



Federal Home Loan Bank  
NEW YORK

# Homebuyer Dream Program™ Guidelines

May 2019



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## Introduction

The mission of the Federal Home Loan Bank of New York (“FHLBNY”) is to advance housing opportunity and local community development by supporting FHLBNY Member Financial Institutions (“Member”) in serving their markets. The FHLBNY meets our mission by providing our Members with access to economical wholesale credit and assistance through our credit products, mortgage finance program, housing and community lending programs, and correspondent services to increase the availability of home finance to families of all incomes. Each year since 1990, the FHLBNY has contributed 10% of its net earnings to the Affordable Housing Programs (“AHP”). The FHLBNY accepts applications for two affordable housing programs, the Competitive Affordable Housing Program and a First-Time Homebuyer Set-Aside Program.

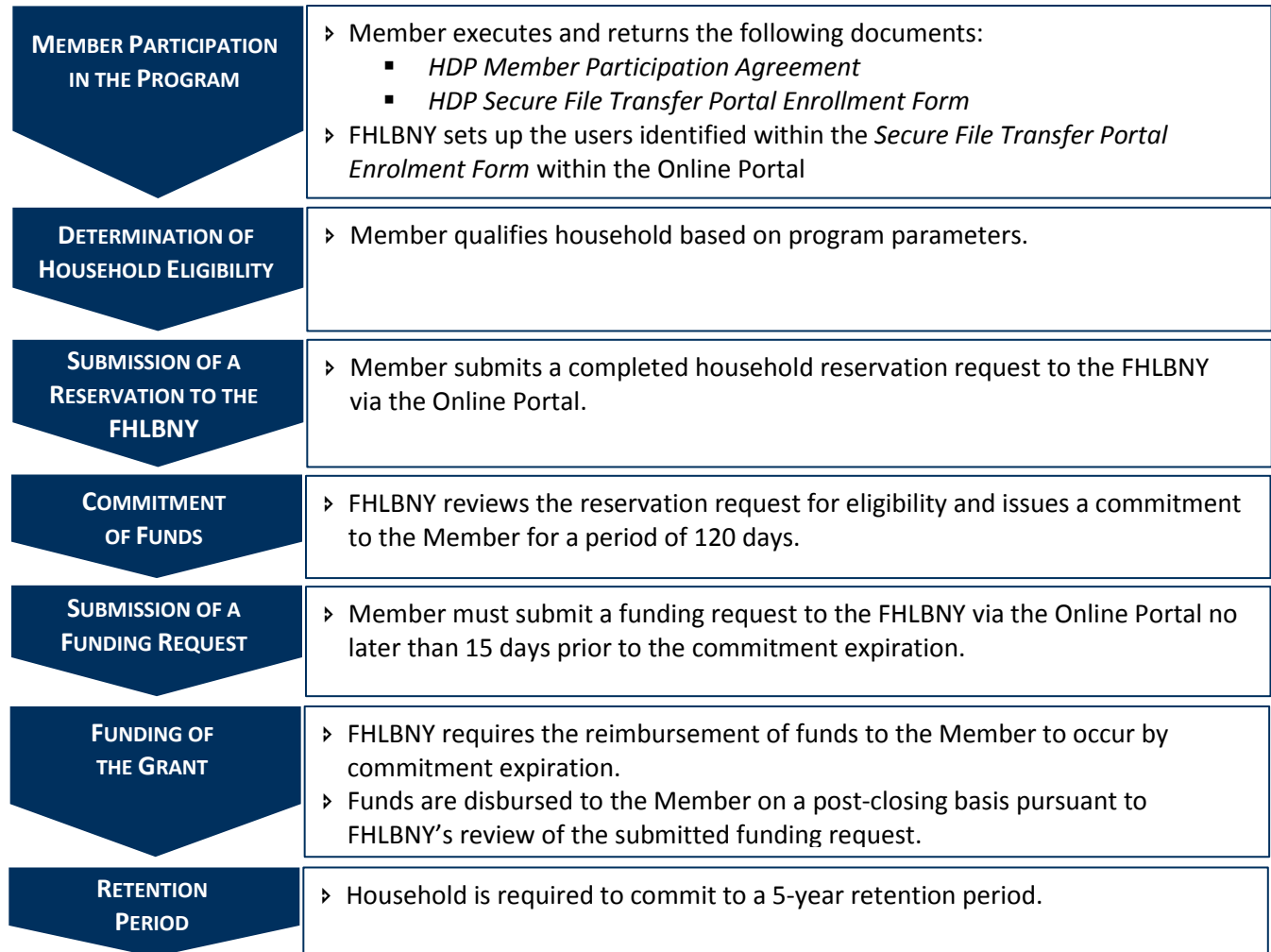
The Homebuyer Dream Program™ (“HDP”) is a federally regulated first-time homebuyer set-aside program that is managed within regulatory requirements established by the Federal Housing Finance Agency (“FHFA”) 12 C.F.R. Part 1291, as may be amended from time to time (“AHP Regulation”). The Homebuyer Dream Program provides funds in the form of a grant to be used towards down payment and closing cost assistance to first-time homebuyers earning at or below 80% of the Area Median Income (“AMI”) and purchasing homes in New York, New Jersey, Puerto Rico or the U.S. Virgin Islands.

The maximum grant that a household may receive is up to \$14,500, as determined by the Member, and submitted to the FHLBNY. Additionally, the Homebuyer Dream Program also offers up to \$500 towards the defrayment of homeownership counseling costs, which will be provided for the use of the household via the Member to the non-profit counseling agency. The amount of the defrayment will be added to the grant resulting in the potential maximum assistance of \$15,000.

The Homebuyer Dream Program Guidelines (“Program Guidelines”) will assist you as you work along with the homebuyer, and counseling agency to ensure HDP grants are executed and funded in a timely manner and in conjunction with the AHP Regulation, the FHLBNY AHP Implementation Plan (“Implementation Plan”) and these Program Guidelines. These Program Guidelines are intended to be illustrative, not exhaustive, as not all possible scenarios can be addressed herein.



The diagram below outlines the program life cycle beginning with Member Participation.



## Program Overview

### Program Offering

The Homebuyer Dream Program will be administered through an annual round on a first-come, first-served basis. The round will remain open for reservation requests until funds are exhausted, or until November 30<sup>th</sup> of the current calendar year, whichever occurs first.



## **Member Limit**

The maximum limit to any one Member is 20% of the initial round amount. The Member limit will be calculated based upon commitments issued by FHLB NY. The Member limit described herein does not constitute a guarantee that the FHLB NY will reserve or commit funds based on the Member's reservation request.

## **Member Participation**

Members who are in good standing with the FHLB NY may apply to participate in the Homebuyer Dream Program by completing the *HDP Member Participation Agreement*. By executing this Agreement, the Member agrees that it has received notification of and will comply with all the requirements established by the AHP Regulation, the FHLB NY AHP Implementation Plan, and the FHLB NY Homebuyer Dream Program Guidelines, which govern the Homebuyer Dream Program, whether now existing or hereafter amended or implemented. The Member also agrees that it will pass on the full amount of the AHP grant to the household and the AHP grant will be used in accordance with the terms of the Member Participation Agreement and the requirements of the AHP Regulations, Program Guidelines and the Implementation Plan.

Participation in the Homebuyer Dream Program may be suspended or debarred at any time at the sole discretion of the FHLB NY.

## **Secure File Transfer Portal**

Pursuant to applicable Federal and State laws, to protect household information that may be utilized to develop a credit profile if intercepted by an unauthorized third party, the FHLB NY requires that all HDP documentation be submitted through FHLB NY's Secure File Transfer Portal ("Online Portal").

FHLB NY must receive a fully executed *HDP Secure File Transfer Portal Enrollment Form* identifying Member representatives authorized to submit program documentation to the FHLB NY. Member representatives listed in the *HDP Secure File Transfer Portal Enrollment Form* must have both a User ID and password established for the Online Portal and must have completed a successful test file prior to submission of any HDP files to FHLB NY. It is the Member's responsibility to advise FHLB NY of any changes in Member representatives.

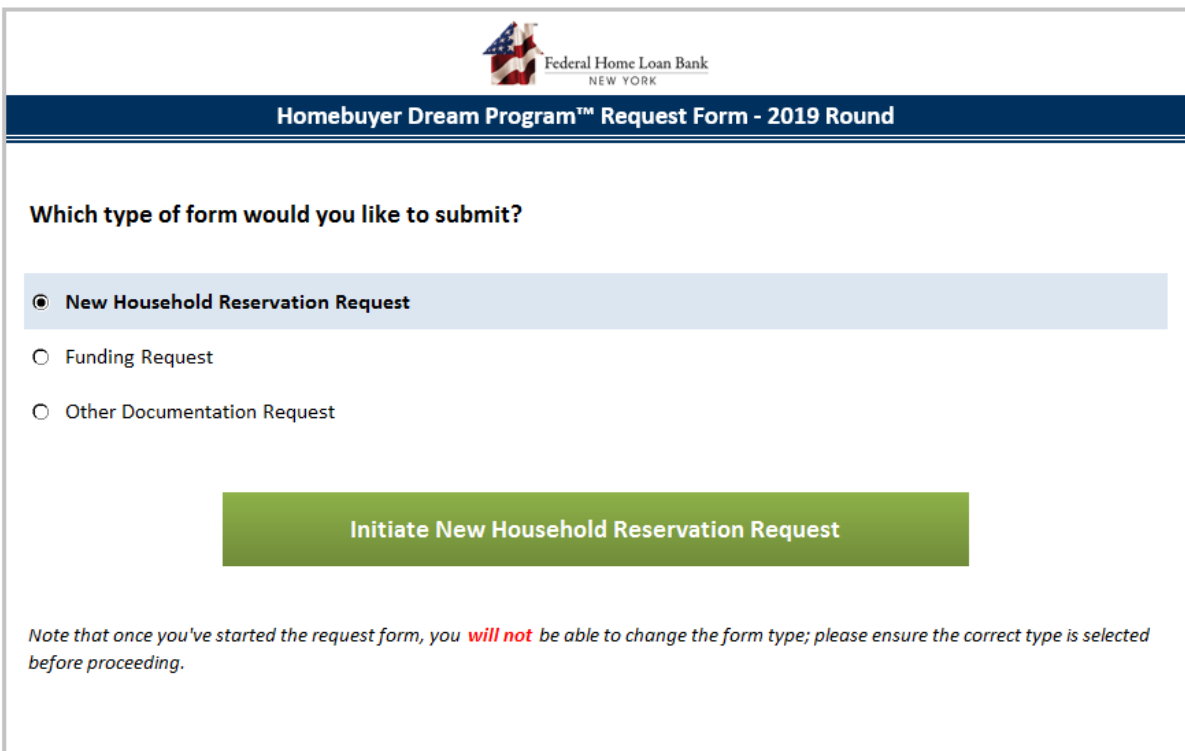
All files submitted through the Online Portal must be done as one Zip file and must contain a completed and accurate *Homebuyer Dream Program Request Form* (in MS Excel format, containing the .xlsx file extension) and all supporting documentation (in PDF format). Submissions received by



FHLB NY via e-mail or methods other than the Online Portal will not be accepted. A successful upload through the Online Portal does not constitute a reservation or commitment of funds.

## Submission of a New Household Reservation Request

To submit a new household reservation request, the Member must complete the *Homebuyer Dream Program Request Form* selecting the New Household Reservation Request option.



Federal Home Loan Bank  
NEW YORK

**Homebuyer Dream Program™ Request Form - 2019 Round**

**Which type of form would you like to submit?**

**New Household Reservation Request**

Funding Request

Other Documentation Request

**Initiate New Household Reservation Request**

*Note that once you've started the request form, you **will not** be able to change the form type; please ensure the correct type is selected before proceeding.*

The *Homebuyer Dream Program Request Form* along with the following required documentation (in PDF format) must be submitted to the FHLB NY via the Online Portal as one Zip file per household:

- » Income documentation for all sources of income for each income earning adult in the household.
- » Fully executed Purchase and Sales Contract.
- » Fully executed *HDP Homebuyer Certification*.
- » Fully executed homeownership counseling certificate.
- » Fully executed *HDP Zero Income Certification* form(s) for each Member of the household, 18 years and older, with zero income.
- » Fully executed legal separation agreement or court papers filed for divorce (if applicable).



The FHLBNY will review completed household reservation requests on a first-come first-served basis. The submission of a new household reservation request does not constitute a reservation or commitment of funds. In the event the FHLBNY receives an incomplete *Homebuyer Dream Program Request Form* and/or missing supporting documentation, the household reservation request will be denied and the Member will be required to submit a new household reservation request.

### **Commitment of Funds**

The FHLBNY, in its sole discretion, will determine whether each household has met the Homebuyer Dream Program eligibility requirements, prior to commitment of a HDP grant. Upon the FHLBNY's approval of the reservation request, the commitment of grant will be issued via email to the Member confirming commitment of the grant for a 120 day period.

The FHLBNY requires reimbursement of funds to the Member to occur by the commitment expiration date. It is the Members' responsibility to monitor the commitment period and communicate with the FHLBNY if there are any issues with submitting the funding request no later than 15 days prior to commitment expiration. At the time of commitment expiration, the household will be withdrawn from the program.

Once a commitment has been issued, changes to the grant amount will not be permitted. The homebuyer and property address on the commitment must match the homebuyer and property address identified on the retention documentation and Closing Disclosure. Commitments may not be transferred to another Member, property or homebuyer(s).

### **Submission of a Funding Request**

Funding requests must be submitted to the FHLBNY no later than fifteen (15) days prior to commitment expiration. The Member must submit a *Homebuyer Dream Program Request Form* (in MS Excel format, containing the .xlsx file extension) selecting the Funding Request option. The *Homebuyer Dream Program Request Form*, along with the following documentation (in PDF format), must be submitted to the FHLBNY via the Online Portal as one Zip file per household:

- » Closing Disclosure
- » *Subordinate Mortgage* including Exhibit A
- » UCC-1 Filing (applicable to cooperative )
- » *Certification of Intent to Record*
- » *Promissory Note* (applicable to Puerto Rico and US Virgin Islands only)
- » *Declaration of Restrictive Covenant* (applicable to FHA financing)



Failure to submit the required *Homebuyer Dream Program Request Form* and all supporting documentation to FHLBNY within the required timeframe may affect the Member's participation status in the Homebuyer Dream Program. FHLBNY reserves the right, in its sole discretion, not to fund the Member if the required *Homebuyer Dream Program Request Form* and all supporting documentation are not received and/or deemed acceptable to the FHLBNY.

### **Funding of the HDP Grant**

Upon review and approval by the FHLBNY of the *Homebuyer Dream Program Request Form* and all supporting documentation, the grant will be disbursed to the Member's Overnight Investment Account ("OIA") on a post-closing basis. An email notification confirming the transfer will be issued to the Member.

If the Member's funding request is denied, the Member will be required to record a release of the *Subordinate Mortgage* or the *Declaration of Restrictive Covenant*.

### **Submission of Other Documentation**

If additional documentation is requested by FHLBNY, the Member must submit a *Homebuyer Dream Program Request Form* (in MS Excel format, containing the .xlsx file extension) selecting the Other Documentation category. The *Homebuyer Dream Program Request Form* along with the requested documentation (in PDF format) must be submitted via the Online Portal as one Zip file per household.

### **Status Reporting**

Members are required to notify the FHLBNY of any household that ceases to participate in, or no longer qualifies for, the Homebuyer Dream Program. A *HDP Member Pipeline Status Report* will be issued to the Member via the Online Portal on a monthly basis. Upon receipt of the report, Members must review the status report and update the FHLBNY regarding any changes to the household's status to ensure that the Member's records align with the records of the FHLBNY.

Reports provided to the Member will remain available within the Online Portal until the end of a quarter, at which time reports dated 90 days or older are automatically deleted. The Member is solely responsible for downloading the *HDP Member Pipeline Status Report*.





## Program Requirements

Determining household eligibility is the responsibility of the Member and is based upon the reservation request date, defined as the date a new household reservation request is submitted to FHLB NY via the Online Portal. The Member must ensure the following Homebuyer Dream Program eligibility requirements are met:

- » Household is a first-time homebuyer as defined by 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 the 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 could not be brought into compliance for less than the cost of constructing a permanent structure.
- » Household must meet the income requirements of total household income at or below 80% of the Area Median Income (“AMI”) for the county in which the household is purchasing, adjusted for household size, as determined under 26 U.S.C. 143(f), Mortgage Revenues Bonds, as published by a State agency or instrumentality. For the U.S. Virgin Islands only, the median family income for the area, as published annually by HUD is used.
  - Household size is based upon the number of people who will reside in the home being purchased.
  - Divorced or separated homebuyer(s) who have joint custody of their children should include the children in their household count, regardless of the amount of custody time.
- » Household must adhere to the income and underwriting standards of the FHLB NY as described in the [Household Income](#) section within this document.



- » Household must purchase an eligible property type in FHLB NY's district of New York, New Jersey, Puerto Rico and the U.S. Virgin Islands.
  - Eligible properties include 1-4 family dwellings, townhouses, condominiums, cooperative housing units or manufactured housing (must be affixed to a permanent foundation) to be used as the household's primary residence.
  - In the case of new construction, construction must be completed prior to closing, and Member must ensure issuance of a Certificate of Occupancy.
  - Ineligible properties include investment properties and vacant land.
- » Homebuyer(s) must provide a fully executed Purchase and Sales Contract dated prior to the reservation request date.
- » Homebuyer(s) must complete a homeownership counseling program as further defined in the [Homeownership Counseling](#) section.
- » Homebuyer(s) must provide a minimum equity contribution of \$1,000 toward the purchase of the home as described in the [Household Equity Contribution](#) section within this document.
- » Homebuyer(s) must agree to sign, at time of closing, a 5-year Subordinate Mortgage or Declaration of Restrictive Covenant, with the Member in the amount of the total HDP grant.
- » Closing and reimbursement of funds to the Member must occur within the 120 day commitment period.
- » The Member must originate the first mortgage for the homebuyer(s) for whom the reservation is submitted. Members that do not originate residential mortgages may participate if they originate mortgages through a wholly-owned subsidiary.
- » Member's first mortgage financing does not exceed the annual percentage rate, points and fees, or prepayment penalty thresholds of the Home Ownership and Equity Protection Act of 1994 and its implementing regulation (Federal Board Regulation Z), and that the first mortgage loan does not violate any Anti-Predatory Lending Laws.
- » The Member must comply with the underwriting standards of the FHLB NY, including but not limited to:
  - Maximum original Loan to Value ("LTV") of 97% for conventional financing and mortgages insured by the Federal Housing Administration ("FHA").
  - Loans guaranteed by the Veterans Administration ("VA") are limited to 100% and LTV is calculated using the base mortgage amount.



- Total Debt to Income Ratio greater than 45% requires the Member provide an explanation of household affordability on the *Homebuyer Dream Program Request Form*.
- The term of the first mortgage financing cannot be less than 5 years.

## Household Income

The household's total income must be at or below 80% of the AMI for the county where the property is being purchased, adjusted for family size, as determined under 26 U.S.C. 143(f), Mortgage Revenues Bond ("MRB"), as published by a State agency or instrumentality. For the U.S. Virgin Islands only, the median family income for the area, as published annually by U.S. Department of Housing and Urban Development ("HUD") is used.

The Member is responsible for verifying all sources of income for all individuals who will reside in the home. The income of non-occupying co-signers, co-borrowers, or guarantors must also be included in the calculation for determining income eligibility.

The homebuyer(s) must demonstrate a reliable stream of income, which includes full time employment (defined as  $\geq 32$  hours a week), pension, disability award, Social Security, Individual Retirement Accounts, or other recurring sources.

Household members, 18 years and older, who do not receive income must execute a *HDP Zero-Income Certification* located on the FHLBNY's website and be identified under Section G of the *Income Calculation Worksheet*. In the event that a homebuyer is separated from their spouse, the homebuyer must provide a fully executed legal separation agreement or court papers filed for divorce, at the time of reservation, to evidence the separation in order to qualify individually as a first-time homebuyer.

### Eligible and Ineligible Income Sources

The following lists identify what does and does not constitute annual income.

#### What constitutes "income"?

- » Total annual anticipated income from all sources, at the time of reservation, received by the household, (even if a member is temporarily absent), prior to any payroll deductions of wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation of personal services.



- » Income derived from pension, disability award, Social Security, Individual Retirement Accounts, annuities, insurance policies, death benefits or similar types of periodic receipts.
- » Reported net income derived from operation of a business or profession over a one (1) year period.
- » Income consistently derived from stock portfolio earnings, dividends, and other interest income.
- » Net income of any kind of real or personal property.
- » Payment in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay.
- » Automobile allowance.
- » Alimony, child support, or separate maintenance.
- » Welfare assistance, SSI, and other non-earned income paid to children.
- » All regular pay, special pay, and allowances of a household member in the Armed Forces.
- » 75% of the total annualized anticipated rental income, if purchasing a 2-4 family unit property.

What does not constitute "income?"

- » Employment derived from individuals (including foster children) under the age of 18 years.
- » Payments received for the care of foster children or foster adults.
- » Non-recurring additions to household assets (e.g., inheritances, capital gains, insurance policy death benefit payments, settlement for personal/property losses).
- » Amounts received by the household that are specifically for, or in reimbursement of, the cost of medical expenses for any household member.
- » Income of a live-in aide.
- » Mileage reimbursement.
- » 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).
- » The value of food stamp allotments.
- » The special pay to a household 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 drawdowns.
- » 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.
- » Amounts paid by a state agency to a household with a 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 household member at home.

### **Household Income Calculation and Documentation Requirements**

The reservation request date must be used to determine the applicable MRB or HUD income guidelines and the age of each household member.

Household income must be calculated using the *Income Calculation Worksheet* embedded within the *Homebuyer Dream Program Request Form*. Income for all household members over the age of 18 must be documented within the *Income Calculation Worksheet*. Supporting income documentation used to calculate household income must accompany the fully completed *Homebuyer Dream Program Request Form* at the time of submission of the reservation request to FHLB NY. In addition to being clear and legible, all supporting income documentation must indicate the household member's name, as well as the date and source of the document.

At the sole discretion of FHLB NY, additional documentation may be requested. Income calculation and documentation standards are outlined below.

### **Employment Income**

Employment income for each member of the household should be captured in **Section A** of the *Income Calculation Worksheet*. Employment income, which includes gross pay and any other income that is recurring and consistent, should be supported by the following income documentation:

- » One (1) month of consecutive paychecks with accompanying earnings/deductions statements dated within 60 days of the reservation date. The pay period end date, not the check date, must be utilized in calculating income; or
- » Completed and properly executed Fannie Mae Request for Verification of Employment (Form 1005) dated within 60 days of the reservation date.
- » *Note: Employment ending or starting within the year of the reservation request will require a third-party verification of employment verifying both dates.*



The *Income Calculation Worksheet* will perform two calculations and use the higher figure as the annual income. The two calculations are as follows:

- The annualized forecast of current year-to-date (“YTD”) earnings, and
- The annualized forecast based on the average of one month of consecutive paystubs.

Section A - Employment Income									
Applicant Name	Employer	Start Date	End of Pay Period	Paystubs / Year	30-Day Avg. Pay	YTD Gross Income	YTD Paystubs	YTD Pay Rate	Annual Income
30-Day Paystub History:					Paystub #1	Paystub #2	Paystub #3	Paystub #4	
Gross Pay Amount:									

Applicant Name	Employer	Start Date	End of Pay Period	Paystubs / Year	30-Day Avg. Pay	YTD Gross Income	YTD Paystubs	YTD Pay Rate	Annual Income
30-Day Paystub History:					Paystub #1	Paystub #2	Paystub #3	Paystub #4	
Gross Pay Amount:									

Variable/Bonus income is meant to include bonus income, commissions, tips and any other income that may vary in amount or frequency of pay. Such non-reoccurring income should be removed from the household’s year to date gross earnings, and captured in the **Variable/Bonus Income** section of the *Income Calculation Worksheet*.

Supporting documentation should include income paystubs, a fully completed Verification of Employment Form or any other third party documentation that provides the information required to calculate the annual income, namely the year-to-date income.

Variable/Bonus Income - Instructions / Documentation			
Applicant Name	Employer	End of Pay Period	Amount
Section A, Total Variable/Bonus Income			\$ -

Social Security, Pension, Public Assistance and Disability Income:

Social Security, Pension, Public Assistance and Disability Income should be captured in **Section B** of the *Income Calculation Worksheet*. Acceptable third party documentation includes the following:

- » Social Security Supplemental Income notices reflecting income within the year of reservation date.
- » Retirement, pension and/or disability benefit statements.
- » Letters or case management forms from public assistance agencies.
- » Section 8 Homeownership Voucher Program approval letter.



- » Other third party documentation evidencing the amount and frequency of the benefit being received.

The gross benefit amount should be entered in the *Income Calculation Worksheet*. The worksheet will calculate an annualized income amount.

Section B - Social Security, Pension, Public Assistance and Disability Income				Back to Top ^
Applicant Name	Source	Payment Frequency	Payment Amount	Annual Income
Section B, Total Income				\$ -

Self-Employment Income

Self-Employment income should be captured in **Section C** of the *Income Calculation Worksheet*.

Household members that report their annual earnings to the IRS through a Schedule C, 1099 statement, own a C or S Corporation, or an ownership interest in a partnership, are considered to be self-employed. Acceptable documentation includes:

- » Most recent year completed copies of U.S. Individual Income Tax Returns (i.e., IRS 1040 Forms) and supporting schedules,
  - In lieu of U.S. Individual Income Tax Returns, an IRS form 4506-T (Request for Transcript Tax Return) can be submitted to the IRS, and the Member can rely on the transcripts furnished by the IRS.
- » A year-to-date Profit and Loss (“P&L”) Statement prepared by the household member must be provided.
  - The P&L must state that these numbers are true and accurate and must be signed by the applicable household member.
  - Net income, depreciation, depletion, amortization and other losses that are not consistent and recurring must be added back to the business cash flow.
- » If a household member owns 25% or greater of a business, the applicable business tax returns must be provided.

The household’s net income and duration of self-employment, as covered in the supporting documentation, must be entered in the *Income Calculation Worksheet*. For example, a tax return that



reflects one full year of self-employment income should indicate 12 months in Section C of the *Income Calculation Worksheet*, the worksheet will calculate an annualized income amount.

Section C - Self-Employment Income				Back to Top ^
Applicant Name	Business Name	# Months	Net Income	Annual Income
Section C, Total Income				\$ -

Child Support

Child support should be captured in **Section D** of the *Income Calculation Worksheet* and should be documented via a court order, printouts from the court or agency responsible for enforcing support payments or any other third party documentation evidencing the amount and frequency of support payments received. If there is a private arrangement, the details of the arrangement along with proof of receipt of two support payments must be provided.

When completing the fields on the worksheet, the following guidelines should be followed:

- » Children’s names cannot be entered on the worksheet; the dropdown menu within the worksheet identifies children as Child #1, Child #2, etc.
- » Arrear payments should not be included in the income calculation.
- » Income payment frequency must be provided so that the worksheet can calculate the annualized income.
- » In the case where child support is not received in line with the court order, an average of the year to date payments must be calculated and input into the *Income Calculation Worksheet* as the payment amount.

Section D - Child Support				Back to Top ^
Applicant Name	Dependents (select from dropdown)	Payment Frequency	Payment Amount	Annual Income
Section D, Total Income				\$ -

Seasonal Employment, Unemployment and Miscellaneous Income:

Seasonal employment, unemployment and miscellaneous income should be captured in **Section E** of the *Income Calculation Worksheet*. The acceptable documentation will vary dependent upon income type.





For seasonal employment, the supporting documentation should include a fully completed Verification of Employment Form providing income amount earned over the most recent year, a W2, or other third party documentation providing this information. Individuals working under contractual agreements (i.e. teachers) must also provide the most recent contract in effect within the year of the reservation date. The contracted salary and any additional income listed above salary must be included in the income analysis.

To verify unemployment income, workers compensation or severance pay, the benefit notification or award letter should be obtained.

To document miscellaneous income such as interest or dividends, the most recent 1099 or brokerage statements verifying stock portfolio earnings, should be obtained. Other options for documentation include IRS form 4506-T (Request for Transcript Tax Return). Interest and dividend income is included in the total household income when the annual amount exceeds \$100 per filing year.

For these income types, the *Income Calculation Worksheet* is designed to accept an annual income amount, as reflected below. If the income source documentation provides an income figure that is not an annual amount, it must be annualized prior to completing the worksheet.

Section E- Seasonal Employment, Unemployment, and Miscellaneous Income			Back to Top ^
Applicant Name	Income Source	Annual Income	
Section E, Total Income			\$ -

### Rental Income

If the homebuyer(s) is purchasing a 2-4 family property, anticipated rental income must be captured in **Section F** of the *Income Calculation Worksheet*. Rental income must be verified with copies of Signed Lease Agreement(s), Real Estate Market Analysis, Uniform Residential Appraisal Report (Fannie Mae form 1004), or a Small Residential Income Property Appraisal Report (Fannie Mae form 1025) dated within 120 days of the reservation date. In line with program requirements, 75% of the total gross annualized rental income will be calculated within the *Income Calculation Worksheet*.

Section F - Rental Income				Back to Top ^
Applicant Name	Gross Monthly Rental Income	Net Monthly Rental Income	Annual Net Income	
Section F, Total Income			\$ -	



### Zero Income Earning Adults

All household members over the age of 18 years, who will reside in the property, but do not receive any income from any source, must be listed in **Section G** of the *Income Calculation Worksheet*. A fully executed *HDP Zero-Income Certification* dated within 60 days of the reservation date is required for each household member listed in this section of the *Income Calculation Worksheet*.

Section G - Zero-Income Earning Adults		Back to Top ^
Applicant Name		

### **Homeownership Counseling**

The Member must ensure that one of the homebuyer(s) listed within the *Homebuyer Dream Program Request Form* has completed a homeownership counseling program within 18 months prior to the reservation request date, as evidenced by a completion certificate.

Funds up to \$500 may be added to the total grant amount to assist in defraying the cost of the non-profit housing agency counseling, which will be provided on behalf of the homebuyer(s) via the Member to the non-profit housing agency, as long as:

- » Such costs were incurred in connection with a qualified homebuyer(s) who has attended and successfully completed a formal counseling program and ultimately purchases a property;
- » The cost of such counseling has not been covered by another funding source including the Member; and
- » The cumulative amount of the grant funded to each household, including any homeownership counseling costs (e.g., \$14,500 + \$500 = \$15,000), is the total grant amount listed on the retention documentation. The HUD-1 Settlement Statement and/or the Closing Disclosure should reflect the total grant amount in addition to itemizing the homeownership counseling fee.

The homeownership counseling program must be provided by an organization recognized as experienced in homebuyer or homeownership courses. While the curriculum may vary amongst the agencies the topic of predatory lending should be covered. Acceptable counseling entities include the following:

- » A counseling agency that is accredited by HUD, a State Government or State Housing Finance Agency (HFA), or the National Industry Standards for Homeownership Education and Counseling. For more information, please refer to the following resources:



- HUD: <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>
- State Government or State HFA: please check with your state offices
  - National Industry Standards: [www.homeownershipstandards.org/home/consumers.aspx](http://www.homeownershipstandards.org/home/consumers.aspx)

It is the Member's responsibility to validate actual counseling agency costs. Copies verifying costs for each counseling agency must be maintained by the Member.

### **Household Equity Contribution**

The homebuyer(s) must have an equity contribution of a minimum of \$1,000 towards the purchase of the property. The equity contribution must be used towards down payment, closing costs or costs paid before closing as identified on the Closing Disclosure.

- » Gift funds from a family member are considered an acceptable source of equity.
- » Unacceptable sources of equity are (a) funds received from seller credits, (b) secondary financing, (c) additional grants or credits from a non-profit or other organization, including state and local government agencies.

If the homebuyer(s) fail to meet the \$1,000 equity contribution requirement, the Member will forfeit reimbursement of the entire grant.

### **Use of the HDP Grant**

#### **Eligible Uses of the Grant**

The HDP grant must be used toward the down payment and/or closing costs for the purchase of a household's principal residence. Acceptable closing costs are:

- » Loan origination and/or discount fee
- » Appraisal and/or application fee
- » Credit report
- » Flood certification
- » Closing fee
- » Document preparation
- » Attorney fees
- » Title insurance and title fees
- » Abstracting fees
- » Recording fees and tax stamps
- » Survey fees
- » Prepaid interest
- » Escrow of property taxes, homeowner's insurance, mortgage insurance, and flood insurance
- » Mortgage Insurance (including upfront premium)
- » Property inspection fees



The HDP grant may be used in conjunction with other grant programs, including the FHLBNY's Competitive Affordable Housing Program. The combined Set-aside and Competitive Affordable Housing Program subsidy are limited to a maximum of \$40,000 per household and property.

## **Closing Requirements**

### **Execution of HDP Retention Documentation**

The Member is responsible for ensuring the following HDP retention documentation, located on the FHLBNY website, is fully executed at the time of closing:

- » *Subordinate Mortgage* including Exhibit A
- » *Certification of Intent to Record*
- » *Promissory Note* (applicable to Puerto Rico and US Virgin Islands only)
- » *Declaration of Restrictive Covenant* (applicable to FHA financing)

Other than the completion of the necessary fields, no alterations may be made to these documents.

### **Execution of Closing Disclosure and/or HUD-1 Settlement Statement**

- » If a homebuyer(s) receives subordinate financing, the loan amount, APR and mortgage term must be reflected on the Closing Disclosure and/or the HUD-1 Settlement Statement.
- » Closing Disclosure must reflect the following details:
  - The HDP grant must be itemized as "HDP Grant". If the full HDP grant is not listed on the Closing Disclosure, provide applicable disclosure(s).
  - Non-profit housing agency counseling fee, if applicable, must be itemized on the Closing Disclosure.
  - The \$1,000 minimum equity contribution used towards down payment, closing costs or costs paid before closing for the purchase of the property
- » In accordance with §1291.6(c)(9) of the AHP Regulation, the Member may provide cash back to a homebuyer(s) at closing in an amount not exceeding \$250 above the sum of the items reflected on the Closing Disclosure as "Borrower Paid Before Closing". If the homebuyer has paid any pre-closing expenses directly related to the acquisition of their dwelling those costs can be deducted from "Cash to Borrower". Examples include but are not limited to mortgage application fees, credit report fees, appraisal fees, property inspection fees, or down payment costs. If the above calculation still results in having cash in hand exceeding \$250, a principal payment or payment to the monthly mortgage is required.



All documentation must be legible, consistent, and accurate as to the household closing, including but not limited to: borrower name, property address, terms, etc. Re-recording of the *Subordinate Mortgage* or *Declaration of Restrictive Covenant* will be required if the following errors occur:

- » Incorrect closing date.
- » Member and/or borrower name are inaccurate.
- » Errors in the property street address, zip code and/or state.

## Retention Period

The homebuyer(s) must agree to maintain ownership of, and reside in the property as the primary residence for a period of five years from the closing date or repay a prorated share of the HDP grant. If the homebuyer(s) owns the home for the full five-year term, the grant is forgiven at the end of the retention period.

## Retention Monitoring Practices

On an annual basis the FHLBNY will require the Member to certify that households within the five-year retention period have not had an event of non-compliance. The Member is responsible for subordination requests during the retention period. In addition, the Member is responsible for recording a release of lien at the end of the five-year retention period regardless if the first mortgage has been sold to another lender.

## Events of Non-Compliance and Recapture

FHLBNY may receive notification from a Member or through the written notice provision in the retention documentation that the HDP grant will not be, or is no longer being used for purposes that conform to the HDP requirements or AHP Regulation. Such a situation would constitute an event of noncompliance which may result in the recapture of a pro rata amount of the HDP grant, or any other remedies authorized by the AHP Regulation.

### Events of Non-Compliance

- » Evidence of fraud or willful non-compliance by a household, Member or counseling agency.
- » Sale, transfer or refinancing prior to conclusion of the retention period.

If the homebuyer sells or refinances prior to the expiration of the five-year retention period or otherwise breaches the retention agreement, a pro rata portion of the HDP grant may need to be repaid to the FHLBNY from any *net gain* realized upon the sale or refinancing, unless:



- The unit was assisted with a permanent mortgage loan funded by an AHP subsidized advance;
- The unit was sold to a very low-, or low-or-moderate-income household, defined as having an AMI  $\leq$  80%. The new purchaser is not subject to the retention agreement and does not have any HDP grant repayment obligation; or
- Following a refinancing, the home continues to be subject to a deed restriction or other legally enforceable retention agreement or mechanism. 12 C.F.R. § 1291.9 (a)(7).

The retention agreement terminates at the time of the first refinancing by the household, in the absence of a net gain (e.g. rate and term refinance).

### **Foreclosure**

A foreclosure or deed-in-lieu of foreclosure terminates the household's obligation to repay the grant. In addition, when an AHP-assisted home is financed with an FHA-insured first mortgage, an assignment of the mortgage to the Secretary of HUD terminates the household's obligation to repay.

### **Inheritance**

Inheritance of an AHP-assisted home by the heirs of an AHP-assisted owner(s) of the home does not constitute a "sale" or "refinancing" of the home. Upon the death of the AHP-assisted owner, the Retention Agreement terminates and there is no obligation to repay.

### **Processing of a Recapture**

In the event of a recapture, the Member must complete and submit the *Recapture Request Form* located on the FHLB NY website. The *Recapture Request Form* incorporates a net gain calculation which is the difference between the sales price of the home, or the amount of the new first mortgage after the refinancing of the home, less seller transaction costs or refinance costs, capital improvements, and the original purchase price and purchase-related closing costs.

Capital improvements may include reconstruction, rehabilitation (can be taken from the Closing Disclosure), addition or other substantive improvements. General maintenance and repairs are not considered substantive capital improvements. Examples of capital improvements include but are not limited to:

- » Adding of bath(s) or bedroom(s)
- » Installation of air conditioning
- » New plumbing or electrical wiring
- » Finishing a Basement
- » New roof
- » Paving a driveway



The Member is responsible for gathering, reviewing, and retaining all documents (i.e. invoices, receipts) utilized when calculating the recapture amount.

The Member is accountable for recovering the HDP grant from a household on a “pro rata” basis as determined by FHLBNY. If the Member does not reimburse FHLBNY, the Member's Overnight Investment Account 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 grant 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 per diem rate of interest.

## Suspension and Debarment Policy

If, in the judgment of either the FHLBNY or the FHFA, the Member or a counseling agency shows a pattern of noncompliance, or engages in a single instance of flagrant noncompliance with the terms of the AHP regulation, the FHLBNY, either in its sole discretion or under the regulatory direction of the FHFA, may suspend or debar the Member or counseling agency from participation in the Homebuyer Dream Program.

## Conflict of Interest

FHLBNY’s Board of Directors has adopted a written policy regarding the Code of Business Conduct and Ethics. Pursuant to this policy, conflicts of interests or attempts to influence any action that would affect the funding of a household are not permitted by the following parties:

- » Members of the Affordable Housing Advisory Council;
- » Members of the Board of Directors; and
- » FHLBNY staff and management.

## Record Retention Requirements

All supporting documentation for an AHP-assisted household shall be maintained by the Member during the five (5) year retention period plus two (2) additional years.

## Household Transfers

### Transfer between Members in the Homebuyer Dream Program

Transfer of reservations and/or commitments between Members are not permitted.



### **Transfers from the First Home Club<sup>sm</sup> (“FHC”) Program to the Homebuyer Dream Program**

Households currently enrolled in the FHC program may transfer to the HDP. The household must qualify under the criteria for the HDP. The Member will need to submit a fully completed *Homebuyer Dream Program Request Form*, selecting the New Household Reservation Request option and indicating the FHC ID number for the household, along with all required current supporting documentation via the Online Portal.

The new household reservation request will be reviewed and considered on a first-come, first-served basis, as long as HDP and Member funds remain available. Program funds are not guaranteed under the HDP based on the household’s current enrollment in the FHC Program.

Upon FHLBNY’s approval and commitment of funds for the HDP, the household will be withdrawn from the FHC Program by the FHLBNY. In the event a commitment under the HDP is not issued, the household may remain enrolled under the FHC program. Enrollment in both programs is not permitted.