Federal Home Loan Bank of New York

AHP FAQS FOR OWNER-OCCUPIED PROJECTS

General Questions

What is the source of Affordable Housing Program (AHP) funds?

The AHP is fully comprised of private funds that are solely derived from a portion of the previous year's net income of the Federal Home Loan Bank of New York (FHLBNY). They are neither appropriated from the federal budget nor through taxpayer dollars. AHP subsidy is not to be considered taxable income.

Who may apply for AHP funds?

Only banking institutions or insurance companies who are FHLBNY stockholders in good standing (members) may submit AHP applications on behalf of private not-for-profit corporations, a state or a political subdivision of a state, state housing agencies, local housing authorities, or for-profit developers. (Please note that competitive scoring will vary depending on the governmental or non-profit status of the project's primary sponsor.)

When are AHP applications due?

The FHLBNY accepts competitive AHP application rounds in accordance with the deadlines specified annually in the AHP Implementation Plan (AHP-100). Please visit the AHP page for more information about the program deadlines.

What is the maximum amount of AHP subsidy that the FHLBNY provides to a homeowner project?

$20,000 per dwelling or 10% of the total pool of AHP subsidy offered for a given competitive round, whichever is less.

How can AHP funds assist homebuyers and existing homeowners?

First, AHP funds may be used to finance downpayments, closing costs, homeowner counseling (up to $500), and/or interest rate buydowns in connection with the acquisition of an owner-occupied dwelling. Second, AHP funds may also be used to finance the rehabilitation of an owner-occupied dwelling, including costs related to a developer's fee. Third, AHP funds may also be used to finance hard construction costs and certain soft costs (subject to the consent of the FHLBNY) associated with the erection of new homes or the renovation of abandoned dwellings for subsequent sale to eligible households. In any case, the AHP subsidy must directly benefit the owner-occupant household.

What is considered an eligible homeownership property?

One-to -four-family owner-occupied homes, co-ops, condos, and mobile homes that are attached to a permanent foundation. All units within the project must be targeted to households who earn 80% or less of the area median, adjusted for family size. For AHP purposes, dwellings that contain one or more rental units must be owner-occupied and shall be considered a single residential unit.

May a sponsor apply to more than one Federal Home Loan Bank (FHLBank) for an AHP subsidy for the same project?

Yes. However, the sponsor should disclose on the application form how much AHP subsidy has been requested from each FHLBank and reflect all AHP allocations on the appropriate Worksheet (see AHP/APP-104). If any AHP applications are pending, the project will need to demonstrate a continued need for each award if every AHP application is subsequently approved for funding.

Can AHP subsidy funds be used with other grant programs?

Yes, AHP funds may be used in conjunction with other grant programs and are customarily used to leverage all types of funding sources. Competitive AHP subsidy funds may also be used to supplement the FHLBNY's First Home Club[sm]

(FHC), to a collective maximum of $20,000 per household. However, if the concept of combining an AHP and FHC subsidy was not originally specified and approved in the competitive AHP application, the sponsor must contact the FHLBNY and request a project modification.

Can competitive AHP subsidy funds be used to refinance owner-occupied dwellings?

No.

Household Eligibility Questions

Who is an eligible household?

A household who earns 80% or less of the applicable area median income, adjusted for family size.

When is a household's income established to determine eligibility for AHP assistance?

For Habitat-type projects, homeownership programs that employ Individual Development Accounts (IDA), and owner-occupied rehabilitation projects, a household's income and AHP eligibility are determined at the time that they are enrolled and approved to participate in the project. For all other homebuyer initiatives, a household's income and AHP eligibility are determined at the time that they are approved for mortgage financing (i.e., the issuance date of the loan commitment).

Should a household's income calculation include court-ordered monthly child support payments, even if the estranged parent is in default for non-payment of such support?

Yes.

Is a student eligible to purchase an AHP-assisted dwelling?

No. An AHP-assisted homebuyer must be credit worthy and duly employed, or at least furnish evidence that they receive a recurring and reliable stream of income derived through a pension, disability award, Social Security, Individual Retirement Accounts, or other recurring sources.

If a household requires a co-bondsman in order obtain a mortgage to purchase the dwelling, will the co-borrower's income be included in the income determination calculation?

If the co-bondsman's name will appear on the deed, even if the co-bondsman will not reside at the AHP-assisted property, the co-bondsman is actually a co-borrower and their income will be included when determining the household's eligibility. Conversely, if the co-bondsman's name will not appear on the deed, and they will not reside at the AHP-assisted property, they are indeed a co-bondsman and, as such, their income will not be included to determine income household eligibility.

Is this an asset-based program?

No. Eligibility is based solely on income. As such, earnings derived from assets (such as interest or dividends) and imputed income from assets such as real estate must be added to other income sources in order to determine income eligibility. Please refer to Guidelines for Determining Income Eligibility (AHP-103) for further details.

Must a household exhaust a certain level of personal assets prior to utilizing AHP funds?

No.

AHP Funding Requisition Questions

When can a project sponsor begin to draw down committed AHP funds?

Once the FHLBNY approves a project for an allocation of AHP funds, the FHLBNY issues an AHP commitment package to the member, which includes a tri-party AHP Subsidy Agreement and Memorandum of Understanding (AHP-108), which an authorized representative of the project's sponsor must execute along with the member. Once the FHLBNY receives all necessary AHP commitment agreements, the project sponsor may requisition the AHP funds by submitting all required forms and supporting documentation specified in the AHP Application Drawdown Package (AHP-127 through AHP-133).

Does the FHLBNY disburse funds directly to the project sponsor or homeowner?

No. AHP funds are credited to the Demand Deposit Account (DDA) that a member maintains at the FHLBNY. The member, in turn, should disburse the AHP funds to the project sponsor or homeowner within a 30-day period.

How long does the FHLBNY maintain AHP funding reservations?

The initial AHP commitment is issued for a period of approximately six months. Thereafter, subject to adequate supporting documentation that the sponsor has a reasonable pipeline of households and the development of the project is satisfactorily progressing, the FHLBNY may, in its sole discretion, approve subsequent extensions of the AHP commitment for a period of time not to exceed six months. If the AHP funds have not been fully drawn within 3 years of the issuance date of the AHP commitment, the FHLBNY reserves the right to cancel the AHP commitment.

Homebuyer Project Questions

For households who receive AHP subsidy to purchase a home, how long will the FHLBNY hold an interest in their property?

AHP-assisted homebuyers must own and occupy their home in accordance with the federal AHP regulation for a period of 5 years (Retention Period), commencing with the closing date. The member must publicly record a "soft" AHP subordinate lien against the property for a 5-year term (see AHP Long-Term Retention Documents for Homeowner Projects under AHP-111 and AHP-112). The AHP subordinate lien dissolves at the conclusion of the Retention Period.

In what position will the AHP lien be?

The AHP lien, by definition, is a subordinate lien. Therefore, it is generally second or third in position, subject to the requirement(s) of the primary mortgage lender and the dollar value of any secondary loans and other grants.

Does a standard HUD-1 Settlement Statement need to be prepared when a household receives AHP subsidy?

The federal Real Estate Settlement Procedures Act (RESPA) pertains to all loans that are secured with a mortgage placed on a one-to-four-family residential property. In accordance with RESPA, a HUD-1 Settlement Statement is the standard, industry-wide accepted form that accounts for all closing costs and charges related to a home purchase. Since the AHP is a federally regulated program and our members are either regulated by or have deposits that are insured by an agency of the federal government, all AHP-assisted transactions must be memorialized using a standard HUD-1 Settlement Statement.

Is a household allowed to receive any cash back at closing?

A member may permit cash back to an AHP-assisted homebuyer at closing on the mortgage loan in an amount not to exceed $250, in order to partially reimburse the household for any pre-closing expenses directly related to the acquisition of their dwelling, such as mortgage application fees, credit report fees, appraisal fees, or property inspection fees (but excluding earnest money). Households who qualify for rehabilitation assistance under the AHP subsidy should not receive any cash back at the time that the home renovations or other improvements are completed. FHLBNY staff will subsequently evaluate the HUD-1 Settlement Statement in order to confirm that these limitations have been satisfied.

Is a sponsor who is using AHP funds to assist households purchase a home permitted to charge a developer's fee or use AHP subsidy for administrative expenses?

No. However, as of the First Round 2008, subject to the approval of the FHLBNY, AHP funds may be provided to the member at time of closing in order to directly reimburse the sponsor up to $500 per household for credit counseling and homebuyer education expenses.

Owner-Occupied Rehabilitation Project Questions

For households who receive AHP subsidy to rehabilitate their homes, how long will the FHLBNY hold an interest in their property?

AHP-assisted homebuyers must own and occupy their home in accordance with the federal AHP regulation for a period of 5 years (Retention Period), commencing with the date that the renovations and related rehabilitation work are completed.

The member must publicly record a "soft" AHP subordinate lien against the property for a 5-year term (see AHP Long-Term Retention Documents for Homeowner Projects under AHP-111 and AHP-112). The AHP subordinate lien dissolves at the conclusion of the Retention Period.

In what position will the AHP lien be?

The AHP lien is, by definition, a subordinate lien. Therefore, it is generally second or third in position, subject to the requirement(s) of the primary mortgage lender and the dollar value of any secondary loans and other grants. In cases where a property is free of any encumbrances, the AHP lien would theoretically be in first position.

Must a household requesting subsidy to rehabilitate an existing home be current in their payments for real estate taxes, property insurance and existing mortgage(s)?

Yes. Since the AHP subsidy is a recoverable grant, the owner-occupant must be creditworthy and financially responsible. If an owner-occupant is in default for non-payment of taxes, insurance, or other home mortgages, the security of the AHP subsidy would be placed at risk.

May a household who is currently approved for forbearance or other workout agreement with a mortgage lender receive AHP subsidy to rehabilitate their home?

No. Since the AHP subsidy is a recoverable grant, the owner-occupant must be creditworthy and financially responsible. Any delinquency with a primary lender places the security of the AHP subsidy at risk.

What is a "life estate"? If a household has a life estate, is the household eligible to receive AHP subsidy in order to rehabilitate an existing home? How is the household's income eligibility determined?

A life estate designates the ownership of a person's real property for the duration of his or her life. It is typically used as an estate planning tool and may avoid probate, thereby ensuring that an intended heir will receive title to the property. AHP subsidy may be used to renovate or rehabilitate a property in life estate status. The eligibility of the household is solely determined by the current income of the family member(s) who hold(s) the life estate and reside(s) at the property, exclusive of the designated heir(s).

Is a sponsor who is using AHP funds to assist households renovate their homes permitted to charge a developer's retention or use AHP subsidy to finance the salary of an in-house rehabilitation specialist or other administrative expenses?

A sponsor may retain up to 15% of the hard construction/rehabilitation costs as a developer's fee. Additional AHP funds cannot be requested to finance any other expenses such as a rehabilitation specialist's salary or other administrative expenses.

AHP Homeowner Retention Agreement Questions

Who pays the cost of recording the AHP long-term retention documents?

For homebuyer assistance projects, all lien recording expenses should be itemized on the HUD-1 Settlement Statement and would be considered an eligible AHP expense. If paid outside of the closing, the member and the sponsor have the discretion to determine whether the costs will be borne by the member, the sponsor, or the household. For owner-occupied rehabilitation projects, the sponsor may not receive additional AHP funds in order to finance recording expenses. The member and the sponsor have the discretion to determine whether the costs will be borne by the member, the sponsor, or the household.

If a homeowner sells their AHP-assisted dwelling prior to the conclusion of the Retention Period, must the AHP subsidy be repaid?

In the event that the property is sold to another household whose documented income does not exceed 80% of the area median income, no AHP subsidy needs to be repaid. Otherwise, the household must repay a pro rata share of the AHP subsidy to the member which, in turn, must be returned to the FHLBNY forthwith. For every month that the household owned and occupied their dwelling in accordance with the regulatory requirements of the AHP, 1/60th of the AHP subsidy shall be forgiven and not subject to recovery.

If the homeowner dies before the conclusion of the Retention Period, is the estate responsible for repaying the AHP subsidy?

If an income-eligible heir inherits the property, the AHP subsidy does not need to be repaid, provided that the heir will occupy the dwelling and comply with the AHP regulatory requirements for the duration of the Retention Period. Otherwise, the estate is liable to the member for a pro rata share of the AHP subsidy which, in turn, must be returned to the FHLBNY forthwith. For every month that the household owned and occupied their dwelling in accordance with the regulatory requirements of the AHP, 1/60th of the AHP subsidy shall be forgiven and not subject to recovery.

Who prepares a discharge of the AHP lien at the conclusion of the Retention Period?

If the project has been duly managed in accordance with the requirements of the AHP regulation, the project sponsor or owner may request the member to prepare and execute a legal release that discharges the AHP subordinate lien upon completion of the Retention Period.

If the homeowner chooses to refinance any other mortgages on the property prior to the conclusion of the Retention Period, must the AHP subsidy be repaid?

No, as long as the AHP subordinate lien remains in place and the household continues to occupy the dwelling in accordance with the regulatory requirements of the AHP.

AHP Homeownership Monitoring Requirements And Member Concerns

What are the benefits to members who participate in the AHP?

The benefits include receiving service award credits during the member's CRA examination for serving as a conduit for the AHP grants; investment credit if they originate construction or permanent mortgages to the project assisted with AHP; the opportunity of new business with the sponsor and assisted households to open new accounts or apply for new permanent mortgages, second mortgages, home equity loans, and personal loans; the possibility of positive publicity; and enhanced political and community relations.

What are the risks to members who participate in the AHP?

Generally, the only risks include that the grants the member served as a conduit for may be classified as "contingent liabilities" and thus impact the member's balance sheet; and the time and expense that may be associated with resolving an event of non-compliance. In the worst case, the FHLBNY could debit the member's DDA for the amount due in that event, but the member is only responsible to transmit the amount recovered through reasonable collection efforts, as long as the AHP retention agreements have been duly executed and placed on public record.

What are the member's responsibilities in securing the AHP subsidy during the construction phase if AHP funds are used to construct or rehabilitate homes for subsequent sale to eligible households?

Only in limited cases will the FHLBNY and the member agree to disburse funds during the construction period for such projects. Instead, funds will be disbursed once the an owner-occupant executes the standard AHP retention agreements (see AHP-111 and AHP-112) at time of closing. However, if an agreement is made that funds will be disbursed to the sponsor during the construction phase, the AHP regulation does not address how AHP funds should be secured during the construction phase of development. Therefore, the member may, in their sole discretion, require that the project sponsor or developer execute a legally-enforceable mechanism that will adequately secure the AHP subsidy during the construction phase and facilitate a foreclosure action if the project is not brought to completion or encounters some other event of regulatory non-compliance. The FHLBNY has not designed standard agreements for this situation. The member has the right to develop appropriate legal agreements. Once executed and recorded, the member may release a pro-rated share of the AHP lien once an owner-occupant executes the standard AHP retention agreements (see AHP-111 and AHP-112) at time of closing. Otherwise, the member may keep the existing mechanism in place and subordinate it to the new end loan when each respective owner-occupant takes title to a project unit.

What are the AHP monitoring requirements for owner-occupied projects?

Most of the required supporting documentation is customarily submitted with the drawdown package. Any supplemental documentation not previously provided with drawdown package is due with the initial AHP compliance monitoring report. Homeownership projects are not required to submit long-term monitoring reports. The member must simply report to the FHLBNY regarding any sales or related recovery of AHP subsidy that arise during the Retention Period. If an AHP-assisted owner-occupant defaults on a mortgage loan or commits any other act of non-compliance under the AHP regulation, the member, must exercise their legal rights as a subordinate lien holder and join in on any foreclosure action that is commenced against the AHP-assisted property. Kindly refer to the AHP Compliance Monitoring Guidelines (AHP-102), the AHP Compliance Late Receipt Policy (AHP-104), and the AHP Recapture Guidelines (AHP-105) for complete details.

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