
Arizona Department of Housing 2010 Information Bulletin

REGARDING PROGRAMS: Down payment and closing cost assistance; Mortgage buy down assistance; Owner-occupied housing rehabilitation programs; Owner-occupied emergency repair programs; Eviction Prevention and Emergency Housing Programs (EPEH); tenant-based rental assistance programs; and any other assistance that falls under the definition of “public assistance.”

REGARDING FUNDING SOURCES: HOME; Housing Trust Fund; Housing Opportunities for Persons with AIDS (HOPWA); Shelter Plus Care; Supportive Housing (SHP) Program; Community Development Block Grant (CDBG); and Homeless Prevention and Rapid Rehousing Program (HPRP).

INFORMATION BULLETIN No. 02-10

ISSUED: February 1, 2010

RE: Guidance to local governmental entities (towns, cities, counties) contracting with the Arizona Department of Housing for funding for any of the above programs in complying with A.R.S. 1-501 and 1-502 (reference House Bill 2008).

The Arizona State Legislature recently enacted House Bill 2008 which sets forth new laws A.R.S. 1-501 and 1-502. These new laws which went into effect on November 24, 2009, require that applicants applying to the state or to a local governmental entity for certain state or federal benefits show proof of lawful presence in the United States, as well as sign a sworn affidavit stating that required documentation is true under penalty of perjury. Additionally, the laws require that employees of the state and political subdivisions of the state report discovered violations of federal immigration law. Failure to report violations is a class 2 misdemeanor by the employee who failed to report, as well as knowledgeable supervisors who failed to take action as directed under law. A copy of these laws can be downloaded at:

A.R.S. 1-501

(<http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/1/00501.htm&Title=1&DocType=ARS>) and

A.R.S. 1-502

(<http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/1/00502.htm&Title=1&DocType=ARS>).

All cities, towns and counties contracting with the Arizona Department of Housing (ADOH) to provide any of the above programs have a responsibility to review these new laws and immediately adopt operating procedures which will insure compliance with state law. Contractors must establish their own process for reporting discovered violations as required by HB-2008 and are advised to consult with legal counsel or U.S. Immigration & Customs Enforcement (ICE) for further guidance. ADOH staff will review procedures of contractors at the time of on-site monitoring and failure to comply could result in a

finding of noncompliance. Additionally, if in the course of monitoring ADOH staff members discover a violation of federal immigration law the violation will be reported to ICE by ADOH staff.

Documentation of Lawful Presence

Notwithstanding other federal regulations, in meeting the documentation requirements of these laws, applicants must demonstrate lawful presence in the United States by providing at least one of the following documents:

1. An Arizona driver license issued after 1996 or an Arizona non-operating identification license.
2. A birth certificate or delayed birth certificate issued by any state, territory or possession of the United States.
3. A United States certificate of birth abroad.
4. A United States passport.
5. A foreign passport with a United States visa.
6. An I-94 form with a photograph.
7. A United States citizenship and immigration services employment authorization document or refugee travel document.
8. A United States certificate of naturalization.
9. A United States certificate of citizenship.
10. A tribal certificate of Indian blood.
11. A tribal or bureau of Indian affairs affidavit of birth.

To the extent permitted by federal law, tribal members, the elderly (60 years of age or older) and persons with disabilities or incapacity of the mind or body may provide documentation as specified in section 6036 of federal deficit reduction act of 2005 and related federal guidance in lieu of the documentation required above.

Eligibility determinations include initial applications and redeterminations. At the time of redetermination, the contractor will ascertain whether the individual's file contains copies of the appropriate document(s) to establish citizenship or alien status. If it does, the individual does not have to produce the documents again. However, if no affidavit was previously required the individual must provide an affidavit attesting that the documents previously provided are true. If the file does not contain copies of the document(s), the individual must provide the documents and an affidavit. Additionally, if the document used to verify alien status has expired, the applicant must produce a new document.

Sworn Affidavit

An applicant must also sign a sworn affidavit stating that the documents presented are true under penalty of perjury. A form of affidavit satisfactory to Arizona Department of Housing is attached. Alternative formats may be used as long as the affidavit meets the legal requirements of the acts. Each beneficiary file must contain the affidavit (or a copy of an affidavit if one affidavit is being used to apply for multiple programs) and a copy of the documentation provided.

Definition of Public Benefits

Federal, state and local public benefits are defined in federal law as [8 U.S.C. 1611(c) and 8 U.S.C. 1621(c)]:

- Any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or State or local government or by appropriated funds of the United States or a State or local government; and
- Any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or a

State or local government or by appropriated funds of the United States or a State or local government.

Certain programs have been determined to not meet the definition of “public benefit”. Those most notable within the realm of housing assistance are emergency disaster relief programs, services or assistance such as soup kitchens, crisis counseling and intervention, emergency shelter and transitional housing delivered at the community level and necessary for the protection of life and safety. The activity of developing housing opportunities, in and of itself, does not meet the definition of a “public benefit”.



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AFFIDAVIT THAT DOCUMENT(S) IS/ARE TRUE

I, _____, swear or affirm, under penalty of perjury
Print or typed name

that the document(s) presented by me to prove U.S. citizenship, U.S. national or alien status is/are true.

DOCUMENT(S) PRESENTED:

Signature of applicant

Date



AFIDÁVIT QUE EL/LOS DOCUMENTO(S) ES/SON AUTÉNTICO(S)

Yo, _____, bajo pena de perjurio, juro o confirmo que

Nombre en letra de molde escrito por maquina

El/los documento(s) que he presentado como comprobación de ciudadanía de los EE.UU.,
ciudadano de los EE.UU. o estado migratorio son verdaderos y auténticos.

DOCUMENTO(S) PRESENTADO:

Firma del solicitante

Fecha

