



**A G E N D A**  
**SPECIAL MEETING: GLENDALE CITY COUNCIL**  

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**COUNCIL CHAMBER, City Hall – 613 E. Broadway, 2<sup>nd</sup> Floor**  
**Glendale, CA 91206**

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**JUNE 11, 2019**

- ROLL CALL** - 3:00 p.m.
- Report of the City Clerk of the City Council, re: Posting of Agenda. The Agenda for the June 11, 2019 Special Public Meeting of the City Council was posted on Thursday, June 6, 2019 on the Bulletin Board Outside City Hall.

A **SPECIAL PUBLIC MEETING** of the City Council is hereby called to meet at 3:00 p.m. on Tuesday, June 11, 2019, in the City Council Chamber, City Hall, 613 E. Broadway, 2<sup>nd</sup> Floor, Glendale, CA 91206 to Consider the Following item(s) of Business, to Wit;

- 1. Director of Community Development, re: Consideration of Program Design of a Monthly Housing Subsidy Program for Lower Income Glendale Renters**
  - a. Motion Approving the Program, as Deemed Appropriate

**ADJOURNMENT**



Ardashes Kassakhian, City Clerk

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**ACKNOWLEDGMENT OF SERVICE**

Members of the public may address the City Council regarding any item in this notice. Service of the above Call for a Special Public Meeting of the City Council, at the time and place above designated, is hereby acknowledged, and the Notice required by Government Code Section 54956 is hereby waived:

Hour: \_\_\_\_\_ a.m./p.m., this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By \_\_\_\_\_ Title: City Council Member



CITY OF GLENDALE, CALIFORNIA
REPORT TO THE:

Joint [ ] City Council [X] Housing Authority [ ] Successor Agency [ ] Oversight Board [ ]

June 11, 2019

AGENDA ITEM

Agenda Item: Consideration of Program Design of a Monthly Housing Subsidy Program for Lower Income Glendale Renters.

- (1) Motion To Approve Program Design of a Monthly Housing Subsidy Program for Lower Income Renters or Provide Direction, as Deemed Appropriate.

AUTHORITY ACTION

Public Hearing [ ] Ordinance [ ] Consent Calendar [ ] Action Item [X]
Report Only [ ] Approved for June 11, 2019 calendar

ADMINISTRATIVE ACTION

Submitted

Philip Lanzafame, Director, Community Development.....

Signature [Handwritten Signature]

Prepared

Peter Zovak, Assistant Director, Community Development .....

[Handwritten Signature]

Approved

Yasmin K. Beers, City Manager .....

[Handwritten Signature]

Reviewed

Michael J. Garcia, City Attorney .....

[Handwritten Signature]

RECOMMENDATION

That the Glendale City Council (City Council) consider program design elements of the Monthly Housing Subsidy Program (MHSP), a pilot program designed to provide financial subsidy assistance to lower income renter residents of Glendale.

SUMMARY

Over the course of the last 3 years, the City Council and Glendale Housing Authority (Housing Authority) have held a series of meetings and received numerous reports on affordable housing related issues impacting Glendale residents. In response, the City Council/Housing Authority

have taken substantive actions aimed to help address/promote the development of more affordable housing across all segments of the community.

To date, among other things, those actions have led to the adoption of an Affordable Housing Strategy in December 2017, adoption of an Affordable Housing Legislative Platform in July 2018, adoption of an ordinance providing greater tenant protections under the Rental Rights Program in February 2019, and adoption in May 2019 of an Inclusionary Zoning Ordinance to provide for affordable units, citywide, in every new rental development of 8 units or more.

Recognizing that the challenges of rising housing costs, in particular rapidly rising and unaffordable rental rates on lower income households, continues to impact nearly all California communities, City Council also provided direction to establish a pilot program that would provide a set monthly housing subsidy for lower income senior Glendale renter households. The purpose of the program is to assist senior renter households being impacted by rising rental rates, particularly those of lower income, who are rent burdened.

At its budget hearing meeting of May 14, 2019, the City Council took action to:

- provide a \$300 per month subsidy to qualified households;
- provide 24 months (2 years) of subsidy assistance;
- enroll up to 1,000 initial households; and
- designate funding the program through Measure S funding in the amount of approximately \$4.2M annually, or \$8.4M total over the 24-month period.

Now that funding parameters of the proposed program have been established, Community Development staff is requesting that City Council review and approve the program design parameters of the MHSP. The program design will help establish the minimum qualifications for eligibility of the program, define priorities the City Council would like to establish when serving program participants, and define and clarify aspects of how certain policies will be implemented for various scenarios of assistance or, if necessary, denial of assistance.

Listed below are the Program Design parameters staff is seeking approval of, and in some cases, further direction on.

Program Description:

- **Program enrollment will allow for up to 1,000 initial households to participate in the program**
  - ✓ Enrollment is authorized up to a maximum of 1,000 initial households and a maximum subsidy annual budget of \$3.6M.
  - ✓ Any households that terminate early from the program will allow for a replacement applicant to be qualified and pulled from the program waiting list, as more fully described later in this report, to finish out a terminated household's eligibility period. This may lead to more than 1,000 households being served over the two-year term of the program; however, in no event will subsidies go beyond the 24-month program period unless extended by the City Council.
- **24-month subsidy program for all initial applicants to the program.**
  - ✓ Applicants will be drawn from a program waiting list that will be established via a housing lottery and subsequent waiting list.
  - ✓ All applicants selected as a replacement to an original applicant will only benefit from a subsidy for the remaining eligible time of the original applicant of the program.

- ✓ An applicant selected as a replacement to an original applicant must accept the next available subsidy, regardless of how much time remains on the subsidy. Any replacement applicant that declines a subsidy offer will not be eligible for any subsequent subsidies and will be removed from the MHSP waiting list.
- **\$300 per month in subsidy will be provided**
  - ✓ A household deemed eligible will receive a \$300 per month subsidy. The subsidy level is allocated to the household, and not on a per-person basis.
  - ✓ Subsidies will be issued only via monthly direct deposits made by the City to a banking institution identified by the applicant and whose name appears on the account as an account holder.
  - ✓ Per IRS regulations and City of Glendale policies, every applicant must submit a W9 and pass the IRS Tax Identification Number matching process in order to receive subsidy payments from the City of Glendale. Each applicant will be issued a 1099 each year for the amount received in the prior calendar year.
  - ✓ Applicants may use the subsidy to pay for any type of housing expenses, including but not limited to rent, utilities, medicine/health care costs, and food for the household.
  - ✓ As a condition of receiving the monthly subsidy, applicants may be asked to account for its use during their time enrolled on the program.
  - ✓ Applicant households who are receiving Section 8 assistance or living in an affordable housing project sponsored by the Glendale Housing Authority are not eligible to participate in the MHSP.

Minimum Qualifications:

- **Resident of Glendale**
  - ✓ Applicants must be a resident of Glendale and that residency must be established at the time of application to the program.
- **Renter Household**
  - ✓ Applicants must be a renter household. To establish oneself as a renter household at the time of qualifying, applicants will be required to submit documentation of a lease or occupancy agreement for an approved and legal residential unit within the City of Glendale. Additional information such as utility billings and certain mail service will also be required to establish a household as being a renter household occupying a unit.
  - ✓ An applicant living in a unit that is owned by a family member is eligible to apply for the subsidy program.
  - ✓ If the applicant is determined to own in-whole or in-part any residential real estate through property title vesting, then the applicant is not eligible for the subsidy program.
  - ✓ All household members must be listed in the application to the MHSP. Failure to identify and/or list a household member may disqualify an applicant from the program.
  - ✓ After qualifying for the MHSP, an applicant may not add a household member to their household unless by birth, marriage, or adoption.
- **Extremely Low Income**
  - ✓ Total annual income of all applicant household members cannot exceed limits established by HUD and quantified as Extremely Low Income (30% and below Area Median Income as established by HUD annually). Current maximum income limits for a single and two-person household are \$21,950 and \$25,050, respectively.

- ✓ Applicant household income shall be calculated in the same manner as it is calculated under the HUD Part 5 (Section 8) Income Inclusions and Exclusions 24 CFR 5.609(b) and (c), attached as Exhibit 1. For purposes of discussion, regular contributions of financial support from individuals not residing with the household (commonly referred to as “family support”) are counted as income.
- ✓ All households will be ranked equally in terms of income as long as they meet the maximum income limits outlined above and not according to their actual household income (i.e. a two-person household with income of \$24,000 would be ranked the same as a two-person household with income of \$24,500).
- **Rent Burden**
  - ✓ Rent burden is defined as households paying more than 30 percent of their gross income on housing related expenses, in this case rent. Such a condition likely then causes difficulty in affording necessities such as food, clothing, transportation and medical care. U.S. Census data cites that approximately 63% of all renter households in Glendale are rent burdened. City Council expressed interest in serving this population with the MHSP. Given the fact that the MHSP will be serving Extremely Low Income, senior households, staff is not proposing an individual certification of this status as applicants are qualified for the program. Applicants who meet the Extremely Low Income criteria and are qualified as a senior household will automatically be determined to be Rent Burdened and no additional information or qualifying criteria will be established to make this determination.
- **Disabled**
  - ✓ Staff seeks direction from the City Council with regards to this criterion. Disability is defined as a person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act (attached as Exhibit 2 for reference), or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions.

There is no staff proposal to require that program participants be “disabled” in order to qualify for the MHSP. However, City Council expressed an interest in serving as many disabled households as possible. If this is considered a priority to the City Council to serve, then either a minimum qualification criterion for eligibility for the program or a preference can be added to those households who are disabled. If added as a criterion, households will be required to demonstrate their disability status via either their Social Security determination or through a disability certification as allowed under Section 504 of the Rehabilitation Act and the Fair Housing Amendments Act which is utilized for the Section 8 program.

- **Senior Household**
  - ✓ Staff seeks direction from the City Council with regards to this criterion. Essentially, there are two methodologies that can be applied.

Alternative #1: The first, and most stringent, criterion would be that all members of the household must be age 62 or over to qualify. Under this scenario, households in which a head of household may be age 62 or older, yet their spouse or domestic partner may be under age 62 will not qualify for the program. Another scenario may be a senior applicant living with extended multigenerational family members who are under the age of 62. Under this scenario, this household would not qualify for the program.

Alternative #2: Under this alternative, the applicant household would only need one member of the household age 62 years and over to qualify for the program. The subsidy would discontinue when/if the qualifying senior was to pass away or move from the apartment.

Further, at its meeting of May 14, 2019 members of the City Council expressed interest in enhancing/prioritizing the eligibility of applicants through an added measure of qualifying related to age of the applicant. Based upon those comments, staff has proposed an age prioritization that could be implemented under either Alternative and would provide a preference to applicants based upon the range of senior ages in an applicant household. This prioritization places senior applicants into “bands” depending upon their age range.

As can be seen in the Table 1 below, an applicant in which a member of the household is 80 years and older, would be given priority and ranked ahead of all other applicants. All applicants 80 years and older would be ranked equally within their band.

Following that, the same would be duplicated for all applicant households members who are 70 years or older and less than 80 years old.

Following that, the final priority rankings would be performed ranking those applicant members who are age 62 years or older and less than 70 years old.

Applicants would be assisted in this order until 1,000 households have qualified for a subsidy. Any remaining applicants who were not assisted will be kept on a waiting list for possible future vacancies in the program.

**Table 1**  
**Priority Ranking per Age**

<u>Priority</u>	<u>Age Priority Categories</u>	<u>Proposed Action</u>
1	80+ yrs. old	<i>Assisted first over all other applicants, in order of age, beginning first with oldest to youngest in this age bracket.</i>
2	70 years < 80 years old	<i>Assisted second over all other applicants, in order of age, beginning first with oldest to youngest in this age bracket.</i>
3	62 years < 70 years old	<i>Assisted third over all other applicants, in order of age, beginning first with oldest to youngest in this age bracket.</i>

Recruitment Methodology:

- **Advertising**

- ✓ Marketing outreach would include advertising to:
  - Section 8 Waiting List;
  - City’s Affordable Housing Interest List;
  - Program participants of Adult Recreation Center and Sparr-Heights Community Center services, and
  - Advertising flyers to Glendale non-profit social service agencies catering to Glendale senior clients.

- ✓ Marketing will begin three weeks prior to application availability and submittal period.
- **Application Period**
  - ✓ Applications will be received for a period of two weeks.
- **Applications**
  - ✓ Only one application per household will be accepted.
  - ✓ Only electronic applications will be accepted for the program.
  - ✓ Participants will be able to apply only at four (4) City-sponsored locations:
    - Housing Division
    - Central Library
    - Adult Recreation Center
    - Sparr-Heights Community Center
  - ✓ At each location, designated City staffers will manage workstations and will facilitate the inputting of household data into the application database.
  - ✓ Applications will be entered into a lottery, and selected in order of any priority ranking as established by the City Council, if any.
  - ✓ Once selected in the lottery, applicants will then be screened to determine eligibility for the program.

Other Conditions:

- **Non-Transferability**
  - ✓ The MHSP subsidies are non-transferable and rights to the subsidies cease when tenancy of the qualifying applicant and/or apartment is terminated, when the applicant withdraws from the MHSP, or if the qualifying applicant(s) passes away.
  - ✓ If after enrollment in the MHSP, the household is subsequently qualified and enrolled into the Section 8 program or qualified for occupancy in a city sponsored affordable housing project, rights to the MHSP will terminate.
  - ✓ Participation in the MHSP does not establish rights to any other rental housing subsidy program operated by the City of Glendale or the Glendale Housing Authority or affordable housing project developed in cooperation with the City of Glendale or the Glendale Housing Authority.
- **Appeals**
  - ✓ Appeals of staff decision's on qualifying for the program are permitted, however, appeals must be requested in writing within 10 business days of the decision, and must include any documentation or additional information to be considered.
  - ✓ Appeals will be peer reviewed by a three person panel made up of non-Housing related staff. Decision notification will be issued within 10 business days.
- **Notification to the City**
  - ✓ Program participants are required to notify the City Housing Division:
    - Immediately if the landlord or participant is terminating the participant's apartment rental agreement.
    - Within ten (10) business days of notice to owner if participant is permanently vacating the apartment.
    - Within ten (10) business days prior to any temporary absence that will be 30 days or more.
  - ✓ If a qualified household receiving MHSP assistance moves from a qualifying unit, then the subsidy will be discontinued during the timeframe that the tenant is not contracted up in an eligible replacement unit. The household will be given a reasonable amount of time to lease-up in a qualified unit in order to re-establish benefit payments.

**Next Steps/Timing:**

1. Immediately: Once program design parameters are approved by City Council, staff will consult with the Social Security Administration to secure an exemption of subsidy assistance from income related to determining SSI benefits;
2. July-August: Housing staff will work with Human Resources staff to initiate and hire staffing necessary to begin program implementation;
3. July-August: Housing staff will be developing and testing an electronic based application program and finalize a marketing and application plan;
4. August: Housing staff will return to the City Council and report and seek approval of a marketing and application plan;
5. September: Begin marketing program to potentially eligible households as outlined above;
6. October: Receive applications for two week period;
7. November: Screen applications;
8. December: Conduct Lottery;
9. January - February: Screen participants for eligibility; and
10. February - March: Begin making subsidy payments.

**FISCAL IMPACT**

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There are fiscal impacts/costs associated with the implementation and adoption of a potential monthly subsidy program. At its budget hearing meeting of May 14, 2019, the City Council approved a budget from Measure S funding in the amount of approximately \$4.2M annually for the two year program. FY 19-20 funding has been allocated by the City Council. Funding for the second year of the program, FY 20-21, will be requested within that year's budget.

**ALTERNATIVES**

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Alternative 1: City Council may adopt a motion to approve the Monthly Housing Subsidy Program including direction on certain undefined areas. Staff would implement the program per the timelines indicated in the report.

Alternative 2: City Council may elect no to adopt a motion to approve the Monthly Housing Subsidy Program. Under this scenario, the program could not move forward until Council was prepared to provide direction on a proposed program.

**CAMPAIGN DISCLOSURE**

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Not applicable at this time.

**EXHIBITS**

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1. HUD Part 5 (Section 8) Income Inclusions and Exclusions 24 CFR 5.609(b) and (c)
2. Social Security Act or Developmental Disabilities Care Act & Section 504 Verification Form

**MOTION**

Moved by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, that the Council of the City of Glendale hereby approves the Program Design of a Monthly Housing Subsidy Program for Lower Income Renters, as outlined in the Report to Council dated June 11, 2019, with the additional direction as follows:

Vote as follows:

Ayes:

Noes:

Absent:

Abstain:

APPROVED AS TO FORM



CITY ATTORNEY

DATE 6/15/19



# Exhibit 1

## Part 5 (Section 8) Income Inclusions and Exclusions

### 24 CFR 5.609(b) and (c)

Examples included in parentheses have been added to the regulatory language for clarification.

#### INCOME INCLUSIONS:

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a \*\*periodic amount (e.g., Black Lung Sick benefits, Veterans Disability, Dependent Indemnity Compensation, payments to the widow of a serviceman killed in action). See paragraph (13) under Income Exclusions for an exception to this paragraph;\*\*
- (5) Payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay, except as provided in paragraph (3) under Income Exclusions;
- (6) Welfare Assistance.
  - (a) Welfare assistance received by the family.
  - (b) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in

accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

- (c) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
  - (d) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
- (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling; and
  - (8) All regular pay, special pay, and allowances of a member of the Armed Forces, except as provided in paragraph (7) under Income Exclusions.
  - (9) For Section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph "financial assistance" does not include loan proceeds for the purpose of determining income. \*(Note: This paragraph also does not apply to a student who is living with his/her parents who are applying for or receiving Section 8 assistance.)\*

#### **INCOME EXCLUSIONS:**

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, except as provided in paragraph (5) under Income Inclusions;
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in 24 CFR 5.403;
- (6) The full amount of student financial assistance paid directly to the student or to the educational institution (see Income Inclusions (9), above, for students receiving Section 8 assistance);
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operation Desert Storm);

(8)

- (a) Amounts received under training programs funded by HUD (e.g., training received under Section 3);
  - (b) Amounts received by a person with a disability that are disregarded for a limited time for purposes of supplemental security income eligibility and benefits because they are set-aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - (b) Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
  - (c) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the project. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident- initiative coordination. No resident may receive more than one such stipend during the same period of time; or
  - (d) Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as a resident management staff person. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program.
- (9) Temporary, nonrecurring, or sporadic income (including gifts);
- (10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. (Examples include payments by the German and Japanese governments for atrocities committed during the Nazi era);
- (11) Earnings in excess of \$480 for each full-time student 18 years or older (excluding the head of household and spouse);
- (12) Adoption assistance payments in excess of \$480 per adopted child;
- (13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump-sum amount or in prospective monthly amounts;
- (14) Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;
- (15) Amounts paid by a state agency to a family 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 family member at home; or
- (17) Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the *Federal Register* and distributed to housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. *NOTE: the following is the updated list from the Federal*

Register dated May 20, 2014.

The following is a list of income sources that qualify for that exclusion:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 [b]);
- (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058) (e.g., employment through AmeriCorps, Volunteers in Service to America [VISTA], Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);
- (c) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626[c]);
- (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624[f]);
- (f) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6);
- (g) The first \$2,000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;
- (h) Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1407-1408), including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-11, section 327) (as amended);
- (i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056g) (e.g., Green Thumb, Senior Aides, Older American Community Service Employment Program);
- (j) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.);
- (k) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 25 U.S.C. 1728);
- (l) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

- (m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32[l]);
- (n) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- (o) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637[d]);
- (p) Any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05) children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1821), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821);
- (q) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602);
- (r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2));
- (s) Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1780(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- (t) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- (u) Deferred amounts from Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. § 1437a(b)(4));
- (v) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 *et seq.*) and administered by the Office of Native American Programs;
- (w) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled Elouise Cobell et al. v. Ken Salazar et al., 816 F.Supp.2d 10 (Oct 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));
- (y) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 "Exclusion from Income of Payments under Recent Tribal Trust

Settlements" (25 U.S.C. 117b(a)); and

- (z) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance provided by the States, local government, and disaster assistance organizations (42 U.S.C. 5155(d)).

## Part 5 (Section 8) Asset Inclusions and Exclusions

### ASSET INCLUSIONS:

- (1) Cash held in savings accounts, checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average 6-month balance. Assets held in foreign countries are considered assets.
- (2) Cash value of revocable trusts available to the applicant.
- (3) Equity in rental property or other capital investments. Equity is the estimated current fair market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g., penalties or broker fees) that would be incurred in selling the asset. Under HOME, equity in the family's primary residence is not considered in the calculation of assets for owner-occupied rehabilitation projects.
- (4) Cash value of stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts.
- (5) Individual retirement, 401(K), and Keogh accounts (even if withdrawal would result in a penalty). While an individual is employed, count only amounts the family can withdraw without retiring or terminating employment. After retiring or terminating employment, count as an asset any amount the employee elects to receive as a lump sum.
- (6) Annuity where the applicant has the option of withdrawing a balance (even if withdrawal would result in a penalty).
- (7) Retirement and pension funds.
- (8) Cash value of life insurance policies available to the individual before death (e.g., surrender value of a whole life or universal life policy).
- (9) Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.

- (10) Lump sum or one-time receipts, such as inheritances, capital gains, lottery winnings, cash from sale of assets, victim's restitution, insurance settlements, and other amounts not intended as periodic payments.
- (11) Mortgages or deeds of trust held by an applicant.
- (12) Assets disposed of for less than fair market value (e.g. property) when the fair market value of all assets given away during the past two years exceeds the gross amount received by more than \$1,000.

**ASSET EXCLUSIONS:**

- (13) Necessary personal property, except as noted in number 9 of Inclusions, such as clothing, furniture, cars, and vehicles specially equipped for persons with disabilities.
- (14) Interest in Indian trust lands.
- (15) Assets not effectively owned by the applicant. That is, when assets are held in an individual's name, but the assets and any income they earn accrue to the benefit of someone else who is not a member of the household and that other person is responsible for income taxes incurred on income generated by the asset.
- (16) Equity in cooperatives in which the family lives.
- (17) Assets not accessible to and that provide no income for the applicant.
- (18) Term life insurance policies (i.e., where there is no cash value).
- (19) Assets that are part of an active business. "Business" does not include rental of properties that are held as an investment and not a main occupation.
- (20) Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorce, or separation.
- (21) IRA, Keogh, and similar retirement savings accounts where benefits are being received through periodic payments.
- (22) Lump sum payments where the money is used for something that is not an asset— e.g. a car or a vacation or education.

# EXHIBIT 2

## Disability Evaluation Under Social Security

### Part I - General Information

#### Program Description

The Social Security Administration (SSA) administers two programs that provide benefits based on disability: the Social Security disability insurance program (title II of the Social Security Act (Act)) and the Supplemental Security Income (SSI) program (title XVI of the Act).

Title II provides for payment of disability benefits to disabled individuals who are "insured" under the Act by virtue of their contributions to the Social Security trust fund through the Social Security tax on their earnings, as well as to certain disabled dependents of insured individuals. Title XVI provides SSI payments to disabled individuals (including children under age 18) who have limited income and resources.

The Act and SSA's implementing regulations prescribe rules for deciding if an individual is "disabled." SSA's criteria for deciding disability may differ from the criteria applied in other government and private disability programs.

#### Definition of Disability

For all individuals applying for disability benefits under title II, and for adults applying under title XVI, the definition of disability is the same. The law defines disability as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

#### Disability in Children

Under title XVI, a child under age 18 will be considered disabled if he or she has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

#### What is a "Medically Determinable Impairment"?

A medically determinable physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities that can be shown by medically acceptable clinical and laboratory diagnostic techniques. The medical evidence must establish that an individual has a physical or mental impairment; a statement about the individual's symptoms is not enough.

## **The Disability Determination Process**

Most disability claims are initially processed through a network of local Social Security field offices and State agencies (usually called Disability Determination Services, or DDSs). Subsequent appeals of unfavorable determinations may be decided in the DDSs or by administrative law judges in SSA's Office of Hearing Operations (OHO).

### **Social Security Field Offices**

When an individual applies for disability benefits, whether online, in person, by telephone, or by mail, the application is initially processed at an SSA field office. The completed application and related forms provide information about the claimant's impairment(s); names, addresses, and telephone numbers of medical sources; and other information that relates to the alleged disability. (The "claimant" is the person who is requesting disability benefits.)

The field office is responsible for verifying nonmedical eligibility requirements, which may include age, employment, marital status, citizenship and residency, and Social Security coverage information. For SSI eligibility, the field office verifies income, resources, and living arrangement information. The field office sends the case to a DDS for disability evaluation.

## **Disability Evaluation Under Social Security**

### ***Part III - Listing Of Impairments***

The Listing of Impairments describes, for each major body system, impairments considered severe enough to prevent an individual from doing any gainful activity (or in the case of children under age 18 applying for SSI, severe enough to cause marked and severe functional limitations). Most of the listed impairments are permanent or expected to result in death, or the listing includes a specific statement of duration. For all other listings, the evidence must show that the impairment has lasted or is expected to last for a continuous period of at least 12 months. The criteria in the Listing of Impairments are applicable to evaluation of claims for disability benefits under the Social Security disability insurance program or payments under the SSI program.

Part A of the Listing of Impairments contains medical criteria that apply to the evaluation of impairments in adults age 18 and over. The medical criteria in Part A may also be applied in evaluating impairments in children under age 18 if the disease processes have a similar effect on adults and younger children.

Part B of the Listing of Impairments contains additional medical criteria that apply only to the evaluation of impairments of persons in children under age 18. Certain criteria in Part A do not give appropriate consideration to the particular effects of the disease processes in childhood; that is, when the disease process is generally found only in children or when the disease process differs in its effect on children and adults. Additional criteria are included in Part B, and the impairment categories are, to the extent possible, numbered to maintain a relationship with their counterparts in Part A. In evaluating disability for child under age 18, part B will be used first. If the medical criteria in part B

do not apply, then the medical criteria in part A will be used.

The criteria in the Listing of Impairments apply only to one step of the multi-step sequential evaluation process. At that step, the presence of an impairment that meets the criteria in the Listing of Impairments (or that is of equal severity) is usually sufficient to establish that an individual who is not working is disabled. However, the absence of a listing-level impairment does not mean the individual is not disabled. Rather, it merely requires the adjudicator to move on to the next step of the process and apply other rules in order to resolve the issue of disability.

## Listing Of Impairments - Adult Listings (Part A)

The following sections contain medical criteria that apply to the evaluation of impairments in adults age 18 and over and that may apply to the evaluation of impairments in children under age 18 if the disease processes have a similar effect on adults and younger children.

**1.00**  
**Musculoskeletal System**

**2.00**  
**Special Senses and**  
**Speech**

**3.00**  
**Respiratory Disorders**

**4.00**  
**Cardiovascular System**

**5.00**  
**Digestive System**

**6.00**  
**Genitourinary Disorders**

**7.00**  
**Hematological Disorders**

**8.00**  
**Skin Disorders**

**9.00**  
**Endocrine Disorders**

**10.00**  
**Congenital Disorders that**  
**Affect Multiple Body**  
**Systems**

**11.00**  
**Neurological Disorders**

**12.00**  
**Mental Disorders**

**13.00**  
**Cancer (Malignant**  
**Neoplastic Diseases)**

**14.00**  
**Immune System**  
**Disorders**