

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Board of Commissioners of the District of Columbia Housing Authority ("DCHA") gives notice of adoption on an emergency basis of an amendment to Chapter 60 of Title 14 DCMR, "Low Rent Housing: General Provisions," by adding a new Section. The new section will implement standards used by DCHA in selecting sites for new construction and substantial rehabilitation authorized under Section IIIA.d. of the Moving to Work Agreement dated August 25, 2003 by and between the DCHA and HUD.

This emergency action is based on the receipt of notice from the December 10, 2003 Board of Commissions Meeting. This emergency rule will be effective December 10, 2003.

The Board of Commissioners also give notice of intent to take final rulemaking action to adopt this amendment not later than thirty (30) days after the date of publication of this notice in the D.C. Register.

The emergency rule will expire on April 8, 2003, or upon publication of the Notice of Final Rulemaking in the Register, whichever occurs first.

6005**SITE AND NEIGHBORHOOD STANDARDS**

6005.1 These standards are set forth to implement policies authorized under Section IIIA.d. of that certain Moving to Work Agreement dated August 25, 2003 by and between the DCHA and HUD. The standards set forth in this Section 6005 are used by DCHA in the review and selection of proposed developments involving:

- (a) New construction or rehabilitation funded under the Housing Choice Voucher project-based program governed by Chapter 93 hereof,
- (b) Existing housing without substantial rehabilitation in areas with more than 30% poverty, being funded under the Housing Voucher project-based program governed by Chapter 93 hereof; and
- (c) Public housing being developed with Replacement Housing Fund or other programs funded through HUD and otherwise subject to these standards.

6005.2 The following areas are deemed eligible for funding assistance:

- (a) Areas designated by the DC as revitalization areas including:

- (1) Federally designated Empowerment Zones;
 - (2) Housing Opportunity Areas, as established by the District of Columbia Government pursuant to its Comprehensive Plan;
 - (3) Areas designated for improvement under the Community Development Block Grant program by the District of Columbia Government;
 - (4) Strategic Neighborhood Target Areas and Target Area Groups established by the District of Columbia as part of its Comprehensive Plan or federal Enterprise Community designation; and
 - (5) Stable, Transitional or Emerging Census Tracts as designated by the DC Office of Planning based on most recent available census data; and
- (b) An area where public housing units were previously constructed and were demolished;
- (c) An area that is not racially or economically impacted as evidenced by the most current demographic data available to DCHA through the District Columbia Office of Planning showing that:
- (1) The minority population is no more than 20% greater than the representation of minorities in DC as a whole; and
 - (2) Less than 30% of the population is living in poverty; and
- (d) In neighborhoods with a poverty rate or a concentration of minorities greater than the levels listed in (c), the proposed development will preserve or replace affordable housing in order to:
- (1) Encourage reinvestment in minority neighborhoods,
 - (2) Improve or preserve the affordability of housing in the area;
 - (3) Provide real quality housing choices for assisted households; or
 - (4) Reduce displacement in areas undergoing substantial rehabilitation as part of a comprehensive neighborhood revitalization strategy.

6005.3 In addition to the eligibility criteria set forth in 6005.2 above, the development site must:

- (a) Pass environmental clearances by having either:

- (1) A Phase I environmental site assessment that does not raise concerns; or
 - (2) A Phase II environmental review that is conclusive that there are no environmental hazards on the site.
- (b) Not to be located in an area in which the sale of Flood Insurance has been made available under the National Flood Insurance Act of 1973; and
 - (c) Be in an area where a housing needs analysis provided by the applicant and reviewed and approved by the DCHA indicates that there is a need for the housing in the area.

6005.4 The DCHA also will consider any program factors set forth in any governing federal or local regulations of a particular funding program as well as the following factors:

- (a) The convenience and quality of available social, recreational, educational commercial and health facilities and services; and
- (b) The convenience and availability of employment opportunities; or
- (c) The convenience and availability of public transportation to such facilities, services and opportunities.

6005.5 If DCHA is developing or substantially rehabilitating six or more public housing units under a revitalization plan, DCHA will:

- (a) Provide documentation to HUD which evidences that DCHA has:
 - (1) Consulted with the appropriate public housing resident organization and representative community groups in the vicinity of the proposed revitalization;
 - (2) Advised current residents, if the property is currently occupied, by letter to the resident organizations and by public meeting of the proposed revitalization plan; and
- (b) Submit a signed certification to HUD that the comments of any current residents, public housing residents and representative community groups have been considered in the preparation of the revitalization plan.”

All persons desiring to comment on the subject matter of this emergency and proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with the OGC, DCHA, 1133 North Capitol, N.E., Room 210, Washington, DC 20002-7599. Copies of these rules may be obtained from the DCHA at the same address.

D.C. OFFICE OF PERSONNEL**NOTICE OF EMERGENCY RULEMAKING**

The Acting Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title XI of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (the CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.01 *et seq.*) (2001), as amended on a temporary basis by the Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Temporary Amendment Act of 2003 (the Act), effective July 22, 2003 (D.C. Law 15-23, 50 DCR 4339), hereby gives notice of the adoption of the following emergency rules. These rules explain the requirements for the payment of an active duty pay differential to District government employees who have been called to active duty from reserve units of the United States Armed Forces as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom. The Act provides that implementing rules must be issued within thirty (30) days of its effective date. The utilization of emergency rulemaking is the only available means of complying with this requirement and, thereby, providing for the continuation of payment of the differential authorized by the Act for eligible employees. The Notice of Emergency Rulemaking published at 50 DCR 7021 (August 29, 2003) (Corrected Notice published at 50 DCR 7215 (August 29, 2003)) expires on November 27, 2003. Therefore, to ensure the welfare of the public, action was taken on November 24, 2003 to adopt the following rules on an emergency basis effective November 24, 2003. These rules will remain in effect for up to one hundred twenty (120) days from November 24, 2003 unless earlier superseded by another rulemaking notice.

CHAPTER 11**CLASSIFICATION AND COMPENSATION**

Section 1155 is amended to read as follows:

**1155 OPERATION ENDURING FREEDOM AND OPERATION IRAQI
FREEDOM PAY DIFFERENTIAL**

1155.1 Any full-time permanent employee, term employee, or an employee on a Temporary Appointment Pending Establishment of a Register (TAPER appointment) who serves in a reserve component of the armed forces and who has been ordered to active duty, or was retained for duty as a result of Operation

Enduring Freedom, or in preparation for a potential conflict with Iraq, or as a result of Operation Iraqi Freedom, shall be entitled to apply for and receive, or continue to receive, as applicable, a pay differential to compensate the employee for any difference between the employee's District government basic pay and basic military pay.

- 1155.2 An employee as described in § 1155.1 shall not be required to be released from active duty before making application for and receiving the pay differential. However, if the employee has not been released from active duty when he or she makes application for the pay differential, the employee shall provide all documentation required in § 1155.9, except that in lieu of providing a copy of the military orders releasing the employee from active duty, the employee shall provide a letter from his or her commanding officer attesting to the fact that the employee, as of the date of application for the pay differential, is still in an active duty status.
- 1155.3 A pay differential received pursuant to this section shall not be considered basic pay for any purpose.
- 1155.4 Any eligible employee, upon making application for the pay differential and upon approval of the application by his or her department or agency head, shall receive a pay differential that equals the difference between the employee's District government basic pay reduced by the employee's basic military pay.
- 1155.5 The estate of any eligible employee who has been killed while in active duty or who is missing in action as a result of active duty shall be eligible to collect any pay differential to which the employee would have been entitled upon making application on behalf of the employee and upon approval of the application by the employee's department or agency head.
- 1155.6 The period of entitlement to the pay differential shall not exceed:
- (a) The period following the formal inception of Operation Enduring Freedom through the date the employee is released from active duty occasioned by Operation Enduring Freedom; or
 - (b) The period following the formal inception of the preparations for a potential conflict with Iraq and the period following the formal inception of Operation Iraqi Freedom through the date the employee is released from active duty occasioned by, the preparation for, or, Operation Iraqi Freedom.
- 1155.7 The pay differential shall not be payable for any period following the employee's release from active duty and the employee's return to his or her District government position.

- 1155.8 The pay differential shall not be payable for any days for which the employee received pay by reason of any annual leave, military leave, compensatory time, or any other form of paid leave taken by the employee.
- 1155.9 In making application for the pay differential, the employee shall:
- (a) Provide a copy of the military orders activating the employee for full-time active military service for the Operation Enduring Freedom conflict, or, in preparation for, or, as a result of, the Operation Iraqi Freedom conflict;
 - (b) Provide a copy of the military orders releasing the employee from full-time active military service for the Operation Enduring Freedom conflict, or, for the preparation for, or, the Operation Iraqi Freedom conflict; and
 - (c) Provide all military pay documentation required to calculate the differential amount.
- 1155.10 A pay differential under this section shall be paid by the agency that last employed the eligible employee before the employee was ordered to active duty as specified in § 1155.1, out of the agency's funds or appropriations then currently available for salaries and expenses.

1155.99 DEFINITIONS

Active duty — full-time duty in the active military service of the United States for the Operation Enduring Freedom conflict, or, in preparation for, or, for the Operation Iraqi Freedom conflict.

Armed forces — has the meaning prescribed in 10 U.S.C. § 101 (a)(4).

Basic military pay — the basic pay under 37 U.S.C. § 204.

Basic pay — the employee's scheduled rate of pay plus any additional pay that is defined as basic pay for annuity computation purposes in the retirement system in which the employee is a participant.

Employee — any full-time permanent employee, term employee, or an employee on a TAPER appointment who serves in a reserve component of the United States Armed Forces and who has been called to active duty as a result of the Operation Enduring Freedom conflict, or in preparation for, or as a result of the Operation Iraqi Freedom conflict.

Operation Enduring Freedom — the period encompassed within Executive Order 13223 Ordering the Ready Reserve of the Armed Forces to Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation, effective September 14, 2001, and amended by Amendment to Executive Order 13223, effective January 16, 2002 and ending on the date the employee is released from active duty occasioned by Operation Enduring Freedom.

Operation Iraqi Freedom — the period encompassed within the Joint Resolution entitled Authorization for Use of Military Force Against Iraq Resolution of 2002, approved October 16, 2002 (P.L. 107-243) and ending on the date the employee is released from active duty occasioned by Operation Iraqi Freedom.

Reserve component — has the meaning prescribed in 37 U.S.C. § 101(24).