

Homeownership Guidelines

Purpose

The purpose of the Homeownership Guidelines is to establish and clarify homebuyer guidelines to be applied across the Agency in the various homeownership assistance programs and Agency assisted homeownership projects. These guidelines cover items such as; income qualification, homebuyer eligibility criteria, first mortgage requirements, and occupancy standards. The intent is to apply these standards consistently, however, many existing homebuyer assistance programs have previously adopted guidelines which are specific to the particular program and funding source requirements and which will remain in effect to the extent that they can not be modified to be consistent due to funding source requirements. These guidelines are not meant to supersede the City and County Inclusionary guidelines which are based in ordinances.

1. INCOME QUALIFICATION CRITERIA

Income Limits

The total household income of an applicant/buyer must not exceed the income limit established for the program or project. This limit is generally established at 80% of the area median income for low income households, adjusted for household size, as determined by HUD and updated annually. However, higher or lower income limits may be established per program or project.

Household Income Definition

Household means one or more persons who will occupy a housing unit, regardless of relationship.

The Agency will use the annual income definition found at 24 CFR Part 5 to determine program eligibility. The Part 5 definition of annual income is the *gross amount of income of all adult household members that is anticipated to be received* during the coming 12-month period. This definition also states that income of minors or live-in aides will not be included.

- **Gross Amount.** For those types of income counted, gross amounts (before any deductions have been taken) are used;
- **Income of all adult household members.** The Part 5 definition of annual income contains income “inclusions” – types of income to be counted – and “exclusions” – types of income that are not considered (for example, income of minors); and
- **Anticipated to be received.** The Part 5 annual income is used to determine eligibility and use a household’s expected ability to pay, rather than past earnings.

- **Income Verification.** All income must be fully documented and verified. Stated income is not allowed.

Permanently Absent Family Members

If a family member is permanently absent from the household (e.g. a spouse who is in a nursing home), the head of household has the choice of either counting that person as a member of the household, and including income attributable to that person as household income, or specifying that the person is no longer a member of the household.

Documentation will be required to substantiate that the family member is no longer residing at the household address. This documentation may consist of a legal separation agreement, prior year's tax returns showing separate filing, or any other documentation which adequately verifies a separate residence for the absent family member.

Self- Employed Income and Rental Income

For self-employed applicants, the net income from the operation of a business or profession is considered as the annual income. For owners of rental property, the net income from the property is considered as annual income. To determine either of these types of incomes, two prior years' federal tax returns, plus a year-to-date profit and loss statement will be obtained. The net income, plus depreciation and amortization, will be averaged over the documented period to establish the annual income.

Assets

There is no asset limitation for participation in Agency programs. However, income from assets is counted as part of the annual income under the Part 5 definition. In general terms, an asset is a cash or non-cash item that can be converted to cash. The value of necessary items such as furniture and automobiles are not included. It is the income earned – e.g. interest on savings account – not the asset value, which is counted in annual income. Actual, or imputed, interest income from assets in excess of \$5,000 will be included in the total household income.

Please refer to the *Technical Guide for Determining Income and Allowances for the HOME Program* for more information regarding income and household determinations.

Please refer to the 24 CFR Part 5 Annual Income Inclusions and Annual Exclusions for a complete listing.

2. OTHER HOMEBUYER ELIGIBILITY CRITERIA

First-Time homebuyer Status

Certain Agency homebuyer assistance programs require that the buyers be first-time homebuyers. The definition which follows is from 24 CFR Part 92 –Home Investment Partnerships Program, Sec. 92.2:

First-time homebuyer means an individual and his or her spouse who have not owned a home during the three-year period prior to the purchase of a home. The term first-time also includes an individual who is a displaced homemaker or single parent, as described below.

Displaced homemaker means an individual who:

- 1) is an adult;
- 2) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and
- 3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

Single Parent means an individual who:

- 1) is unmarried or legally separated from a spouse; and
- 2) has one or more minor children of whom the individual has custody or joint custody, or is pregnant.

Note: The Mortgage Credit Certificate Program's definition of first-time homebuyer is based upon state and federal program regulations that vary from this.

Full-Time Students

In general, the Internal Revenue Code does not treat housing occupied by full-time students as low-income. However, for homeownership, a full-time student buyer may still be considered "low-income" if they are employed and can demonstrate an ability to qualify for a mortgage in their own right (without co-signers or co-borrowers or other additional monetary support for either purchase of the home or regular or irregular living expenses) and are not a dependent on another's tax returns. Full-time students will be required to submit two years of parents/guardians federal tax returns.

Gift Letters

Gift letters may be acceptable as long as the requirements of the first mortgage underwriter are met. However, in no event shall the gift portion of the transaction exceed 20 percent of the total sales price.

3. FIRST MORTGAGE CRITERIA

To ensure that the homebuyers we serve with our Agency assistance programs and those buyers in Agency assisted developments are in need of this assistance or subsidy and to ensure that the buyers are receiving the most affordable first mortgage terms available to them, the following restrictions are placed on the first mortgages:

- Buyer must obtain a first mortgage in an amount equal to or greater than 50 percent of the sales price (cannot pay all cash for house)
- Buyer must obtain the maximum affordable mortgage available to them before utilizing Agency assistance programs or gap financing.
- First mortgage may be FHA insured, Conventional, or CalHFA.
- First mortgage terms must be:
 - 30 year mortgages (minimum term, may exceed in some cases)
 - Fully amortized
 - Fixed rate or adjustable rate
 - No negative amortization, principal increases, balloon payments, interest only, or deferred interest provisions
- Interest rate shall be consistent with the market for the type of mortgage product.
- Fees and charges to the borrower for the first mortgage loan shall be reasonable and consistent with industry standards. Agency assistance cannot be used to pay loan origination fees that exceed 2%, loan discount points/fees or buy down fees.
- Sub-prime mortgage products are not allowed. Sub-prime mortgages are mortgages with higher interest rates and/or fees due to the lower credit rating of the borrower.

4. OCCUPANCY STANDARDS

In order to prevent over-crowded housing in Agency assisted projects and developments and also to preserve the availability of larger affordable houses to accommodate large families, the following occupancy standards will be applied to buyers in Agency assisted projects or developments.

<u>Bedroom Number</u>	<u>Minimum Household Size</u>	<u>Maximum Household Size</u>
1	1	2
2	1	4
3	2	6
4	3	8
5	4	10

These standards will not be applied to buyers only using Agency homebuyer assistance programs.

5. HOMEBUYER EDUCATION

To help prepare applicants for the responsibilities of undertaking and maintaining homeownership, all applicants/buyers must complete Agency approved homebuyer education classes. These classes shall cover the home buying process as well as property maintenance, good neighbor practices, and credit and budgeting.

6. HOMEBUYER SELECTION/CERTIFICATION PROCESS FOR PROJECTS

The developer shall be responsible for the home marketing and sales. The developer shall provide for homebuyer education and maintain its own eligibility list of prospective buyers. Priority shall be given to prospective, qualified buyers, who were themselves displaced (relocated) by this or any other Agency project. Should a lottery be established for the sales of the homes, the developer will work with the Agency on the structure and implementation of the lottery. The developer will provide the Agency with monthly updates of the status of the homebuyer wait-list. And, the developer is to provide written reports to the Agency on all income and ethnicity data on all homebuyers.

The Agency shall certify the income of low-income buyers. The Agency shall determine the affordable sales prices, based upon the Department of Housing and Urban Development (HUD) regulations for the restricted homes within the project or other funding source requirements. These affordable sales prices shall be set no more than every six months and are valid for six months.

7. NON-DISCRIMINATION

The program guidelines will be implemented in a manner consistent with the Agency's commitment to the Fair Housing Act and the Equal Credit Opportunity Act. No person shall be excluded from participation in, denied the benefit of, or be subject to discrimination under any program or activity on the basis of his or her religion or religious affiliation, age, race, color, creed, gender, sexual orientation, marital status, familial status (children), physical or mental disability, national origin, or ancestry, or medical condition.