



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 Regulation”) and published in the Federal Register under 12 CFR Part 1291, 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 the Occupancy Handbook that the U. S. Department of Housing and Urban Development (“HUD”) has issued, annual income shall include, but is not necessarily 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 the HUD Occupancy Handbook, 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.) ;
- The value of food stamp allotments (per §913.106 of the HUD regulations);
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- Deferred periodic payments from supplemental security income and Social Security benefits that are received in a lump-sum amount or in prospective monthly disbursements;
- Amounts received by the household in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit; and
- Amounts paid by a state agency to a household with a family member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.

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 ensuring that each household who is selected to purchase and/or occupy an AHP-subsidized unit meets the eligibility criteria set forth in the AHP Regulation. The FHLB-NY shall implement the following parameters in determining household eligibility:

a) Owner-occupied projects

In accordance with § 1291.5(c)(1)(i) of the AHP Regulation, “A household must have an income meeting the income targeting commitments in the approved AHP application at the time it is qualified by the project sponsor for participation 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 that the household is approved to participate in the project.
- For projects involving sweat equity, the time of approval is the date that the sponsor formally qualifies the household for participation in the project and enters into 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 that utilize AHP subsidies to provide downpayment and closing cost assistance to households who are purchasing existing homes on the open market, the time of approval is the date that the household is issued a mortgage financing commitment letter from a conventional lender.

- For projects that utilize AHP subsidies in order to provide home renovation assistance to existing owner-occupants, the time of approval is within 60 days of the date that the sponsor commences the scope of rehabilitation work.

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 is screened and approved to initially occupy the project unit.

4. Income Source Documents

- Acceptable forms of income source documents may include the following:
 - Completed and signed 1040 Federal Income Tax Return forms with accompanying W-2 Wage Statements. The FHLB-NY will base a household's eligibility on the gross, unadjusted wages cited in Box 1 (Wages, tips, other compensation) or Box 3 (Social Security Wages) of the W-2 Wage Statement (whichever is the greater), as well as all other reported earnings set forth on the 1040 form.
 - The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
 - Paychecks with accompanying earnings/deductions statements
 - Completed and properly executed verification of employment letters
 - Social Security Supplemental Income notices
 - Retirement, disability, and/or unemployment benefit statements
 - 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 certifications of income eligibility
 - Court orders verifying alimony awards and child support payments
- Project Rental Assistance Contracts or other agreements that a sponsor of rental housing has executed with a government agency, if such agreements specify tenant income restrictions and occupancy targets.

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 are neither historically recurring nor reliable.

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