation or other housing-related capital improvements that average at least \$15,000 per unit; and
- The rehabilitation work must be sufficient to achieve the Housing Quality Standards (HQS) established by the HUD and ensure that the remaining economic life of the major building systems will survive the 15-year AHP compliance period.
- The construction or rehabilitation work intended for the project must preserve the existing units and cannot allow for a reduction in housing stock.

Homeownership Projects

- Confirmation that a homeownership project involves the rehabilitation of dwellings that are owned and occupied by existing homeowners;
- The cost of renovating or rehabilitating the average project unit is at least \$10,000; and
- The rehabilitation work for each household must be sufficient to address all local building code requirements and ensure that the remaining economic life of the major building systems will survive the 5-year AHP compliance period.
- The construction or rehabilitation work intended for the project must preserve the existing units and cannot allow for a reduction in housing stock.

ii. Difficult Development Area (DDA) or Qualified Census Tract (QCT)



A project can be awarded up to 8 points for demonstrating it was constructed or is located in a DDA or QCT. In order to qualify for this category, at least 80% of its proposed units will involve the creation of new housing units, either through rehabilitation or new construction, on sites that are located within DDA or QCTs, as determined under IRS Section 42 and in effect as of the submission date of the application for AHP subsidy and published on HUD's website.

METHODOLOGY TO BREAK SCORING TIES

The below methodology will be utilized in the following situations:

- If two applications receive identical scores and those applications are on the threshold between primary and alternate approval;
- If two applications receive identical scores and those applications are on the threshold between alternate approval and not being approved.

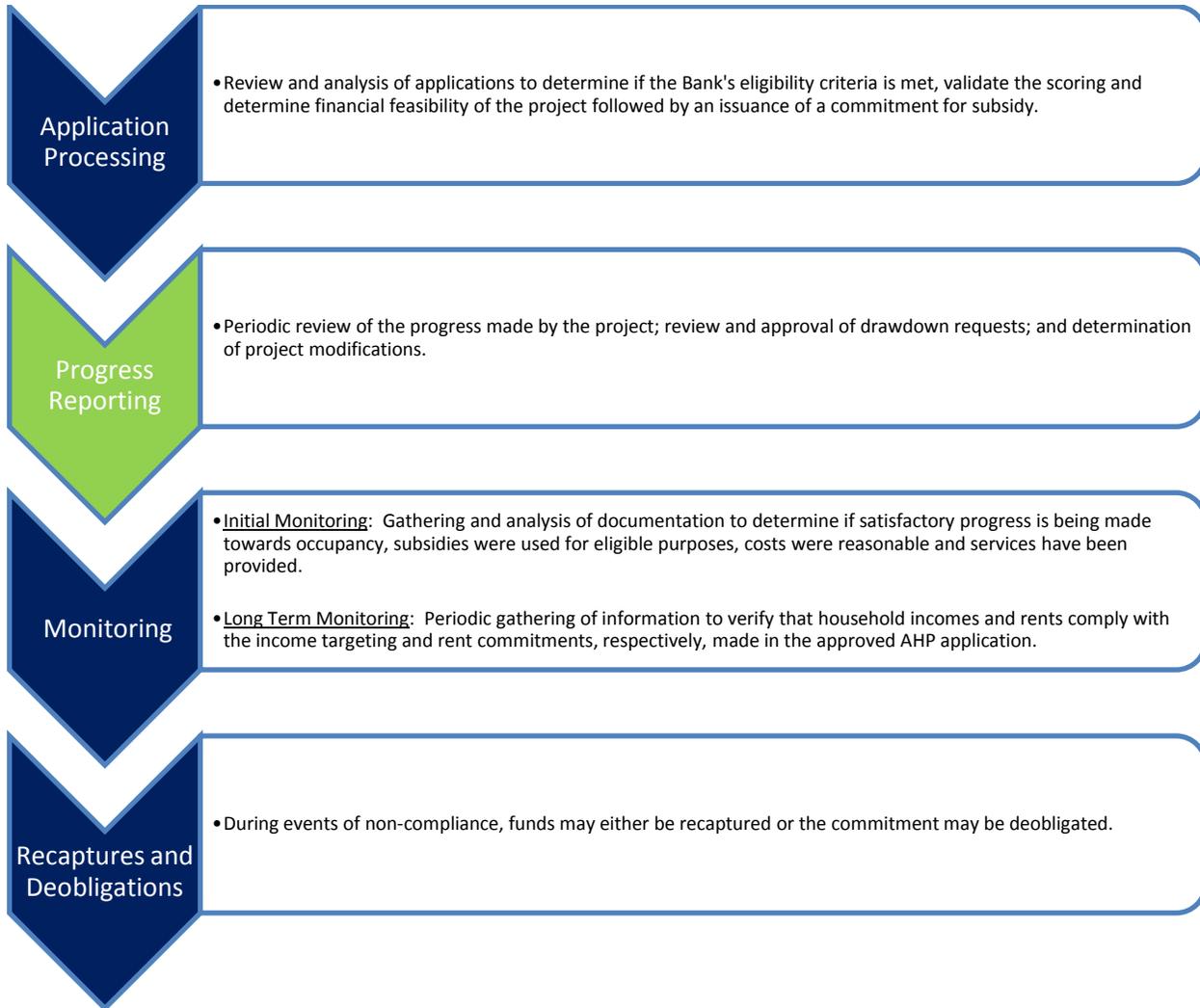
Step 1: Compare the applications' scores under in the Second District Priority . The application that scored the highest number of points within these components will be ranked higher. If the applications' scores are still tied, proceed to Step 2.

Step 2: Compare the applications' scores under the First District Priority for the In-District component. The application that scored the highest number of points within this component will be ranked higher. If the applications' scores are still tied, proceed to Step 3.

Step 3: Compare the applications' scores under the Community Stability category in the following order until the tie is resolved: Preservation of Housing Units, and Difficult Development Area or Qualified Census Tract. The application that scored the highest number of points in the first component above that breaks the tie will be ranked higher.



PROGRESS REPORTING



TIME LIMITS ON THE USE OF AHP SUBSIDY

The AHP subsidy must be used by the project to procure other financing commitments within 12 months of the date commitment and drawn down within 36 months of the commitment date. The conditional commitment period is 36 months with 6 month progress reporting intervals. Progress milestones will be reviewed to ensure that progress is being made towards project completion. The FHLBNY reserves the right, in its sole discretion, to cancel the AHP commitment prior to the expiration date if the project does not demonstrate advancement as per the progress milestones.



PROGRESS REPORTING REQUIREMENTS

These guidelines pertain to all projects:

- a) Six months following the issuance date of the Commitment, the developer or sponsor is responsible for submitting a progress report to the FHLBNY that includes:
 - i. A certification that the sponsor/owner has completed AHP Lifecycle training
 - ii. An updated timetable that provides reasonable assurance that the development of the project is imminent and is scheduled to be completed in a timely manner.

- b) If a balance of AHP subsidy remains on account on the 1st anniversary of the issuance of the Commitment, the developer or sponsor is responsible for submitting a progress report to the FHLBNY that includes:
 - i. A certification that the sponsor/owner maintains control of the project site(s);
 - ii. Confirmation that the project continues to demonstrate a need for AHP subsidy; and
 - iii. An updated timetable that provides reasonable assurance that the development of the project is imminent and is scheduled to be completed in a timely manner.

- c) If a balance of AHP subsidy remains on account on the 1½-year anniversary of the issuance of the Commitment, the developer or sponsor is responsible for submitting a progress report to the FHLBNY that includes:
 - i. Evidence that the sponsor/owner has obtained building permits;
 - ii. Evidence that at least 100% of all proposed sources of financing (for both the construction and permanent phases of development) have been committed;
 - iii. Confirmation that the project continues to demonstrate a need for AHP subsidy; and
 - iv. An updated timetable that provides reasonable assurance that the development of the project is imminent and is scheduled to be completed in a timely manner.

- d) By the 2nd anniversary of the issuance of the Commitment, the developer or sponsor is responsible for submitting a draw down requisition to the FHLBNY.

- e) If a balance of AHP subsidy remains on account on the 2½-year anniversary of the issuance of the Commitment, the developer or sponsor is responsible for submitting a progress report to the FHLBNY that includes:
 - i. A detailed update on the status of construction;
 - ii. Confirmation that the project continues to demonstrate a need for AHP subsidy.



- f) If there is a balance of AHP subsidy that remains on account, it must be fully funded by the 3rd year anniversary of the issuance of the Commitment.
- g) At the 3 ½ year anniversary of the commitment, a progress report is required to demonstrate that the project is leasing up at a sufficient rate.
- h) By the 4th anniversary of the commitment, the project must be at least 80% occupied.

FHLB NY reserves the right, in its sole discretion, based on progress reports and other supporting documentation, to cancel a Commitment under circumstances including but not limited to the following:

- a) Delays related to the development of an approved project, including, but not limited to, the failure to construct and/or rehabilitate the number of units proposed in the application for AHP subsidy in a timely manner;
- b) The failure of an approved project to feasibly attain other targets, objectives, and obligations that were set forth in the application for AHP subsidy, exclusive of formally authorized modifications;
- c) The inability of the project's developer or sponsor to procure all required financing (for both the construction and permanent phases of development) in a timely manner; or
- d) Noteworthy revisions, errors, or omissions related to a project's proposed financial structure (i.e., development budget and operating budget), including any changes that adversely impact the project's demonstrated need for AHP subsidy and timeliness of completion.

Increases in Subsidy

Projects with a Competitive AHP award may, under certain circumstances, request an increase in AHP subsidy which must be made through the modification process. The decision to increase AHP funds to previously awarded projects is at the sole discretion of FHLB NY and must be approved by its Board of Directors. FHLB NY will take into consideration the extent to which the project has met the regulatory thresholds and the amount of AHP funds available to fund such modification. Sponsors of projects who request to modify and increase an existing reservation of AHP subsidy must satisfy the following criteria:

- a) All regulatory thresholds for a modification, as stated in §1291.5(f) of the AHP Regulation;
- b) The modified project must score competitively in the funding round in which it was approved and still meet all feasibility guidelines.
- c) The total amount of AHP subsidy from the original award plus the increase through the modification cannot exceed the *lesser* of (a) the maximum per project subsidy in the funding round in which it was originally approved.



- d) Requests to increase the AHP reservation are limited to change orders or overruns limited to construction/rehabilitation costs. Conversely, such requests cannot be used to reduce a deferred developer fee, finance increases to soft costs or offset escalated reserve requirements;
- e) All remaining proposed funding sources must be procured and firmly committed;
- f) The sponsor must have completed the bidding process and produce an executed construction contract as part of the supporting documentation.

The sponsor of an incomplete project that still requires additional funding and does not meet the foregoing thresholds, may reapply for a larger allocation of AHP subsidy in an upcoming AHP competitive offering. However, under such circumstances, the sponsor will be required to cancel their existing AHP commitment prior to submitting a new AHP application.

Completed projects are not permitted to submit a new AHP application.

DRAWDOWN REQUISITIONS

A Member that maintains an active AHP commitment may request to drawdown on behalf of the project sponsor all or part of the AHP subsidy reservation at their discretion, provided that the development of the project has progressed to a point where AHP funds may finance the approved objectives that were set forth in the AHP application.

The following milestones must be met prior to submitting a drawdown requisition:

- The sponsor has ownership of the site(s)
- All of the building permits have been obtained
- All of the project's construction and permanent financing in place
- The sponsor can demonstrate that enough construction work has been completed to warrant reimbursement

The purpose of the financial review of a drawdown requisition is to ensure that the project has, (1) continued to demonstrate a need for subsidy, (2) can exhibit that it will be operationally sustainable throughout the retention period, and (3) meets the AHP's financial feasibility requirements.

The FHLB NY customarily requests submission of the following types of supporting and source documents as a prerequisite to processing a pending AHP subsidy funding requisition:

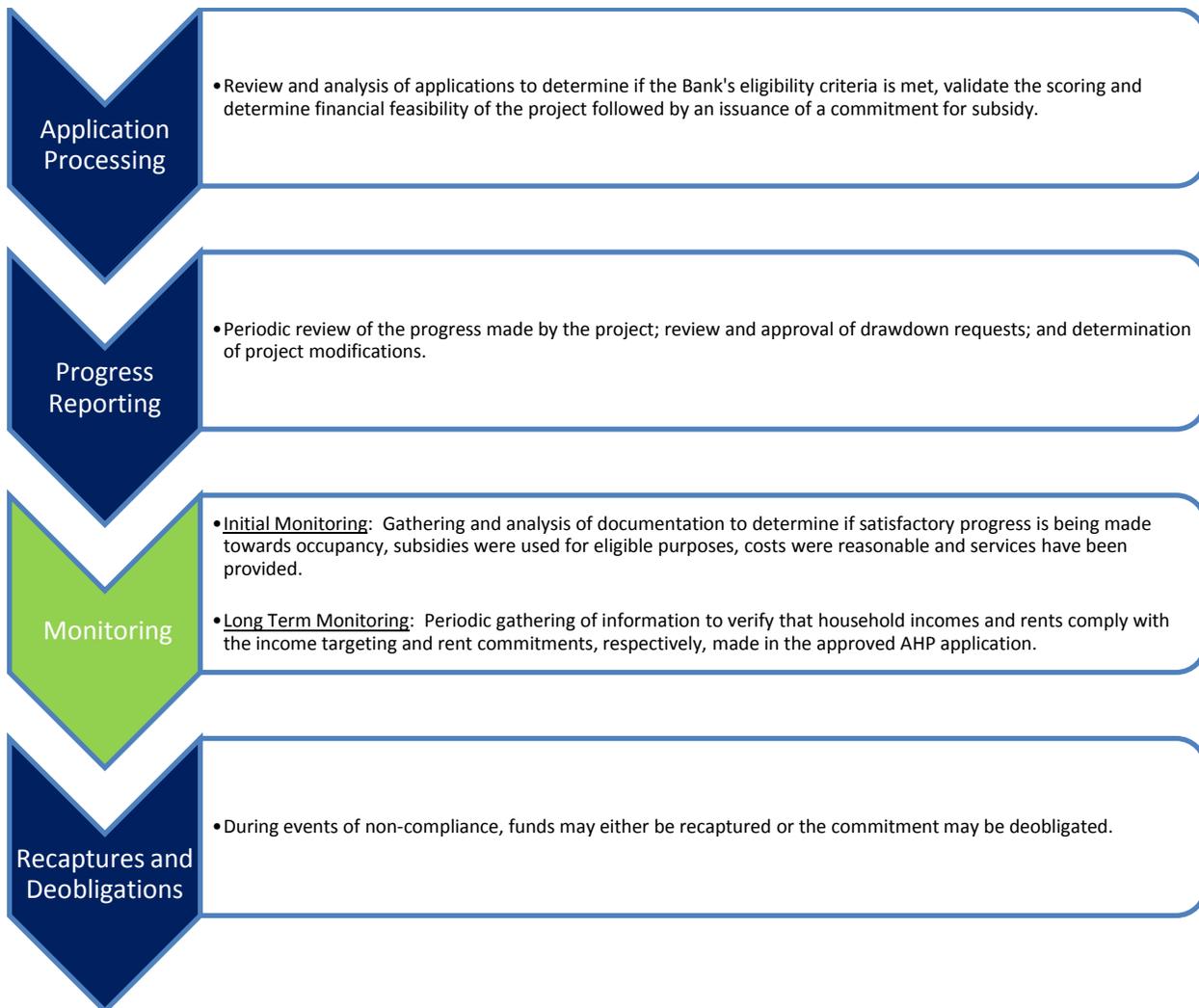
- AHP Funding Application for Rental Projects,
- AHP Funding Application for Homeowner Projects,



- AHP Rental Project Workbook,
- AHP Owner-occupied Project Workbook,
- AHP Project Construction Form,
- Site Control evidence such as sales contracts, deeds, and ordinances,
- Site approval evidence such as building permits and certificates of occupancy,
- Cost documentation such as the Application and Certificate for Payment or Final Cost Certification,
- Financial documentation such as loan commitments, notes, mortgages, and grant agreements, and financial statements,
- AHP long term retention agreements,
- Income documentation, and
- AHP Rental Income Verification Form

NOTE: A detailed list of documentation requirements can be found in the Affordable Housing Program Guidelines .

MONITORING



FHLBNY shall monitor each AHP owner-occupied and rental project under its Competitive AHP application program prior to, and within a reasonable period of time after, project completion to determine, at a minimum, whether:

- a) The project is making satisfactory progress towards completion, in compliance with the commitments made in the approved Competitive AHP application, in accordance with FHLBNY policies, and executed agreements.
- b) Following completion of the project, satisfactory progress is being made towards occupancy of the project by eligible households; and
- c) Within a reasonable period of time after project completion, the project meets the following requirements, at a minimum:



- i. The AHP subsidies were used for eligible purposes according to the commitments made in the approved Competitive AHP application;
- ii. The household incomes and rents comply with the income targeting and rent commitments made in the approved Competitive AHP application;
- iii. The project's actual costs were reasonable in accordance with FHLBANY's project cost guidelines, and the AHP subsidies were necessary for the completion of the project as currently structured;
- iv. Each AHP-assisted unit of an owner-occupied project and rental project is subject to AHP retention agreements; and
- v. The services and activities committed to in the approved Competitive AHP application have been provided in connection with the project.

Retention Periods

All AHP-assisted projects must continue to comply with the requirements of the AHP Regulation and meet the objectives and targets set forth in the approved AHP application for a finite period of time, known as the "Retention Period." The Retention Period:

- a) Shall be five (5) years from the date of closing for an AHP-assisted owner-occupied unit; and
- b) Shall be fifteen (15) years from the date of project completion for a rental project.

In cases where an AHP-assisted owner-occupied unit has been renovated and no closing took place, the FHLBANY shall consider the Retention Period to be five (5) years from the date of the final cost certification evidencing completion of the proposed renovations. Furthermore, the FHLBANY has determined that the completion date for a rental project commences on the issuance date of the Certificate of Occupancy, Certificate of Substantial Completion, or other comparable documentation.

INITIAL MONITORING

AHP owner-occupied and rental projects under the competitive application program enter the Initial Monitoring phase once the entire approved AHP subsidy has been fully drawn, the project is fully constructed and at least 80% occupied.

Within one year of the completion of an AHP-assisted project, including its attaining at least 80% occupancy and (if applicable) placement into operation, the FHLBANY will confirm that the project has fully attained the proposed levels of performance that were made in the AHP application. Based on the supplemental documentation that was previously received during the AHP funding process as well as the initial monitoring phase, the FHLBANY shall request submission of the following documents:



Homeownership Projects

- i. Copies of any outstanding transmittal summaries or HUD-1 Settlement Statements or Closing Disclosures as evidence that the household received the direct benefit of the AHP subsidy;
- ii. Copies of any outstanding Final Truth-in-Lending Disclosure Statements or Loan Estimates;
- iii. Copies of any outstanding income source documents;
- iv. Copies of any outstanding counseling completion certificates;
- v. Confirmation that the project households have benefited from all empowerment activities that were specified and approved in the AHP application;
- vi. Copies of any outstanding executed AHP subordinate retention agreements; and
- vii. A final project certification form that has been duly executed by authorized representatives of the project sponsor and the Member that submitted the AHP application.

Rental Projects

- i. Evidence of timely disbursement of the AHP subsidy from the Member to the project sponsor, or affiliate thereof;
- ii. Copies of final Certificate(s) of Occupancy, Certificate(s) of Substantial Completion, or other comparable documentation;
- iii. An executed 8609 form for projects that have been financed through LIHTC,
- iv. A current rent roll or tenant listing (reflective of household income, family size, and monthly rent);
- v. Copies of any outstanding income source documents, referral letters, and/or rental income subsidy agreements/vouchers that have been issued by public agencies;
- vi. Third-party documentation that confirms all expenses related to the construction/rehabilitation of the project (e.g., a final contractor's application for payment, a final cost certification, and/or an independent auditor's financial report);
- vii. Confirmation that the tenants have benefited from all empowerment activities and/or supportive services that were specified and approved in the AHP application;
- viii. If applicable, copies of any outstanding executed AHP subordinate retention agreements;
- ix. A final project certification form that has been duly executed by authorized representatives of the project sponsor and Member

LONG-TERM MONITORING

Long Term Monitoring occurs during the retention period of an AHP-assisted project or household and during this time, the project or household must continue to operate in accordance with the representations made in the AHP application or subsequent modifications. The Long Term Monitoring period and compliance reporting requirements differ based on the type of project.

a) **Homeownership Projects**

Transfers of title for owner-occupied projects are effectively monitored through deed restrictions or other legally enforceable AHP retention agreements.

b) **Rental Projects**

The required documentation schedule for rental projects is as follows:

Long Term Monitoring Documentation Schedule		
Project Characteristics	Status Report Frequency	Annual Certifications
LIHTC allocation	None required	No
≤ \$50,000	None required	Yes
> \$50,000 - \$400,000 or project-based rental assistance	6 years	Yes
> \$400,000 - \$750,000	4 years	Yes
> \$750,000	2 years	Yes

Rental Projects That Have an Allocation of Federal Low Income Housing Tax Credits

For rental projects that receive an allocation of Federal Low Income Housing Tax Credits (“LIHTC”) or (“tax credits”) as a funding source, the Bank will rely on the compliance monitoring performed by the state-designated housing credit agency administering the tax credits of the income targeting and rent requirements applicable under the LIHTC Program. The FHLBNY will not obtain and review reports from the tax credit agency or otherwise monitor the project’s long-term AHP compliance.

Rental Projects That Do Not Have an Allocation of LIHTCs

Projects are subject to the following requirements:

i. Requirements for Project Sponsors

Projects sponsors will be required to submit long-term monitoring reports in accordance with the following schedule and related supporting documentation:

In the second year after project completion and annually thereafter until the end of the project's Retention Period, the project sponsor must:

- Certify to the FHLB NY that that the project continues to be owned and managed in a satisfactory manner;
- Certify to the FHLB NY that tenant rents and incomes are in compliance with the rent and income targeting commitments which were originally specified in the AHP application;
- Certify to the FHLB NY that all real estate tax remittances are current;
- Certify to the FHLB NY that any debt payments on the project are current; and
- Maintain documentation regarding these items that is available for review by the FHLB NY.

ii. Income Eligibility Documentation and Rent Structure Verification

FHLB NY must ensure that the incomes of tenants and the rent structure of an AHP-assisted project comply with the income targeting and rent commitments made in the approved AHP application. A risk based sample of the occupied units will be selected for review in conjunction with the Status Report. For each household selected, income source documentation and a copy of the rental agreement must be submitted. Dependent upon the project characteristics, alternative documentation requirements may exist as follows:

- If a project receives project-based Section 8 assistance, a copy of the Section 8 contract may be submitted to the FHLB NY in lieu of income source documents.
- If a project receives tenant-based Section 8 assistance, a copy of the Section 8 voucher (or other comparable evidence) may be submitted to the FHLB NY in lieu of income source documents.
- If a project receives rent subsidy from a city, county, state, or federal agency that targets very low- and low-income households, a copy of the executed subsidy contract/agreement may, at the discretion of the FHLB NY, be submitted in lieu of income source documents, provided that the income references set forth in the subsidy contract/agreement are consistent with the income targeting commitments made in the Competitive AHP application.



- If a project targets homeless households, the FHLBNY will not require supporting documentation for the units that are allocated for the housing of homeless households.
- For AHP rental projects that received funds other than tax credits from federal, state, or local government entities, FHLBNY may rely on the monitoring by these entities of the income targeting and rent requirements, provided that FHLBNY can show that: (i) the compliance profiles regarding income targeting, rent, and retention period requirements of the AHP and the other program are substantively equivalent; (ii) the entity has demonstrated and continues to demonstrate its ability to monitor the project; (iii) the entity agrees to provide reports to the FHLBNY on the project's incomes and rents for the full 15-year AHP retention period; and (iv) FHLBNY receives and reviews the reports from the monitoring entity to confirm that they comply with the FHLBNY's monitoring policies.

iii. Requirements for the FHLBNY

- The FHLBNY shall review the Monitoring Reports and supporting documentation provided by project sponsors and/or public agencies regarding tenant rents and incomes in order to verify compliance with the commitments made in the AHP application.
- For the purposes of determining a project's on-going compliance with the approved targets, the FHLBNY will utilize current annual median income data, adjusted for family size, when verifying the eligibility of a new tenant which has been approved to occupy a recently vacated unit.

The FHLBNY staff reserves the right to perform site visits or increase the frequency of monitoring for AHP-assisted projects as needed.

SITE VISIT CRITERIA

Throughout an AHP project's lifecycle, the FHLBNY collects documentation to evaluate whether each project is in compliance with the AHP regulation and commitments made in the project's AHP application. When there are issues that cannot be resolved or confirmed off-site, the FHLBNY, in its sole discretion, may visit a project site to perform an on-site review.

Factors to be considered when determining whether to conduct an on-site review may include, but are not limited to, the following:

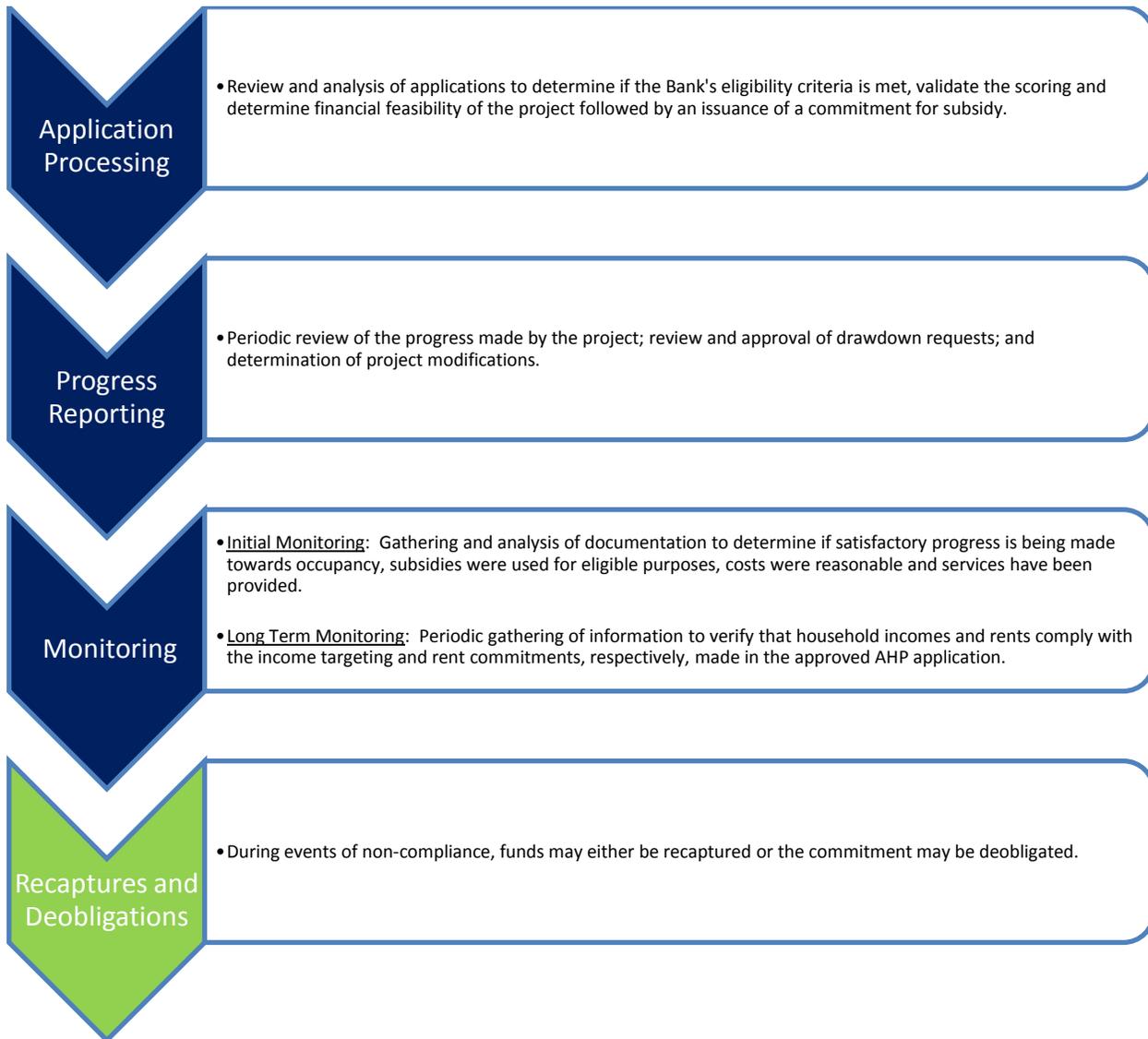


- a) A project has been placed on the FHLBNY's project watch list;
- b) The FHLBNY has obtained information that a project is not in compliance with the AHP regulation or has become aware of possible problems that suggests that a project may not be in compliance with the AHP regulations;
- c) The owner, sponsor, managing agent, or other party associated with the project have demonstrated a pattern of submitting inconsistent, evasive and/or incomplete information;
- d) The FHLBNY suspects the possible misuse of AHP funds, misrepresentation of factual information, the alteration of project documentation, or the failure to complete or continue to operate the project;
- e) The FHLBNY has received credible complaints about the project's development or operation;
- f) The ability of the project sponsor or owner to develop or operate the project appears to be threatened by newly discovered information or a change in circumstance.

Depending on the circumstances resulting in the FHLBNY's decision to conduct a site visit, the site visit by the FHLBNY or its designee may involve, but is not limited to, the following:

- a) A meeting with project representatives and/or other stakeholders such as other project funders;
- b) An on-site review of tenant files or other project records;
- c) An inspection of the project including residential units, administrative offices and common areas;
- d) A drive by inspection to confirm whether the project is in the stage of its lifecycle as reported by project representatives.

RECAPTURES AND DEOBLIGATIONS



FHLB NY may determine, via monitoring, evaluating funding requisitions, or receiving notification from a Member that AHP subsidy will not be, or is no longer being used for purposes that conform to the objectives set forth in the competitive AHP application or the AHP Regulation. Such a situation would constitute an event of non-compliance which may result in the recapture of AHP subsidy.

The AHP Regulation requires Members who pass AHP subsidy on to project sponsors and/or owners to have the recipients of AHP subsidy execute a legally enforceable retention mechanism which is recorded with the appropriate municipality and secures the AHP-assisted property and will authorize the



Member to recover subsidy from a project sponsor/owner or subsidy recipient if an event of non-compliance should occur which the sponsor/owner or subsidy recipient fails to remedy.

The Recapture Period

AHP funds are subject to recapture by the FHLB NY from the time that the Member draws down AHP funds until the preponderance of subsidy has been either properly used or repaid ("Recapture Period").

- a) The Recapture Period for owner-occupied units receiving AHP direct subsidies will equal 5 years from the respective date of closing;
- b) The Recapture Period for rental projects will equal 15 years from the date of the issuance of a final Certificate(s) of Occupancy or, if applicable, Certificate(s) of Final Completion;
- c) For subsidized advances, the Recapture Period will equal the term of the subsidized advance (i.e., its maturity date). The Recapture Period may be prematurely terminated with the prepayment in full of a subsidized advance.

Events of Non-Compliance

An AHP-assisted project may experience an Event of Non-Compliance when it fails to attain a level of performance which was specified and approved at time of application. Examples of Events of Non-Compliance may include, but are not limited to:

- a) Failure of an Member and/or sponsor to submit monitoring reports in a timely fashion;
- b) Failure to furnish required project monitoring documentation in a timely fashion;
- c) Failure of a project sponsor to properly maintain their nonprofit status;
- d) Failure of a project to attain its specified priorities/objectives (e.g., property use restrictions, occupancy targets, income restrictions, empowerment activities, long-term retention periods, etc.) regardless of minimal AHP regulatory requirements;
- e) Evidence of fraud or willful non-compliance by a project sponsor or owner;
- f) Failure to ensure or maintain the long-term affordability of all project units in accordance with the specified terms and conditions of the approved Competitive AHP Application; or
- g) Failure of a project to demonstrate that AHP subsidy continues to be essential for its financial feasibility (e.g., changes in the financial structure of a project, changes in the sources and uses of funds, violations of the maximum subsidy requirements, etc.).

Recapture

- a) Direct Subsidy Held by the Member Not Disbursed to Project

A Member which has been funded AHP subsidy is required to notify the FHLB NY immediately upon receiving information that the subsidy will not be or is no longer being used for the purposes



approved by the FHLBNY. If a Member has not disbursed all or part of a direct subsidy to a project, the FHLBNY will require the Member to immediately reimburse the FHLBNY for the full amount not disbursed.

If the Member does not reimburse the FHLBNY, the FHLBNY will then notify the Member that the Member's Demand Deposit Account ("DDA") or any other deposits, credits or moneys of the Member then in the possession of the FHLBNY will be debited.

In either case, if the subsidy subject to recapture remained in the possession of the Member for more than 30 days, the FHLBNY may, in its sole discretion, assess the Member a Fed Funds-driven per diem rate of interest.

b) Subsidized Advance

If a Member has not disbursed all or any part of a Subsidized Advance to a project, the FHLBNY may at its option:

- i. Retroactively reprice the advance to the interest rate charged to FHLBNY members on non-subsidized advances of comparable type and maturity at the time when the original advance was funded;
- ii. Require immediate repayment of all or any part of the advance (subject to prepayment fees); and/or
- iii. Assess a recapture fee for misuse of subsidy while the advance remained outstanding.

c) Direct Subsidy Disbursed to Project

If a project sponsor fails to correct the event of non-compliance and the remediation period (if applicable) has expired, the Member is accountable for recovering all AHP subsidy from a project on a "pro rata" basis as determined by the FHLBNY. In order to effectively implement the FHLBNY's recapture requirements, the AHP Regulation requires the Member to have on public record a soft subordinate lien (or other legally enforceable agreement) secured by the project property which will permit the Member to recover subsidy from the sponsor or subsidy recipient.

In the event that the FHLBNY needs to initiate recapture proceedings against a project, the Member is responsible for either:

- i. Directly reimbursing the FHLBNY for the amount of direct subsidy subject to recapture; or
- ii. Providing written notice to the FHLBNY that foreclosure proceedings will promptly commence.



If the Member, in good faith, opts to directly reimburse the FHLBNY for any misused AHP subsidy and subsequently recover said funds from the project or subsidy recipient, the FHLBNY will debit the Member's DDA for the amount of AHP subsidy to be recaptured.

There are situations where the FHLBNY may determine that a sponsor either misused AHP funds or failed to bring a project to completion due to their own negligence. In such special cases, the FHLBNY may, in its sole discretion, require that the sponsor be personally liable for repaying for the full amount of the AHP subsidy subject to recovery, regardless of the amount successfully recovered through a foreclosure action.

If the Member has *not* taken steps to record a lien or otherwise safeguard their interest in a project and enforce the AHP Regulation, the Member will be liable for reimbursing the FHLBNY for the pro rata portion of the misused AHP subsidy.

d) Premature Sale, Transfer, or Refinancing of Rental Projects

To preclude potential windfall profits from the premature sale of rental projects which were either developed or rehabilitated with AHP subsidy, Members are required, in the event of such a sale or transfer, to provide the FHLBNY with:

- i. Evidence that a deed restriction or other legally enforceable retention mechanism is in place that ensures ongoing affordability and that the rental property will continue to be used for the purpose originally intended;
- ii. Evidence if the project is refinanced that the project continues to be subject to a deed restriction or other legally enforceable retention agreement;
- iii. Reimbursement of the full amount of the AHP subsidy provided to the project.

e) Premature Sale, Transfer, or Refinancing of Homeownership Project Units

If an owner-occupant decides to sell or refinance his or her AHP-assisted unit during the recapture period, a pro rata portion of the AHP subsidy may need to be repaid to the FHLBNY from any *net gain* realized upon the sale or refinancing, unless:

- i. The unit is sold to a very low-, or low- or moderate-income household; or
- ii. Following a refinancing, the unit remains subject to a standard, legally enforceable AHP retention agreement.

f) Foreclosure

In cases of foreclosure or a deed-in-lieu of foreclosure, there is no obligation to repay AHP subsidy.



If an AHP-assisted rental project or property is sold or refinanced prior to the completion of a foreclosure action (including a deed-in-lieu of foreclosure), the Sponsor or owner must repay the “full amount of the AHP subsidy,” unless:

- i. The project continues to be subject to a deed restriction or other legally enforceable retention agreement, or mechanism incorporating the income-eligibility and affordability restrictions committed to in the approved AHP application for the duration of the retention period; or
- ii. If authorized by the FHLBNY, in its discretion, the projects households are relocated, due to the exercise of eminent domain, or for expansion of housing or services, to another property that is made subject to a deed restriction or other legally enforceable retention agreement or mechanism incorporating the income-eligibility and affordability restrictions committed to in the approved AHP application for the remainder of the retention period.

“The income-eligibility and affordability restrictions applicable to the project shall terminate after any foreclosure.” Therefore, an AHP-assisted rental project or property’s obligation to meet rent and income-eligibility restrictions terminate at the conclusion of the foreclosure action.

g) AHP Settlements

In rare instances, the FHLBNY will consider charging off a balance of AHP subsidy that is subject to recapture when all economically sensible means of recovery have been exhausted. Such consideration will include, but not limited to, the following:

- i. The dollar amount of AHP subsidy that was disbursed to a particular project or property;
- ii. The market value of the project or property in comparison to the AHP subsidy subject to recapture;
- iii. The dollar value of improvements made to the AHP-assisted project or property;
- iv. The inhabitable condition of an AHP-assisted project or property; or
- v. A Sponsor’s insolvency or other adverse financial condition that impedes their reasonable ability to repay the AHP obligation.

Alternatives to Recapture

a) Project Modifications

Circumstances beyond the control of the sponsor may prevent the project from attaining all of the levels of performance which were specified and approved in the AHP application. In an effort to assist the sponsor in fully attaining a project’s approved objectives approved in the levels of performance, the FHLBNY will initially consider and, when feasible, approve a Remediation Period (as defined below in Section b).



Prior to the final disbursement of funds from all financing sources to an AHP-assisted project, a Member may request a modification to the specified terms of an approved AHP application (including a request for additional AHP subsidy) if there is or will be a change in the project which materially affects the facts under which the AHP application was originally scored and approved. The FHLBNY, in its sole discretion, may approve such a request under the following conditions:

- i. The project will continue to meet AHP eligibility requirements;
- ii. The application will continue to score and rank high enough to have been approved in its respective competitive funding period, reflective of the modified characteristics; and
- iii. The FHLBNY determines that, based on justifiable circumstances, there is good cause for the modification.

Once an AHP-assisted project has been completed and all funding sources have fully advanced their respective financing commitments, the Member may request a modification to the terms of an approved AHP application (*except* for requesting additional AHP subsidy) if there is, or will be a change in the project which materially affects the facts under which the AHP application was originally scored and approved. The FHLBNY may approve such a request based upon the following:

- i. The project is in financial distress, or is at substantial risk of falling into such distress;
- ii. The project sponsor has made best efforts to avoid noncompliance with the terms of the approved AHP application;
- iii. The project will continue to meet AHP eligibility requirements; and
- iv. The application will continue to score high enough to have been approved in the funding period in which it was originally scored and approved by the FHLBNY.

b) Remediation Periods

If a project does not qualify for a modification, the FHLBNY will require the Member to demand that the sponsor restore the project to full compliance as quickly as possible.

Under such circumstances, the Member may submit a written request to the FHLBNY for a remediation period. The written request should include a formal Plan of Action, which the project sponsor will implement during remediation period in order to restore the project to compliance. The FHLBNY, in its sole discretion, may approve a remediation period (for a specified period of time not



to exceed 12 months) for a project if the Member or project can effectively justify the request and the Plan of Action is acceptable.

During the remediation period, the FHLBNY, in its sole discretion, also reserves the right to temporarily suspend the project and/or project sponsor from participation in AHP-related activities (i.e., draw downs, modifications, or submission of new AHP applications).

De-Obligation of AHP Subsidy

The following may cause the FHLBNY to un-commit, or de-obligate, any unfunded AHP subsidy that was conditionally committed to a project:

- a) the Member or project sponsor formally withdraws an approved AHP project;
- b) a project cannot be brought to fruition and cannot meet the progress reporting milestones
- c) FHLBNY cancels the balance of an AHP Commitment because an event of non-compliance has not been satisfactorily remedied.



Requirements For First Home Club

ENROLLMENT PERIODS

FHLBNY offers monthly enrollment periods.

PROGRAM OVERVIEW

FHC assistance is provided in the form of matching funds based on the household's systematic savings within a dedicated savings account which may be used toward the down payment and/or closing costs for the purchase of a home.

The following guidelines apply to the FHC:

- a) FHLBNY will reserve up to the greater of \$4.5 million or 35% of its annual AHP allocation in order to finance the FHC.
- b) The FHLBNY may limit the number of households Members enroll in the FHC based on past performance, membership need, a maximum annual enrollment allotment to any one member, or any other criteria the FHLBNY determines appropriate in its sole discretion.
- c) The FHLBNY, in its sole discretion, reserves the right to use any FHC funds that are periodically deemed to be surplus to replenish its competitive AHP.
- d) Members will provide set-aside funds only to households that meet the following criteria:
 - i. Satisfy the definition of a first-time home buyer, based upon the U.S. Department of Housing and Urban Development ("HUD"):
 - An individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property. This includes a spouse (if either meets the above test, they are considered first-time homebuyers).
 - A single parent who has only owned a principal residence with a former spouse while married.
 - An individual who is a displaced homemaker and has only owned a principal residence with a spouse.
 - An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations.
 - An individual who has only owned a property that was not in compliance with state, local or model building codes and that cannot be brought into compliance for less than the cost of constructing a permanent structure.
 - ii. Be a resident in the FHLBNY district of New York, New Jersey, Puerto Rico or the U.S. Virgin Islands
 - iii. Purchase an eligible property type:



- 1 - 4 family homes
 - Condominiums
 - Co-operatives
 - Manufactured homes permanently affixed to a foundation
- iv. Be enrolled through a FHC participating Member.
 - v. Have a household income of 80% or less of the area median for their current place of residence, adjusted for family size, at the time a dedicated savings account is established.
 - vi. Open a dedicated account with an approved Member and systematically save on a monthly basis for a period in accordance with the FHC Guidelines.
 - vii. Complete a homebuyer counseling program.
 - viii. Obtain mortgage financing from the Member, or a wholly owned subsidiary, for the purchase of a primary residence.
 - ix. Sign, at the time of closing, a five-year Retention Agreement (subordinate mortgage or deed restriction) with the Member for the amount of the FHC grant.
 - x. Meet the underwriting standards of the FHLBNY.
- e) FHLBNY will utilize a 4:1 ratio in matching a household's savings. For every \$1 saved and deposited into the dedicated account with the Member under a systematic schedule of savings, the FHLBNY will match \$4 in set-aside funds, not to exceed \$7,500 in matching funds per household.
 - f) FHC funds may be used toward the down payment and/or closing costs for the purchase of a home by a qualified household.
 - g) FHC funds may only be disbursed to the Member and the appropriate retention agreement must be in the Member's name.
 - h) The Member may provide cash back to a household at closing in an amount not exceeding \$250 above the sum of the items reflected on a HUD-1 Settlement Statement and/or a Closing Disclosure, in order to partially reimburse the household for any pre-closing expenses directly related to the acquisition of their dwelling, i.e., mortgage application fees, credit report fees, appraisal fees, or property inspection fees, or down payment costs.
 - i) Additional funds may be provided to the Member of up to a maximum of \$500 to defray the costs of a non-profit housing agency providing home ownership and credit counseling courses to FHC households that successfully close on a FHC assisted home provided:
 - i. Such costs were incurred in connection with a qualified household who has attended and successfully completed a formal counseling program and ultimately purchases an AHP-assisted unit



- ii. The cost of such counseling has not been covered by another funding source, including the Member
- iii. The cumulative amount of the FHC subsidy funded to each household, including any homebuyer counseling costs (e.g., \$7,500 + \$500 = \$8,000), must be reflected in the AHP retention agreements and reflected on the HUD-1 Settlement Statement and/or the Closing Disclosure.

MEDIAN INCOME

Households must be qualified using the following:

- The applicable median family income, as determined under 26 U.S.C. 143(f) (Mortgage Revenue Bonds) and published by a State agency or instrumentality.
- The median income for the area, as published annually by U.S. Department of Housing and Urban Development (“HUD”). The intent is to use MRB however in the event the income limits are not available or stale (defined as over 5 years) the Bank has the option to use HUD median income limits.

FUNDING FHC SUBSIDY

The Member must submit the First Home Club Funding Certification and accompanying documentation, as outlined in the FHC Guidelines, at the time of request for commitment of funds.

ENROLLMENT EXTENSION OPTIONS

All extensions are at the sole discretion of FHLBNY. As a general rule, the guidelines for extensions are as follows:

- ❖ For all Households enrolled in 2015 and forward, the maximum timeframe to close and fund is within 24 months.
- ❖ For Households enrolled in 2014 only, the maximum timeframe to close and fund is 24 months; however, there is an option for a one-time six month extension upon the FHC Member’s request.
- ❖ For Households enrolled in 2012 and 2013, the maximum timeframe to close and fund is 24 months; however, there is an option for a one-time twelve month extension upon the FHC Member’s request.

A Household that has withdrawn from the program can be considered again; however, that Household must be submitted under a new enrollment period and evidence satisfaction of all program requirements.

RETENTION PERIODS

All FHC-assisted households must continue to comply with the requirements of the AHP Regulation for a minimal period of time, known as the “Retention Period.” The Retention Period shall be five (5) years from the date of closing.

MONITORING PRACTICES

Transfers of title for owner-occupied properties are effectively monitored through legally enforceable FHC Retention Agreements. On an annual basis the FHC will require its participating Members certify households within the five year retention period have not had an event of non-compliance.

RECAPTURE AND EVENTS OF NON-COMPLIANCE

FHLBNY may determine by receiving notification from a Member that FHC subsidy will not be, or is no longer being used for purposes that conform to the AHP Regulation. Such a situation would constitute an event of non-compliance which may result in the recapture of FHC subsidy.

Recapture

a) Direct Subsidy Held by the Member Not Disbursed to Household

A Member which has been funded FHC subsidy is required to notify FHLBNY immediately upon receiving information that the subsidy will not be or is no longer being used for the intended purchase of the home by the household approved for subsidy.

If the Member does not reimburse FHLBNY, the Member's Demand Deposit Account ("DDA") or any other deposits, credits or moneys of the Member then in the possession of the FHLBNY may be debited at the sole discretion of FHLBNY.

If the subsidy subject to recapture remains in the possession of the Member for more than 30 days, the FHLBNY may, in its sole discretion, assess the Member a Fed Funds-driven per diem rate of interest.

b) Direct Subsidy Disbursed to Household

If a household fails to correct an event of non-compliance, the Member is accountable for recovering all FHC subsidy from a household on a “pro rata” basis as determined by FHLBNY. If the Member does not reimburse FHLBNY, the Member's Demand Deposit Account ("DDA") or any other deposits, credits or moneys of the Member then in the possession of the FHLBNY may be debited at the sole discretion of FHLBNY.



c) Premature Sale, Transfer, or Refinancing

If an owner-occupant decides to sell or refinance the FHC-assisted unit during the Recapture Period, a pro rata portion of the FHC grant may need to be repaid to the FHLB NY from any *net gain* realized upon the sale or refinancing, unless:

- i. The unit is sold to a very low-, or low- or moderate-income household; or
- ii. Following a refinancing, the unit remains subject to a standard, legally enforceable FHC retention agreement.

d) Foreclosure

In cases of foreclosure or a deed-in-lieu of foreclosure, there is no obligation to repay FHC subsidy.

Events of Non-Compliance

A FHC-assisted property may experience an event of non-compliance when it fails to attain a level of performance which was specified and approved at time of enrollment. Examples of events of non-compliance may include, but are not limited to:

- a) Evidence of fraud or willful non-compliance by a homeowner, Member or counseling agency;
- b) The homeowner refinances or obtains additional subordinate debt (including a home equity loan) prior to the expiration of the 5-year Retention Period unless the property continues to be subject to a legally enforceable AHP retention agreement.

RE-USE OF REPAID AHP SUBSIDIES

FHLB NY will not allow Members or project sponsors to re-use repaid AHP subsidies. Any repaid AHP subsidies must be returned to FHLB NY for use by eligible projects and/or eligible households.

REVOLVING LOAN FUNDS AND LOAN POOLS

As specified above, FHLB NY will not allow Members or project sponsors to re-use repaid AHP subsidies. Consequently, FHLB NY will not authorize AHP subsidy to finance any revolving loan funds or loan pools.