

Common AHP Compliance Questions & Answers

Start-up and Pre-Compliance

1. ***I am preparing to take over ownership or management of an AHP property. What should I do first?*** There are five steps that an owner should take immediately:
 - review the LURA and the Owner's Compliance Manual to become familiar with your Set-Aside and AHP compliance procedures;
 - prepare a management plan that incorporates AHP compliance procedures and required AHP documents and forms;
 - train all persons who will be involved in applicant intake, property management and reporting;
 - develop a strategy for marketing and working with existing occupants and vacancies to achieve full compliance; and
 - establish contact with your monitoring agency.
2. ***How long does the Pre-Compliance Period last?*** Properties are expected to come into compliance as soon as possible. How long it takes a property to reach initial compliance depends on the number of in-place tenants who are income eligible, the number of vacancies, and unit turnover. Owners are expected to follow rules with regard to non-displacement of existing tenants and reservation of vacant units for qualifying tenants, and it is expected that properties will reach Full Compliance within two years.
3. ***Do I have to survey my existing tenants?*** No. AHP procedures only require owners/managers to lease vacant units to qualified tenants. However, if a property contains income eligible tenants, surveying tenants can considerably shorten the length of time needed to reach initial compliance. This will shorten the time owners are obligated to submit Pre-Compliance monthly reports, and could reduce the time units must be held vacant while finding Qualifying Tenants.
4. ***If I survey all my tenants and find several who do not qualify, are those tenants required to vacate the property?*** No! The LURA states that under no circumstances may an owner/manager terminate the occupancy of any in-place tenant solely for the purpose of meeting the property's low income set-asides.
5. ***During the pre-compliance period, can the vacant units held available for qualified tenants be counted toward the number of units needed to meet the property's set-asides?*** No, only Qualifying Units can be counted toward a property's Set-Asides, and units may not be designated as Qualifying Units until they are occupied by a qualified tenant.

6. **How long do I have to hold vacant units available for qualified tenants?** Until the project has met both the Total Set-Aside and Very Low Income Set-Aside requirements, vacant units must be leased or held available for Qualifying Tenants. If owners/managers have been unsuccessful in attracting income eligible tenants to fill vacant units, they should contact the monitoring agency for additional guidance about how to reach these households.

Income Eligibility

7. **If I have questions about the proper way to calculate a tenant's annual income, where can I go to find answers?** Under AHP, a tenant's annual income is calculated according to the method used to determine gross annual income for HUD's Section 8 Program. This method differs from the way a household's income is calculated for tax purposes. Owners/managers should refer to Chapter 4 and Appendix C. For additional information, contact your monitoring agency. Also, the local Section 8 Administrator or Public Housing Authority may be able to provide some guidance.
8. **What does anticipated annual income mean?** Owners/managers are required to anticipate the amount of income a household will receive during the coming 12-month period. Generally, this amount is calculated by estimating the family's annual income using current income and assets. However, if changes from current circumstances can be verified (e.g., an approved raise, an expected bonus, a change in the number of overtime hours to be worked) these should also be considered in anticipating annual income. Appendix C of the AHP Owner's Compliance Manual includes specific instructions for what sources to include and exclude as anticipated annual income.
9. **AHP also requires including income from assets in annual income. Can you give some examples of what is considered an asset and what is not?** Under AHP, there is no limitation on the amount of assets an eligible household can own. But, anticipated income from assets must be included in the calculation of annual income. Section 8 program rules specify the types of assets to be considered. Generally, assets held for investment purposes are included, while "personal use" assets are not. Common examples of assets that are counted include: savings accounts; checking accounts (including non-interest-bearing accounts); real estate; and personal property held as an investment (e.g., coin collections). Examples of assets that should not be counted included necessary personal use property such as vehicles, furniture, appliances, stereos, and VCRs. Business assets of tenants who are self-employed also should not be counted; income from those assets should be reflected in the net income statement for the business. Appendix C of the AHP Owner's Compliance Manual includes further information.
10. **I have students living in my property. Can I designate their units as Qualifying units? What do I count as income for students?** Units occupied by students may be designated as Qualifying Units as long as the student household is determined to be income eligible. Under AHP, you must include the portion of grants, scholarships or veteran's benefits that is available for subsistence. Whether you also include amounts used to cover the cost of tuition, fees, books, transportation, and miscellaneous personal expenses depends on the source of the payment. *Do not count* amounts used to cover the cost of tuition, fees, books, transportation and miscellaneous personal expenses (whether paid directly to the student or directly to the institution) which are provided

through student loans, grants, scholarships or veteran's benefits. *Do count* amounts used to cover tuition, fees, books, transportation and miscellaneous personal expenses *if they come from any other source*. Student loans, regardless of how they are spent, are not counted as income.

11. ***Is a telephone verification valid for purposes of verifying employment income?*** Third-party written verifications or first-hand documentation (e.g., paycheck stubs) are preferred. However, in cases where these methods are not feasible, telephone verifications may be used as long as management staff complete, sign, and date a form which identifies the third party oral source. Telephone verification of assets is almost never feasible. Chapter 4 of the AHP Owner's Compliance Manual contains an exhibit outlining acceptable verification procedures.
12. ***When verifying the income of tenants with a Section 8 Certificate or Voucher, is the income verification of the housing authority acceptable?*** Yes. Owners/managers can satisfy AHP verification requirements by obtaining copies of the housing authority's verification documents. Another option is to have the authority provide a letter stating that the household's verified annual gross income does not exceed an amount equal to the applicable AHP income limit. These tenants still must execute a proper AHP Tenant Income Certification (TIC) Form.
13. ***If Section 8 income eligibility guidelines change, do the AHP income guidelines also change automatically?*** Monitoring agencies are permitted to incorporate changes in Section 8 income eligibility guidelines into the AHP Program, except for changes in the definitions of student income, which are unique to the AHP Program and may be changed only by notice from FDIC. If you hear about Section 8 changes, contact your monitoring agency to determine whether you should implement those changes for AHP.
14. ***When do the income limits used to determine tenant eligibility change, and how do I obtain the new limits?*** AHP income and rent limits are updated each year when HUD publishes its revised figures for area median incomes. Generally, these are released in late Winter or Spring each year. Monitoring agencies will provide owners/managers with updated limits as they become available year to year from FDIC.
15. ***If a change in household status or household income occurs between annual re-certification, is the tenant required to advise the manager? Is the manager required to monitor these changes?*** No, unlike some HUD programs, tenants are only required to report changes in household income or composition at the time their eligibility is re-certified. Likewise, managers are not required to monitor household changes that occur between re-certifications.

Designating Qualifying Units and Meeting/Maintaining Set-Asides

16. ***What happens if a vacant unit is leased as a Qualifying Unit, and later it is found out that the tenant is not qualified?*** If the tenant provided improper information, he/she has violated the lease clauses in Chapter 5, and action may be taken to terminate the lease in consultation with the Monitoring Agency. If the owner wishes to not pursue lease termination, and instead replace the lost QU with the Next Available Unit, consult with the Monitoring Agency. On the other hand, if the owner/manager made a mistake in certifying eligibility, the tenant of the improperly designated unit may not be removed, and the

owner/manager must rent the Next Available Unit to a qualified tenant. To avoid this problem, it is important to verify a household's income and complete the TIC prior to granting occupancy.

17. ***If a property's VLI Set-Aside has been met, but not the Total Set-Aside, can the remaining units be rented to VLI-eligible tenants and designated as LI units?*** No. A Qualifying Unit's designation reflects the income level of the tenant. Qualifying Units occupied by tenants with incomes less than or equal to the VLI income limit must be designated as VLI units, even if the VLI Set-Aside has already been met. Owners/managers are not required to designate additional VLI units if VLI Set-Asides have been met and only LI units are needed. However, they may choose to designate additional VLI units to be counted toward the Total Set-Aside. If they do so, they must remember that all VLI units are restricted by the applicable VLI rent.
18. ***If I rent unrestricted units to low income and very low income tenants (after I have met my Total Set Aside), must I designate their units as Qualifying Units?*** No. Owners are only obligated to designate enough Qualifying Units to meet the set-asides. Tenants living in unrestricted units are not subject to AHP rent limits. Low income and very low income households may apply for and occupy unrestricted units just as any other households, subject to the same standard and lawful screening and selection criteria applied to all applicants. Furthermore, owners may find it advantageous to have low income and very low income tenants in unrestricted units in order to expedite the replacement of a unit that becomes available in the set-asides.
19. ***Does AHP have occupancy standards specifying the unit size (i.e., number of bedrooms) appropriate for a given household size?*** No. Owners/managers are expected to establish their own occupancy standards and apply them consistently throughout the property, and to comply with state or local law regarding occupancy standards, if applicable.
20. ***What does the statement in the LURA about "best efforts to achieve a comparable unit distribution among QUs" mean?*** AHP does not require that the unit size distribution precisely match the distribution for the total property (including all units). However, when owners have choices about which units will be designated as Qualifying Units (QUs), the LURA requires them to designate units so as to avoid an unbalanced distribution. For example, if half of the units are two bedroom units or larger, and significantly less than half of the QUs are such, then the owners/manager needs to make a good faith effort to designate some larger units as they become available and replacement QUs are needed to meet the set-aside.
21. ***When does a unit actually become a "qualifying unit"?*** When that unit is occupied by an income eligible tenant (who has completed a certification form and whose information has been verified) who has executed a lease with the required and prohibited provisions incorporated. The qualification is derived from the tenant's eligibility. The physical unit/s used as "qualifying units" may shift dependent upon the tenant being housed.

Rent Limits

22. **Are AHP rent limits based on the size of the unit or the size of the household occupying the unit?** AHP rent limits are established by unit size for both VLI and LI income levels. They do not vary by the size of the household in the unit.
23. **Must AHP rents be adjusted for tenant-paid utilities?** No. Unlike many other Federal programs (such as Section 8, Tax Credits and HOME), the rents charged to the tenant can be set up to the applicable AHP rent limits, without regard to, or adjustment for, tenant-paid utilities.
24. **If a property has fully met its VLI set-aside, but still needs units to meet the Total Set-Aside, can a new VLI tenant be designated as an LI unit and the tenant charged an LI rent?** No. Any Qualifying Unit rented to a VLI tenant must be designated as VLI and charged the VLI rent, even if the VLI Set-Aside has already been met.
25. **If the newly revised AHP rent limits are lower than the previous year's limits, do the rents for Qualifying Units have to be reduced immediately or at lease renewal?** Immediately. It is unusual for AHP rent limits to go down, but when they do, owners must revise rents for Qualifying Units that exceed the new limits immediately. However, rents are not required to be reduced below the initial approved rents in place at the time the building was sold by FDIC/FDIC under the AHP Program to the original owner. Conversely, if the rent limits go up, owners may revise Qualifying Unit rents to reflect the new limits, subject to state/local laws and the terms of the lease regarding interim rent adjustments.

Re-certification

26. **If a re-examination reveals that a LI tenant is now VLI, what rent level and unit designation must be applied?** A Qualifying Unit's designation must reflect the income level of the tenant. Therefore, if a tenant's status changes from LI to VLI on re-certification, the unit's designation must be changed to VLI, and the tenant charged no more than the VLI rent.
27. **On re-certification, a VLI tenant is over the VLI income limit, but not over the 140% LI limit. If I re-designate that unit as LI, this leaves me one unit short of the VLI Set-Aside. What do I have to do to be in compliance?** Because the re-certified tenant is designated as LI, you still have enough units for the Total Set-Aside, but are short of VLI units. You must follow the Next Available Qualifying Unit (NAQU) rule, so that the next available LI unit must be rented to a VLI tenant. You do not have to rent an unrestricted unit as VLI because that would cause you to exceed the Total Set-Aside requirement. Therefore, you only need to "re-balance" the portfolio by renting the first available LI unit to a VLI tenant.
28. **When a tenant is determined to be over income at time of re-certification, is the rent on that unit still restricted?** No. If a tenant exceeds 140% of the current Low Income limit (listed on the income limits sheet as "M-F Transition Income") on re-certification, the tenant is reported as "Over Income" and the rent may be adjusted to the market rent for unrestricted units (subject to state/local laws and the terms of the lease). Owners may not displace tenants on the grounds that they are no longer income eligible. Next Available Unit (NAU) rules must be followed, and the QU may be reported as Over Income until the Next Available Unit becomes available and committed to a qualifying tenant. Some early

versions of the LURA contain contradictory language requiring owners to maintain the restricted rent until the QU was replaced with the NAU, but adjustments to the unrestricted rent on determination of Over Income status will be permitted on all AHP properties. Owners/managers of AHP properties with Tax Credits should note that this provision differs from Tax Credit requirements, so Tax Credit rules (as the more restrictive rule) should be followed.

Unit Turnover

29. ***How should a Qualifying Unit be handled when a vacancy occurs?*** When a Qualifying Unit (QU) is vacated, it continues to be counted and reported as a QU until it is re-occupied or replaced with another QU. If the vacated unit is leased to an income-eligible tenant at an allowable rent, it remains a QU. If the vacated unit will be leased to a tenant that is not income eligible, the owner/manager must first designate a replacement Qualifying Unit so the property will continue to have enough units to meet its required Set - Aside.
30. ***If a Qualifying Tenant wishes to move in-house to a different unit, how should this be handled?*** If a tenant in a Qualifying Unit (QU) moves to another unit in the property and is still income eligible, the Owner/Manager must shift the QU designation to the newly occupied unit. If the unit involves a change in unit size, the applicable AHP rent limit changes to reflect the size of the newly occupied unit. If other public assistance is involved, be sure to check the procedures of the other programs.

Other Compliance and Enforcement Issues

31. ***Do I have to use the forms included in the AHP Owner's Compliance Manual?*** It is recommended that owners/managers use the forms, or facsimiles, in the Manual. Owners/managers may adapt their own forms to include all of the elements in the recommended form. It is recommended that any adapted forms be cleared with the monitoring agency.
32. ***When AHP units also have other Federal funds, such as Tax Credits or HOME, and the rent limits and occupancy rules of the overlapping programs differ, what rules should be followed?*** You must comply with all the rules for all programs. Generally speaking, you can accomplish this by following the most restrictive rule. For example, if HOME or Tax Credits set a lower maximum rent than AHP or requires a utility allowance adjustment, adhering to the more restrictive program rules will also yield compliance with AHP rent limits. There may be times when rules appear to conflict -- particularly in situations of over income tenants and unit turnover. In such cases, contact your monitoring agency for guidance.
33. ***When is a property considered to be out of compliance with AHP requirements?*** Properties that fail to meet the provisions of their LURA and the procedures in the AHP Owner's Compliance Manual may fall out of compliance with requirements primarily for any of the following violations:
- Improperly leasing vacant units during Pre-Compliance or whenever below the Set-Aside requirements;

- Failing to maintain a sufficient number of Qualifying Units;
- Failing to determine and verify Qualifying Tenant Income at least annually, or improperly determining eligibility;
- Charging rents for Qualifying Units in excess of applicable AHP rent limits;
- Failing to submit timely reports to the monitoring agency; and
- Failing to pay the required administrative fee.

34. ***What happens if I fail to follow AHP compliance procedures?*** Monitoring agencies will notify owners if they determine that compliance violations have occurred and indicate the necessary corrective action(s). Owners will be given a period of time to complete the corrective actions. Failure to take corrective can result in administrative and/or judicial sanctions against the owner.