



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Region VII, OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY
Gateway Tower II, 4th Floor
400 State Avenue
Kansas City, KS 66101-2406

June 17, 2013

Honorable Roy D. Buol
Mayor of Dubuque
City Hall
50 West 13th Street
Dubuque, IA 52001

Dear Mayor Buol:

SUBJECT: Letter of Findings of Noncompliance
Civil Rights Compliance Review of the
City of Dubuque's CDBG and Section 8 Programs
Title VI Review Number: 07-11-R001-6
Section 109 Review Number: 07-11-R001-9

On June 20-24, 2011, the United States Department of Housing and Urban Development (HUD), Office of Fair Housing and Equal Opportunity (FHEO) completed a civil rights related program review of Dubuque, Iowa's (the City of Dubuque) Housing and Community Development Department Program (HCDD) which administers the City's Section 8 Housing Choice Vouchers (Section 8 or voucher program) and the City's Community Development Block Grant Funds (CDBG). The on-site review was conducted by equal opportunity specialists from HUD's Office of FHEO, a representative from HUD's Office of Community Planning and Development (CPD), and a Financial Analyst from HUD's Office of Public and Indian Housing (PIH).

The City's HCDD Program houses operations for both Dubuque's Section 8 and CDBG programs. It administers the Section 8 program and administers and coordinates the activities receiving CDBG funds in Dubuque. HCDD receives federal funds for the administration of Section 8 and operates this program. In addition, it receives and administers \$1.2 million in federal funds for the administration of various CDBG activities, including the Lead Hazard Control Program, Housing Inspection and Licensing, Neighborhood Infrastructure improvements and general program administration. During the time relevant to this review, the HCDD Director was David Harris, and Director Harris was supervised by and reported to the City Manager, Michael Van Milligan. Dubuque operates as a Manager-Council government, and the City Manager exerts great control over City operations as the head professional administrator. HCDD staff serving both Section 8 and CDBG operations of the City reported to Director Harris and up the chain to City Manager Van Milligan. City Manager Van Milligan controlled HCDD policies and practices through direct orders to Director Harris and City staff, in his advisory role to the City Council, and directed City funds with his annual City Budget Proposals which were adopted

by the Dubuque City Council. The City's Mayor serves as the head of the City Council. As recipient of federal funds through Section 8 and CDBG, the City certifies to affirmatively further fair housing and certifies to comply with non-discrimination laws.

The HCDD Program was reviewed under the authority of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq., and the implementing regulations at 24 C.F.R. Part 1 (Title VI); as well as Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5309, and its implementing regulations at 24 C.F.R. Part 6 (Section 109). Additionally, FHEO reviewed whether the City, through the HCDD, is complying with its obligation to affirmatively further fair housing (AFFH) pursuant to Section 104 of Title I of the Housing and Community Development Act of 1974, 42 U.S.C. § 5304, and the Fair Housing Act, 42 U.S.C. § 3608(e)(5), and the regulations implementing AFFH obligations for programs administering CDBG funds at 24 C.F.R. Parts 570 and 91. Finally, FHEO reviewed whether the City is compliant with requirements for programs distributing Tenant Based Housing Choice Vouchers (Section 8) and AFFH obligations found at 24 C.F.R. Parts 903 and 982.

Applicable Law

Title VI prohibits discrimination on the ground of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Title VI provides that “. . . no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d. The implementing regulations provide specific prohibitions which include, but are not limited to the following:

A recipient under any program or activity to which this part applies may not, directly or through contractual or other arrangements, on the ground of race, color or national origin, deny a person any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program or activity.
24 C.F.R. § 1.4(b)(1)(i).

A recipient, in determining the types of housing, accommodations, facilities, services, financial aid, or other benefits which will be provided under any such program or activity, or the class of person to whom, or the situations in which, such housing, accommodations, facilities, services, financial aid, or other benefits will be provided under any such program or activity, or the class of persons to be afforded an opportunity to participate in any such program or activity, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color or national origin, or have the effect of defeating or substantially impairing accomplishment of the

objectives of the program or activity as respect to persons of a particular race, color, or national origin. 24 C.F.R. § 1.4(b)(2)(i).

Under Title VI, a violation occurs if the recipient directly discriminated against an individual or group on the ground of race. It further provides that a violation occurs when a policy or method of administration has the effect of subjecting persons to discrimination. Whether a violation occurs due to the intentional actions of a recipient, or as a result of a method of administration, corrective action must be taken to prevent further discrimination, and regain compliance with Federal Civil Rights laws and regulations.

The Civil Rights Restoration Act of 1987 (CRRA) amended Title VI by adding an expansive definition of "program or activity." It provides that, for purposes of Title VI,

[T]he term "program or activity" and the term "program" mean *all of the operations of--*

(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government; *any part of which* is extended Federal financial assistance.

42 U.S.C. § 2000d-4a(1) (emphasis added).

Generally, the entire department or office within a State or local government is identified as the "program or activity." Thus, the "program or activity" subject to this Title VI review is the entirety of the operations of the HCDD.

Section 109 states that ". . . no person in the United States shall, on the grounds of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance."

Section 104 of Title I of the Housing and Community Development Act of 1974 (Title I), states that ". . . the grant will be conducted and administered in conformity with the Civil Rights Act of 1964 [42 U.S.C. § 2000a et seq.] and the Fair Housing Act [42 U.S.C. § 3601 et seq.], and the grantee will affirmatively further fair housing . . ." In addition, CDBG regulations at 24 C.F.R. § 570.601 provide: "In accordance with the Fair Housing Act, the Secretary requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act. Furthermore, in accordance with section 104(b)(2) of the Act, for each community receiving a grant . . . the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to assume the responsibility of fair housing planning by conducting an analysis to identify impediments to fair housing choice within its jurisdiction, taking appropriate actions to overcome the effects of any impediments identified through that analysis, and maintaining records reflecting the analysis and actions in this regard." Under 24 C.F.R.

§ 91.225(a)(1), all CDBG formula grant recipients annually certify that they will affirmatively further fair housing. Under 24 C.F.R. § 91.225(b)(6), CDBG recipients additionally certify compliance with Title VI, and the Fair Housing Act, and implementing regulations.

Programs distributing Section 8 housing choice vouchers are required to comply with all equal opportunity requirements imposed by contract or federal law, including the authorities cited at 24 C.F.R. § 5.105(a) and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* The HCDD Program operates as the public housing agency administering and distributing Section 8 vouchers and must certify to HUD that: (1) It will administer the program in conformity with the Fair Housing Act, Title VI, Section 504, and Title II of the Americans with Disabilities Act; and (2) it will affirmatively further fair housing in the administration of the program as required by 24 C.F.R. § 903.7(o).

Background

The Department's review¹ revealed that Dubuque has a recent and well publicized history of racial tension. In the late 1980s and early 1990s, when Dubuque's African American population was less than 1%, a community initiative was implemented to increase diversity and attract minority families. From October 1989 to December 1991 in reaction to these integration efforts, Dubuque was the scene of 22 cross burnings and 11 other race related incidents directed at African Americans.

U.S. Census data reveals that Dubuque's African American population increased throughout the 1990s and 2000s, but never to a significant number in percentage. In 1990 the African American population represented a fraction of the total population at only 328 persons. In 2000, the number had grown to 700. By 2010 the African American population reached 2,302 out of 57, 637, approximately 4%. The Department's review of the HCDD's Section 8 records revealed that the number and percentage of African American families applying for and participating in the Housing Choice Voucher Program grew as well. As described in greater detail in Attachment A, African Americans constitute a higher percentage of the Section 8 applicant population, as well as assisted tenants under lease, than the population of Dubuque in general. The increase in Section 8 participation by African Americans in Dubuque is consistent with the relatively low homeownership rate among African Americans and their geographic concentration in lower-rent neighborhoods with high minority concentrations.

The review indicated that the increase in African American applicants to the Section 8 Program was in part due to applications from outside of Iowa, primarily from the Chicago metropolitan area. The 2010 U.S. Census reports that Chicago is much more racially diverse than Dubuque, with an African American population of 32.9% compared to Dubuque's within City population of 4%, within County population of 2%, and within State population of 2.9%. A review of wait lists revealed that applicants from out of State were predominantly African American, with a range between 69% and 87% on various wait lists.

¹ For a detailed, chronological review of the evidence obtained during the Department's review, see Attachment A. For a timeline of events, see Attachment B.

In or around 2007, a high profile crime occurred in Dubuque, involving the stabbing of a man outside of a downtown bar on Central Avenue. This incident reignited racial tension in the City and led to the posting of a photograph of a lynching on a public website. In a June 2007 article, the *Telegraph Herald*, the local newspaper, focused on an influx of African Americans from Chicago and Milwaukee utilizing Section 8 in Dubuque while programs in larger cities had years-long wait lists that were closed to new applicants.

Summary of Findings

Findings of Noncompliance with Title VI of the Civil Rights Act

Based on the evidence obtained during the on-site review, the Department has determined that Dubuque is not in compliance with Title VI, as the City discriminated on the ground of race in the administration of its Section 8 Program. Specifically, the Department's review found that Dubuque discriminated against African Americans based on race, by implementing admission policy changes that had the effect of hindering the ability of African Americans to obtain vouchers and relocate to Dubuque. These policy changes limited the number of African Americans eligible to apply and participate in the program by decreasing access to the wait list to individuals whose incomes would have otherwise qualified, but whose geographic region was predominantly African American, and gave advantages to applicants from geographic areas with predominantly white populations. The Department found that the City utilized admissions criteria and methods of administration that had the effect of excluding African Americans from participating in the Housing Choice Voucher Program, denying them benefits from the Program, and otherwise subjecting them to discrimination on the ground of race – a violation of Title VI of the Civil Rights Act and HUD's implementing regulations.

There is evidence also that the City of Dubuque intended to exclude persons from participation in its Section 8 program, deny benefits, and otherwise discriminate on the ground of race. The City denies intentionally discriminating against African Americans, and asserts their policy changes were undertaken to allow the City to address funding concerns, and administer a more effective program, with better service and additional self-sufficiency corollary programs. The evidence obtained by the Department's review team did not substantiate the justifications proffered by the City for its actions.

In addition to reviewing the findings of the review, this letter contains an outline of corrective actions sought by the Department to correct the policies or methods of administration that have the effect of excluding persons from participation in the Housing Choice Voucher Program, denying persons the benefits of the Program, and subjecting persons to discrimination on the ground of race.

Residency Preference

Residency preference points are generally permitted by HUD regulation, as long as they are not residency *requirements*, and are applied in a nondiscriminatory fashion. In general, residency preference points, like all preference points, are utilized to address the particular housing needs of the housing authority's jurisdiction. Thus, if the authority has a shortfall of

housing within its jurisdiction, it can allot points to assist residents identified as having a greater need in obtaining housing more readily. The higher a preference point allotment, the greater the ability of the applicant to move up a wait list rapidly. If a particular group of applicants receives a high enough allotment of points, other applicants without points are disadvantaged, as applicants who apply later are able to move ahead of applicants without points, and low program turnover decreases the likelihood that those on the bottom of the list will receive a voucher.

In 2007, HCDD implemented a new residency preference point allotment. When interviewed, David Harris, then HCDD Director, explained that the preference was implemented because the City had noticed an “influx of people coming in and applying from other areas. We felt that was not the intent of our program. It was there to help Dubuque residents.” The new preference point allotment awarded residency preference points to applicants on a cumulative basis, as follows: residents from within the City, 30 points; within Dubuque County, 20; and within the State of Iowa, 15. Due to the cumulative nature of the points, an in-City applicant to the program received 65 residency points, an in-County applicant received 45 residency points, and an in-State applicant received 15. The review failed to reveal evidence of any research done by the HCDD to determine why such a weighted preference point allotment would be necessary to address the housing needs of individuals from within the City of Dubuque, or from outside the jurisdiction of the HCDD’s Section 8 program in the County and State. The review revealed nothing to refute Mr. Harris’ assertion that the residency preference point allotment was intended to slow the ability of individuals from outside of Iowa from reaching the top of the list. The review further revealed that applicants from the Chicago area who were adversely affected by the residency requirements differed markedly from applicants from within Iowa in one way: race.

Other preference points allotted by HCDD included 5 points for applicants who were disabled or elderly, recent graduates of Dubuque’s foster care program, applicants who required the services of a live-in aide, and applicants who qualified for a very low income preference point. The Department’s review found that the 5 point allotment for very low income applicants was initially intended to be utilized to bring a small amount of income diversity to the program. The HCDD Section 8 program first had to ensure that 75% of the participants in the program were extremely low income (referred to by HCDD staff as very, very low income). In theory, after the 75% threshold was met, this 5 point allotment would help applicants with slightly higher incomes reach the top of the waitlist and receive a voucher, providing a measure of income diversity in the program. In practice, however, the interviews revealed that HCDD staff found this preference point allotment confusing, and awarded the 5 points to all who applied. This action became significant when HCDD took actions to restrict eligibility to the wait list to only individuals who qualified for preference points.

Records reviewed indicated that after the implementation of the residency preference point allotment, African American participation in the program substantially declined. In 2006 prior to the changes, new African American participant families utilized 153 vouchers. Based on the new preferences, the number and percentage of African American voucher holders would increase, but at a significantly slower rate. In 2007, new African American participant families utilized 104 vouchers, but of those who received vouchers, 85 had submitted their applications prior to the residency preference changes in January of 2007.

In 2008, after more than a year of implementing the residency preference point allotment, there were only 43 new African American participant families, with 188 total African American participant families.

From January 1, 2009, through November 24, 2009, 811 African American families applied to the program, and 200 of these families received new vouchers, bringing the total of African American participant households to 323, a 72% increase from the previous year. The Department's review did not reveal the definitive cause for the uptick in African American applications, but did find that the HCDD was attempting to maximize lease up rates to maintain HUD administrative program funds.

Perceptions of Crime and City Responses

During the late summer of 2009, two high profile murders involving African American perpetrators occurred in Dubuque. Review of public records, minutes from open meetings, and newspaper opinion editorials revealed that public perception was that violent crime had increased throughout the general community, and that this increase correlated with newcomers to the community, particularly newcomers from Chicago. Public perception was that newcomers, who were predominantly African American and residing in the regions of Dubuque with higher concentrations of low income residents, were committing crimes at a higher rate than long-time residents of Dubuque, and were gaining access to the City through Section 8.

In response to the community's fears, the City convened a public forum, created a Safe Community Task Force (SCTF), held closed staff meetings to discuss Section 8 policies, ordered studies to be conducted on crime and poverty, and began implementing policy changes to address the public's perceptions of problems with the Section 8 program. The City had recently added a Corporal position to the Police Department, as part of a five year hiring plan. The position was assigned to the Community Policing Officers division, but was stationed with HCDD as a Section 8 Housing Investigator, and the salary for this position was taken from the HCDD Budget. Additional recommendations of the SCTF, public communications by the City, and public actions are described in greater detail in the Attachment A.

Elimination of the Very Low Income Preference

In late November, early December of 2009, the City Manager directed David Harris and HCDD staff to eliminate the very low income preference point allotment, and to close the waitlist to only those individuals who qualified for one of the program's preference point allotments. As the very low income preference point allotment had, in practice, been allotted to all applicants, by removing the allotment, the City eliminated an avenue via which families from Chicago would qualify for the program's waitlist. Had the City left the very low income preference allotment in place, individuals from outside of Iowa would still have been eligible for the program. Elimination of this allotment effectively allowed only those applicants from out of state that qualified for a disabled or elderly preference point allotment to qualify for the program, significantly reducing the number of African Americans who would be eligible for the wait list. An internal memorandum indicated that the intent in making these changes was to close the wait list to applicants from out of state, so as to address the community's perceptions on crime. The

HCDD and City staff were aware that the families applying from out of state were primarily from Chicago and predominantly African American.

Families from within the City of Dubuque, the County, and the State, all demographically predominantly white geographic areas, still received the weighted point advantage of accumulative residency preference points, which also now kept them eligible for the wait list. The Department's review did not reveal any purported reasons within internal City documents or meeting minutes justifying the policy decision to heavily weigh applicants from within the County or State, but outside the jurisdiction of the HCDD, with a residency preference point allotment while denying applicants from out of State (who were not disabled or elderly) access at all. The Department notes that all other factors considered in making a determination of qualification for the Section 8 waitlist, including criminal history and income, would have been the same, whether an applicant was from Chicago or from another area within Iowa. There is no material difference other than race when considering the qualification of applicants from Chicago and applicants from within Iowa.

Voucher Issuance Freeze

In December of 2009, the City Manager instructed David Harris to cease issuing vouchers. This voucher freeze, which would ultimately remain in place for nine months, was implemented to shrink the size of the Section 8 program to 900 participant families from the operating level of 1076 participant families. While a smaller program affects all applicants, it disproportionately affects those at the bottom of a wait list, as it is less likely that enough vouchers will be issued in a rapid enough manner for them to advance to the top of the list. Individuals applying from Dubuque, the County, or the State, with the heavily weighted preference point allotment, were much less at risk of remaining indefinitely on the wait list. Individuals from out of state who were still on the wait list would find it much more difficult to receive a voucher, as the fewer number of vouchers further decreased the likelihood of enough vouchers being issued to reach those at the bottom.

The City Manager asserted in his budget proposals that the voucher freeze and planned reduction was a result of the City's inability to administer the program effectively. The Department's review failed to find evidence to substantiate this assertion. Prior to this time, the City's SEMAP² scores were consistently high, indicating that the program was run efficiently and effectively, and Housing Commission meeting minutes indicated that maximizing lease up and reallocating the Section 8 investigator's salary to the Police Department were options to address program funding concerns. The review additionally revealed that the lack of administrative funding from the decrease in voucher issuance cost the City \$100,000 in the first year alone, and the City incurred additional costs related to the extensive crime studies and payments to the moderators of the Safe Community Task Force meetings. The Department observes that funds could have been directed toward an additional caseworker's salary, if administration of the program was a concern.

² Section 8 Management Assessment Program

Wait List Purge

In conjunction with the voucher issuance freeze, and after limiting the eligibility of the program, the City conducted a significant purge of the wait list in 2010, resulting in the removal of 387 African Americans from the wait list versus 168 Caucasians. While the HCDD conducted annual purges, as is permitted to keep waitlist records current, this purge's scope was larger, and had a greater impact due to the new policies that prevented out of state residents who no longer qualified for a preference point allotment from reapplying and qualifying for the program. Prior to the implementation of the new policies, purged applicants could reapply, and would simply be delegated to the bottom of the list. Individuals qualifying for residency or other preferences, who were predominantly white, were still able to reapply and regain access to the list. Those from Chicago were not.

The Applicant Status Report (ASR) Spreadsheet indicates that from November 25, 2009 to December 31, 2010, 582 individuals were purged from the wait list. Of these 582, 387 - approximately 66% - were African American, and they were primarily purged between December 3, 2009 and April 23, 2010. In 2010, therefore, 90% of all African American applications were resolved through purging (as opposed to reaching resolution through receipt of a voucher or simply remaining on the waitlist). Because of the concurrent closing of the wait list, non-Iowa residents purged from the list who did not qualify for other local preference points would not have been eligible to reapply. Of the remaining purged applicants, only 168 were identified as Caucasian, approximately 28% of the total purged, revealing that 68% of Caucasian applications were resolved through purging. Twenty-two of the purged applications did not identify race, two were Asian and three were Hawaiian. The ASR Spreadsheet indicates that this was a large purge, considering the shorter time span in which the purge occurred, and when compared to previous years. See spreadsheet analysis below.

Year	A Total Purged for Year	B Number of Purged by Race	C Total of Applications Resolved by Race	D Percent of Applications Resolved via Purging out of Total Applications Resolved per Race (B/C)	E Percent of Race Purged out of Total Purged (B/A)
2005	133	C 82	219	37%	61%
		AA 50	163	31%	38%
2006	344	C 131	429	31%	38%
		AA 209	536	39%	61%
2007	254	C 114	301	38%	45%
		AA 140	340	41%	55%
2008	487	C 202	399	51%	41%
		AA 252	323	78%	52%
2009 (up to 11/24/09)	372	C 110	444	25%	30%
		AA 155	483	32%	42%
2010	582	C 168	248	68%	29%
		AA 387	430	90%	67%

Attempted Full Residency Requirement

In February of 2010, the City attempted to close the waitlist to *all* applicants who did not qualify for residency preference points. This action, voted on and approved by the Housing Commission, would have prevented even those applicants who were disabled or elderly from qualifying for the waitlist. Prior to this, some applicants from out of town were still qualifying for the list, as they qualified for either disability or elderly preference points. After receiving notice of this attempted full residency restriction, the Department's Office of Public and Indian Housing (PIH) informed the City such closure was prohibited. PIH was not yet aware that the residency preference point allotments, which were still in place, were accumulative and therefore weighted so heavily in favor of Dubuque residents that they operated as a form of residency requirement.

Effect on SEMAP

Although a violation of a Housing Choice Voucher Program requirement is not automatically a violation of Title VI *per se*, a violation of a program requirement can be considered as evidence of a Title VI violation. Thus, FHEO notes that on October 26, 2012, pursuant to 24 C.F.R. § 985.103(2), the PIH withheld the Dubuque Housing Authority's Section 8 Management Assessment Program (SEMAP) rating, based on evidence obtained during the on-site review indicating substantial non-compliance with program requirements. The evidence indicated that Dubuque's Housing Choice Voucher Program was operating in a manner that was in substantial noncompliance with the following requirements:

- Residency requirements are prohibited. Although a PHA is not prohibited from adopting a residency preference, the PHA may only adopt or implement residency preferences in accordance with non-discrimination and equal opportunity requirements listed at 5.105(a) of this title.
24 C.F.R. § 982.207(b)(1)(i).
- Admission to a program may not be based on where the family lives before admission to the program.
24 C.F.R. § 982.202(b)(1).

PIH observed that the accumulative residency preference point allotment that Dubuque instituted in 2007, along with the elimination of the very low income preference point allotment and the closure of the wait list to persons not qualifying for local preference points in 2009, as well as the attempted complete closure to all non-Dubuque residents in February 2010, were intended to and did operate as residency requirements which are impermissible under these regulations.

Additionally, PIH noted that Dubuque's failure to fully subscribe participants in the program through inadequate lease up efforts further indicated substantial non-compliance with program requirements. See 24 C.F.R. § 985.3(n). Dubuque failed to receive points in the performance indicator related to lease up.

Record-Keeping

FHEO further observes that under Title VI implementing regulations, as well as the regulations pertaining to the City's duty to AFFH, the City has an obligation to preserve and maintain records that may be pertinent to a determination of whether the City is in compliance with their statutory and regulatory obligations. See 24 C.F.R. §§ 1.6(b). The compliance review resulted in the observation that the City failed to maintain a uniform record keeping practice and failed to preserve wait list data for compliance review purposes. Therefore, the City has failed to meet the record-keeping requirements in compliance with Title VI.

Effect on Participation

The Department found that as a result of the City's actions, African American participation in the Section 8 Program declined from 31% in 2010, the highest level of participation recorded in the records reviewed, to 21% in 2011. Participation has continued to drop; as of September 30, 2012, African Americans comprised only 23% of participating households. The review also revealed that the percentages of African American applications reaching resolution through acceptance to the Program (vs. resolution through denial or purging) dropped from 55% from January 1, 2009 through November 24, 2009, to 6% from November 25, 2009 to December 31, 2010. The percentage of white applicants reaching resolution through acceptance to the Program also dropped, but from 63% to 22%. An analysis of the effect on participation is contained in the following section.

Effect on the Waiting List

Waiting List Applicant Recap Report data for 2009 indicates that in 2009, prior to the Section 8 policy changes and voucher freeze, African Americans were applying to the program at a greater rate than Caucasians. In 2009 a total of 1404 applications were received, and of these, 811 self-identified as African American, approximately 56%, and 574 self-identified as White, approximately 39%. Additionally, SSR data from January 1, 2010 indicates that 31% of participating households were African American, the highest level of participation recorded in the information provided. The Department notes that it is likely that the residency preference point allotment was the factor that kept the participation rates for African Americans at a substantially lower percentage than at which they applied.

Waiting List Applicant Recap Report Summary														
WLARRs provide information on applications received between Jan 1 and Dec 31 of each year.														
Year	Race Total and % C=Caucasian, AA=African American, O=Other, U=Race Unknown									Total Applications with Race recorded	Total Received			
	C		%	AA		%	O		%			U		%
2006	C	556	40%	AA	777	57%	O	15	1%	U	18	1%	1348	1366
2007	C	450	51%	AA	406	46%	O	10	1%	U	24	2%	866	890
2008	C	307	47%	AA	182	28%	O	8	1%	U	154	24%	497	651
2009	C	574	39%	AA	811	56%	O	19	1%	U	52	4%	1404	1456
2010	Not Provided													

The January 1, 2011 Statistical Summary Report provides that from January 1, 2010 through December 31, 2010, during the time of the voucher freeze, the number of African Americans participating in the Section 8 Program declined from the previous year's participation rate of approximately 31% to 21%, as the number of African American program participants dropped by 158, from 323 to 165. The program decreased from 1,076 total participant families, to 787 total participant families, an overall loss of 289 participant families, a much greater impact than the initial proposal to reduce the program by 160 vouchers. While African American participants comprised 31% of participant families at the time the very low preference point allotment was removed, the wait list was closed and voucher issuance was frozen, they comprised approximately 54% of the participating families lost. An analysis of the specific reason for the loss of individual families was not undertaken. However, due to the purging of the waitlist and the waitlist's restriction to only those applicants eligible for local preference, the families that remained on the waitlist and new eligible applicants were much less likely to be African American.

Statistical Summary Report Data

SSRs were printed on January 1 of the year, providing a snapshot of Section 8 Program Participation on that date.

Date/Year	Race	% of Total	Total Households In	Total Households
	Total	Households	Program with Race	in Program
			Recorded (Non	
			Hispanic)	
January 1, 2008	C	713	73.73%	967
	AA	242	25.03%	977
January 1, 2009	C	681	77.12%	883
	AA	188	21.29%	899
January 1, 2010	C	715	67.71%	1056
	AA	323	30.59%	1076
January 1, 2011	C	589	76.30%	772
	AA	165	21.37%	787
January 1, 2012	C	638	73.08%	873
	AA	214	24.51%	888

Despite a slight increase in the percentage of African American households under lease from 2011 to 2012, the percentage declined throughout 2012. A Resident Characteristic Report run by the Department on September 30, 2012 indicates the percentage of African American participation was down to 23%, well below the 31% peak prior to the implementation of the 2009 admissions policy changes and significantly lower than their representation in the applicant pool.

The Department observes that the sentiments of Section 8 tenants during Resident Advisory Board committee meetings reflect that the negative attention directed towards the program and "newcomers" in Dubuque was extremely upsetting.

As detailed above, a November 12, 2010 wait list indicates that when voucher issuance resumed, 405 households were on the wait list. Of these 405 households, 160 of these had been accepted after the November 24, 2009 policy changes became effective. Of these 160 households, 39 were identified as African American, approximately 24%. Of the 245 households accepted to the wait list prior to November 24, 2009, 154 were African American. The change was approximately 38%, a drop of 14%. This difference is statistically significant.

The ASR Spreadsheet further indicates that the percentages of African American applications reaching resolution varied each year, but directly reflected the changing policies of the HCDD. From January 1, 2009 to November 24, 2009, approximately 55% of resolved African American applications were resolved through acceptance to the program. From November 25, 2009 to December 31, 2010, this number dropped to 6%. While it then rose in 2011 to 35%, this still reflects a decline in percentages accepted from previous years. See spreadsheet analysis below. The “Percent Housed” figure was derived by calculating the percentage of vouchers utilized from “Total Applications Resolved. The “Percent Accepted” was calculated by adding the number of vouchers utilized and the number of vouchers expired, and calculating that percent out of the “Total Applications Resolved.”

*Analysis of ASR Spreadsheet
Summary of Resolved Applications*

Year	Race	Vouchers Utilized	Vouchers Expired	Total Applications Resolved	Percent Housed	Percent Accepted
2006	AA	153	123	536	29%	51%
	C	158	92	429	37%	58%
2007	AA	104 (85 submitted prior to 01/07)	38	301	34%	47%
	C	154	50	340	45%	60%
2008	AA	43	9	323	13%	16%
	C	126	21	399	32%	37%
01-01-09 through 11-24-09	AA	200	68	483	41%	55%
	C	184	97	444	41%	63%
11-25-09 through 12-31-10	AA	19 (17 issued prior 11/09 ³)	7	430	4% ⁴	6%
	C	46 (25 issued prior 11/09)	8	248	19%	22%
2011	AA	102 (32 submitted prior to 11/09)	43	418	24%	35%
2011	C	157 (15 submitted prior to 11/09)	86	558	28%	44%

³ Applicants are qualified and informed that they have qualified for vouchers, but do not begin to utilize a voucher until they find a unit that meets Section 8 requirements. In this instance, these vouchers were utilized in the first few months of 2009, and as new voucher issuance was frozen, these vouchers were issued prior to the freeze.

⁴ This 4% figure includes six participants who utilized vouchers in December of 2009. If those individuals are counted in 2009, rather than in 2010, the 2010 figure would be 3%.

Summary of Title VI Findings

FHEO's review indicates that the City's administration of the Section 8 Program is not in compliance with Title VI. Relevant provisions of HUD's Title VI regulations state the following requirements for programs or activities receiving federal financial assistance:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity under which this part 1 applies.
24 C.F.R. § 1.4(a)

A recipient under any program or activity to which this part 1 applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

- (i) Deny a person any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program or activity;
- (ii) Provide any housing, accommodations, facilities, services, financial aid, or other benefits to a person which are different, or are provided in a different manner, from those provided to others under the program or activity;
- (iii) Subject a person to segregation or separate treatment in any matter related to his receipt of housing . . . under the program or activity;
- (v) Treat a person differently from others in determining whether he satisfies any occupancy, admission, enrollment, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program or activity. . . .

24 C.F.R. § 1.4(b)(1)(i-v)

A recipient, in determining the types of housing, accommodations, facilities, services, financial aid, or other benefits which will be provided under any such program or activity, or the class of persons to whom, or the situations in which, such housing, accommodations, facilities, services, financial aid, or other benefits will be provided under any such program or activity, or the class of persons to be afforded an opportunity to participate in any such program or activity, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the

objectives of the program or activity as respect to persons of a particular race, color, or national origin.
24 C.F.R. § 1.4(b)(2)(i)

FHEO's review indicates that the City of Dubuque through its HCCD activities discriminated against African Americans on the basis of race by implementing a series of systematic changes to its admissions policies, which were intended to have and which had the effect of restricting, the participation of African Americans individually and collectively, because of race in violation of 24 C.F.R. §§ 1.4(a), (b)(1) and (b)(2)(i).

During the relevant time period, the African American population in Dubuque had increased from approximately 1% to 4% (700 to 2,302). Around the time the policy changes were implemented at the end of 2009, African Americans comprised 31% of the families receiving Section 8 vouchers within Dubuque and 56% of the applicants. Dubuque also provided weighted residency preference allotments to applicants from geographic areas outside its jurisdiction that were also primarily white, from Dubuque County and the State of Iowa. As of September 30, 2012, African American participation in the program was at 23%.

The record shows that Dubuque undertook no analysis nor did it provide a legitimate justification for granting residency preference points for applicants from outside the HCDD's jurisdiction, but from areas with largely white demographics (Dubuque County and the state of Iowa). It did not provide an explanation of why weighted preference points were necessary for these applicants, while applicants from outside of Iowa, who were predominantly African American, were almost completely restricted.

By implementing these policy changes, Dubuque severely restricted African American participation in the Section 8 Program. The City asserts its policy changes were neutral and taken for administrative reasons. The record contradicts the City's assertions. The record reflects that each of the policy changes identified above worked in conjunction with the others and had a significant effect on African American participation, and violated program rules, resulting in the exclusion of African Americans from participation in the Housing Choice Voucher Program and thereby denying benefits, all because of race.

Evidence of Intentional Discrimination

The review revealed evidence that the City of Dubuque knew its actions would limit or deny the participation of African Americans in its Section 8 program. As described in greater detail in the Attachments, the City approved changes in admissions policies aimed at reducing participation by persons from outside of the State of Iowa, a state with a relatively low African American population, particularly persons from Chicago, an area with a relatively high African American population. The City asserted to the Department that the changes were the result of a desire to improve administration of the program and contain costs. The City's public assertions for the administrative changes included that the administrative changes would help address the perceptions within the community that crime in Dubuque had increased. Evidence obtained during the review did not substantiate the City's purported reasons for the administrative changes, as the program had received high SEMAP rankings in previous years, the reduced program resulted in the loss of approximately

\$100,000 in administrative funds, adverse action on the City's SEMAP rankings, and the actions were taken prior to the completion of the in-depth crime study, a study which was pursued to identify crime trends and correlations in Dubuque.

The review further disclosed that:

The change in admissions preferences, the selective closing of the waiting list, and the waiting list purge had the intended effect: an increase in the percentage of local residents on the Section 8 waiting list (and a corresponding decrease in the percentage of non-residents on the waiting list) and an increase in the percentage of local residents admitted to the Voucher Program. The racial composition of local resident applicants reflects a much less racial diverse population than applicants from outside of Dubuque, Dubuque County, or the State of Iowa. The result of these policies was a decrease in African Americans as a percentage of families on the Section 8 waiting list and as a percentage of families admitted to the Voucher Program.

Officials of the City knew the numbers of persons applying to the program from outside of Iowa were from Chicago, and were disproportionately African American, and took the foregoing actions with the intent to limit the ability of these applicants to participate in the program so as to address City residents' discriminatory perceptions on crime and race.

The City of Dubuque implemented Section 8 admissions policy changes without informing HUD through the PHA Plan process and without providing appropriate notice of factors affecting the housing needs of households of various races on the waiting list and failing to articulate that the PHA was not choosing a strategy to address those needs to the maximum extent possible in contravention of 24 C.F.R. § 903.7. The City's actions were also contrary to the requirement that a PHA's plans are consistent with any applicable Consolidated Plans, which include a certification that requires the preparation of an Analysis of Impediments of Fair Housing Choice, found in 24 C.F.R. § 903.15. Also, as indicated in PIH's letter of October 26, 2012, the City of Dubuque's actions resulted in the City's SEMAP scores being withheld.

Based on this evidence, the review concludes that the expressed security justification and administrative and cost savings justifications for the changes in the admissions policies were unsubstantiated, and the policies were designed to change the racial composition of the Section 8 waiting list and program admissions.

Section 109

As a recipient of CDBG funds, the City certifies to comply with Federal Civil Rights laws in the operation and administration of the Program or Activity, as a whole, in receipt of said funds. Therefore, the actions of the HCDD as a whole must be considered when reviewing the certifications of the City. The Department is not issuing a letter of findings of noncompliance under Section 109 at this time.

Compliance with Certifications

However, the findings of a violation of Title VI that continues to this day requires consideration of the status of certifications made by the City as a condition of receipt of funds from the Department. During the applicable time frame, while the City took the foregoing actions to reduce the size of the program and restrict African American participation, the City continued to submit signed certifications that it complied with civil rights laws, including Title VI of the 1964 Civil Rights Act. Additionally, the City submitted signed certifications that the City's Five Year and Annual PHA Plans were consistent with the City's Consolidated Plan. The implementation and impact of these actions appears to be inconsistent with provisions of the Consolidated Plan and attached documents that the City had a need for affordable housing. These actions appear to be consistent with the City's reputation for being unwelcoming to minorities, particularly African Americans.

Duty to Affirmatively Further Fair Housing

As a recipient of both Section 8 and CDBG funds, the City also certifies that it will affirmatively further fair housing. The Department observes that the Consolidated Plan for FY 2011-2015, the Annual Action Plan (AAP) for FY 2011 (for use program year 2010), as well as the PHA's Five Year and Annual Plan were submitted by HCDD to the Department in April of 2010. Both the Consolidated Plan and the AAP were reviewed by the City Commission, as well as the City Council, and approved by each level of the City government. The Consolidated Plan contained the City's AI, which identified two impediments in the City which operated as barriers to Fair Housing Choice that specifically affected African American housing choice in Dubuque: (1) a lack of affordable, accessible housing; and (2) a community perceived as unwelcoming to outsiders, especially minorities. The Department observes that the foregoing Plans all provide that the Section 8 Program is the City's primary method of ensuring affordable housing, but did not address the City's actions to reduce its Section 8 Program baseline from over 1,000 to 900. Further the Plans did not adequately identify, review, explain, or attempt to mitigate the effect this reduction would have on fair housing choices in Dubuque for African Americans, which participated at a rate of 31% of the Program at the time.

The CDBG and PIH regulations explaining the City's obligations to affirmatively further fair housing (AFFH) through the HCDD Program state:

Equal Opportunity and Fair Housing Review Criteria:

General. Where the criteria in this section are met, the Department will presume that the recipient has carried out its CDBG-funded program in accordance with civil rights certifications and civil rights requirements of the Act . . . , and is affirmatively furthering fair housing unless: There is evidence that a policy, practice, standard or method of administration, although neutral on its face, operates to deny or affect adversely in a significantly disparate way the provision of employment or services, benefits or participation to persons of a particular race . . . or fair housing to persons of a particular race . . . In such instances . . . the recipient will be

afforded an opportunity to present evidence that it has not failed to carry out the civil rights certifications and fair housing requirements of the Act. The Secretary's determination of whether there has been compliance with the applicable requirements will be made based on a review of the recipient's performance, evidence submitted by the recipient, and all other available evidence. The Department may also initiate separate compliance reviews under title VI of the Civil Rights Act of 1964 or section 109 of the Act. 24 C.F.R. §§ 570.904(a)(1)(ii) and (a)(2).

Certifications: *AFFH certification:* Each jurisdiction is required to submit a certification that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard. 24 C.F.R. § 91.225(a)(1).

Civil rights certification: (1) The PHA must certify that it will carry out its plan in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990. The PHA must also certify that it will affirmatively further fair housing. 24 C.F.R. § 903.7(o) (Internal citations omitted).

Validity of certification: (i) HUD will take action to challenge the PHA's certification under 903.7(o) where it appears that a PHA Plan or its implementation: (A) Does not reduce racial and national origin concentration in developments or buildings and is perpetuating segregated housing; or (B) Is creating new segregation in housing. (ii) If HUD challenges the validity of a PHA's certification, the PHA must establish that it is providing a full range of housing opportunities to applicants and tenants or that it is implementing actions described in (d)(2)(ii) of this section. 24 C.F.R. § 903.2(d)(3)

In light of information obtained during the compliance review and the Title VI findings outlined above, there is sufficient evidence to question whether the City's Section 8 policies and practices are consistent with its AFFH certifications and other civil rights certifications submitted pursuant to CDBG regulations at 24 C.F.R. § 570.601(a), Consolidated Plan regulations at 24 C.F.R. § 91.225(a)(1), and PIH regulations at 903.7(o). The Title VI findings show that the City of Dubuque, a recipient of funds from HUD's Offices of Public and Indian Housing and Community Planning and Development, through its operation of the Section 8 program and implementation of residency preferences discriminated on the basis of race and that its Section 8 policies and practices operate to deny and otherwise affect adversely the provision of Section 8

benefits to African Americans. The Title VI findings provide evidence to rebut the presumption that the City of Dubuque is operating in accordance with its civil rights certifications.

The City certified that it would take actions to address and reduce the barriers to Fair Housing Choice identified in the City's AI. The review team's analysis of the data collected during the compliance review revealed that in administering its HCDD Program, the City took actions that limited access to affordable housing on the basis of race. These actions were not only inconsistent with the identified barriers to Fair Housing Choice, but directly exacerbated the impediments of a lack of affordable housing and an unwelcoming attitude towards newcomers, and therefore increased the barriers to Fair Housing Choice identified in the City's AI.

The City took these actions despite a specific awareness of the impediments due to the timing of the City's submission of the Consolidated Plan and AI during the same time period in which the majority of the policy decisions were made. The review indicated those actions were: (1) awarding residency preferences accumulatively, in a manner that greatly limited non-residents' participation in the program; (2) removing the very low income preference point allotment, therefore closing the wait list to the vast majority of non-resident applicants on November 24, 2009; (3) closing the wait list to all non-residents on February 23, 2010; (4) curtailing the issuance of 289 vouchers over a ten month period from December 2009 to October 2010, thus failing to assist hundreds of families; and (5) issuing vouchers in a restricted manner to maintain underutilization at approximately 900 vouchers despite notice from HUD that such actions may not have been consistent with the City's obligation to AFFH.

Corrective Actions

In consideration of the City of Dubuque's violations of 24 C.F.R. § 1.4, the Department seeks to voluntarily resolve the foregoing identified findings with the proposed following affirmative efforts. Due to the systematic nature of the policy changes and Dubuque's history of racial tension, the Department is seeking several changes to the frequency and manner of disclosure required by the City and HCDD. Please note that additional corrective actions may be proposed and/or deemed necessary throughout the Voluntary Compliance process, discussed more fully below.

1. Develop a strategy to increase housing opportunities throughout Dubuque which takes into account the needs of minority populations.
2. Develop a strategy to provide affordable housing that is fully available without regard to race or ethnicity throughout all of the communities within Dubuque, to create equal housing opportunities.
3. Develop a strategy to take affirmative steps to provide opportunities for desegregation of areas of racial and ethnic concentration and poverty, which includes but is not limited to, expanding HCDD program opportunities for applicants and participants.
4. Eliminate local residency preference points.

5. Reinstate the very low income preference point allotment of five points that is to be allotted after the threshold of 75% of participating families served are extremely low income, and train staff appropriately to ensure correct allotment of points to appropriate qualifying applicants. This allotment helps ensure income diversity in the program, and provides an avenue via which residents from outside of Dubuque who are not elderly or disabled may receive preference point allotment and more readily participate in the Program.

6. Implement a maximization of lease ups in the Section 8 Program for five years.

7. City staff, including, but not limited to, the City Manager, the HCDD Director and all HCDD staff, Human Rights Director and all Human Rights Staff, City Council, Housing Commissioners and Long Range Planning Commissioners must attend three hours of AFFH and civil rights training conducted by an agency or organization approved by the Department, each year for a minimum of five years.

8. Amend the Admissions Policy to prohibit the HCDD from limiting application and admission to the wait list to only those who qualify for local preference point allotment. If the wait list is open, it shall be open to all applicants.

9. Amend the City's 2010 AI to include an analysis of the history of race relations in Dubuque, current race relations in Dubuque, and how these perceptions affect fair housing choice within the City and identify actions to address these perceptions.

10. Pursuant to 24 C.F.R. 985.103(e) the City's SEMAP rating shall be withheld based on Title VI Compliance Review findings for a period of at least one year or until a VCA has been entered into and the initial terms of said agreement have been met to the Department's satisfaction.

11. The City will, for a period of no less than five years, be required to submit full annual plans with the information required by 24 C.F.R. § 903.7.

12. In accordance with 24 C.F.R. § 570.910(b)(2)(iv), propose and implement means by which current and future expenditures of CDBG funding may mitigate the adverse effects and consequences of the City's actions.

13. Provide additional assurances and certifications that the City will operate its programs in compliance with civil rights obligations and will take actions to AFFH.

14. Develop and maintain a uniform system of record keeping, ensuring that a monthly accounting of the waitlists, applications received, returned, rejected and accepted, as well as information containing an analysis of applicant data such as race, ethnicity, current/originating address, and preference point allotment is kept for a minimum of five years and available for Departmental review.

15. For a period of no less than five years, the City will submit to a more extensive schedule of monitoring and reporting.

Conclusion

This letter addresses only the issues discussed herein and should not be interpreted as a determination of the City of Dubuque's compliance or noncompliance with Title VI or Section 109 or AFFH certifications in any other respect.

HUD's regulations discuss the issuance of a letter of finding (LOF) under Title VI at 24 C.F.R. § 1.7. Under the preceding authority it is HUD's policy to resolve all matters by informal means whenever possible. Informal resolution is usually achieved through the execution of a Voluntary Compliance Agreement (VCA) between HUD and the recipient. We invite the City of Dubuque to enter into an informal resolution.

HUD prefers to achieve an informal voluntary resolution to this matter through a written VCA. See 24 C.F.R. § 1.7(d). If the noncompliance cannot be corrected by informal means, compliance may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance, or by any other means authorized by law. See 24 C.F.R. § 1.8(a).

Within the next 30 days, I encourage you to contact Kellie Paris-Asaka, Equal Opportunity Specialist, Omaha Office of FHEO at (402) 492-3110, to discuss negotiating the terms of a VCA to resolve the noncompliance issues. You may also contact me directly at (913) 551-6857.

Sincerely,



Betty J. Bottiger
FHEO Region VII Director
Region VII Office of Fair Housing
and Equal Opportunity

Attachments

Attachment A: Detailed Review of Evidence

The following is an in depth, chronological account of the evidence summarized in the Letter of Findings.

City Government

Dubuque, Iowa, is operated under a council-manager form of government, employing a full time City Manager, currently Michael Van Milligen, who functions as the Chief Executive Officer of the City. Mr. Van Milligen is tasked with: (1) managing 30 Department and Division managers who supervise more than 500 employees; (2) making policy recommendations to the City's legislative body, the City Council, which may accept, reject or modify his proposals; and (3) drafting and proposing the City's yearly budget. The City Council is comprised of the Mayor, Roy D. Buol, who serves as Chairman of the Council, along with four members elected by wards and two at large members. The services and priorities of the City government are determined during the budgeting process.

As City Manager, Mr. Van Milligen suggests and recommends policies for the HCDD and is the direct supervisor of the Director of the HCDD Program. David Harris¹ was the Director of the HCDD Program from 1987 to July of 2012. Through the HCDD, the City operates as the Public Housing Authority, administering the Section 8 Program and distributing vouchers that cover a portion of a participating family's rent. The HCDD also distributes CDBG Program Funds to such programs as the First Time Homebuyers' Loan Program. The Housing Commission, separate from the City Council, operates as both a policy setter and advisory commission², and sets and adopts policies (often at the recommendation of Mr. Van Milligen) for the Section 8 Program, which are then subject to final ratification through City Council approval. In conjunction with the distribution of vouchers, Dubuque offers additional ancillary benefits to interested participants, including the Family Self Sufficiency program (FSS), Bridges Out of Poverty, and Gettin' Ahead in a Just Gettin' by World. These programs assist participants in acquiring job skills and self-improvement opportunities, so as to ensure the participant has the necessary skill set to transition out of the Section 8 Program. Dubuque does not own or operate any public housing.

The City, in operating the HCDD, certifies, through the Director of the HCDD and the Mayor, to AFFH. These Certifications obligate the City to: (1) conduct an Analysis of Impediments to Fair Housing Choice (AI); (2) propose means to address such impediments; and (3) keep records. The most recent AI was updated at the end of 2009, beginning of 2010, for inclusion in the City's updated Consolidated Plan and for reference in drafting the City's Annual Action Plan for Fiscal Year (FY) 2011. The FY for Dubuque runs from July 1 through June 30. The operating budget for the City is proposed by the City Manager in January, which allows for input and review from the various Department and Divisions and public comment, prior to the final Budget approval by the City Council, which occurs in March. It is via this formal budgeting process that the City Manager effectively directs policy for the City's programs, like the HCDD.

¹David Harris is no longer employed with the City.

²Commissioners are residents of Dubuque who apply for the positions with the City Clerk, and are then appointed/approved by City Council if they meet the specific commission's qualifications.

Events Prior to 2007

Dubuque has a population of 57,637. It is the county seat for Dubuque County, which includes the slightly larger surrounding area, and is home to an additional population of 36,000.³ Dubuque is the oldest city in Iowa and has an aged housing stock, with 37% built prior to 1940 and 87% built prior to 1978.

Dubuque is 161 miles from Chicago, Illinois and 144 miles from Milwaukee, Wisconsin. The 2010 Census reflects that African Americans reside in these cities at much higher percentages than in Dubuque (discussed below). In Chicago, the African American population comprises 32.9% of the total population. In Milwaukee, the African American population comprises 40% of the total population. The review revealed that public perception in Dubuque was that individuals from Chicago and Milwaukee were utilizing the Section 8 program. Waitlist reviews indicated that there was a high percentage of applicants from Chicago, but not from Milwaukee.

This review analyzed population growth in both the City and the County, to reveal the racial demographic changes over the last twenty years and how these changes led to the events giving rise to the review. County and State data was included as a result of the City's inclusion of a residency preference point to individuals from within these areas but outside of the City.

Dubuque has a history of racial tension. The 1990 Census reported that Dubuque County's African American population was 351 out of 86,382. During this time, a community initiative to bring one hundred minority families to Dubuque by 1995 was announced to the public. From October 1989 to December 1991, in reaction to these integration efforts, Dubuque was the scene of 22 cross burnings and 11 other race-related incidents directed at African Americans in the community. After national media reported on the situation, the KKK held a rally at Dubuque City Hall. Efforts were made to counter the foregoing, including pro-diversity rallies which garnered much larger crowds. As a result of the turmoil, the initial recruitment effort was eventually foregone.⁴

Approximately ten years subsequent to these incidents, the 2000 Census reported an increase of African Americans in the City itself, 700 out of 57,686, approximately 1% of the population. The Census reported Caucasians comprising 55,466 out of 57,686, approximately 96%. In 2001, as part of the Consolidated Planning process required of recipients of CDBG funds, the City contracted with John Marshall Law School to conduct and draft an AI. This AI identified six impediments to Fair Housing in Dubuque:

- (1) a lack of a large stock of decent affordable housing;
- (2) a limited number of minority role models;

³Census Tract Information 2010: Dubuque City: 57,000; and Dubuque County, which includes the City: 93,000.

⁴Mohammad A. Chaichian, White Racism on the Western Urban Frontier: Dynamics of Race and Class in Dubuque, Iowa (2006).

- (3) the perception that Dubuque was not a hospitable community for outsiders and particularly minorities to locate;
- (4) the failure of victims of housing discrimination to file complaints;
- (5) the lack of an effective deterrent for those who engage in subtle forms of housing discrimination; and
- (6) the limited amount of minority homeowners.

The AI did not analyze the events that had occurred during the early 1990s, actions undertaken to address them or how those events played a role with regards to the identified impediments.

In 2005 Dubuque's Multicultural Family Center opened, and in 2006 the City began an Intercultural Competency Initiative. During this time period, the African American minority population was growing and concentrating in Census Tracts 1 and 5 in downtown Dubuque, in an area known as the Washington Neighborhood, characterized by its older housing stock and fewer economic resources. According to the City Manager's FY 2009 Budget Transmittal, issued January 25, 2008, in 2007 70% of the housing stock in the Washington Neighborhood was comprised of rental property. With this large percentage of rental property, the Washington Neighborhood contains a higher concentration of Section 8 participant households than other neighborhoods within in Dubuque.

The 2010 Census reports that by 2010 the number of African Americans in Dubuque grew to 2,302 out of a total population of 57,637, approximately 4% of the population, while Caucasians were reported at 52,869, approximately 92%. This represents significant rapid growth, approximately 228%, for the African American minority population during this decade, but even with this increase, the overall percentage was still very low. This growth was primarily concentrated in the downtown area and Washington Neighborhood. The 2010 Census reported very little growth in the African American population outside the City, but within the area still encompassed by Dubuque County, with the African American population of Dubuque County (which includes the City's residents) at 2,436 out of 93,653, only 2% of the County population.

Section 8 Program 2006

The Section 8 Waiting List Applicant Recap Report (WLARR)⁵ summarizing applicant information from January 1, 2006 through December 31, 2006 indicates that in 2006, 1366 individuals applied to participate in the Section 8 Program. Out of these applicants, 777 self-identified as African American, approximately 57%, and 556 self-identified as Caucasian, approximately 40%.

Events from 2007 to 2008

In or around 2007, a high profile crime occurred involving the stabbing of a man outside of a downtown bar on Central Avenue. This incident reignited racial tension in the City and led to the

⁵Charts summarizing data are located on pages 23-25.

posting of a photograph of a lynching on a public website.⁶ In a June 2007 article, the Telegraph Herald, the local newspaper, focused on an influx of African Americans from Chicago and Milwaukee utilizing Section 8 in the City while programs in larger cities had years-long waitlists that were closed to new applicants.⁷

Residency Preference Point Allotment

In January 2007, the City instituted a residency preference point allotment in the Section 8 Program, purportedly to address transiency issues within the program and within the Washington Neighborhood.⁸ This residency preference, one of many local preference points allotted by the City, as written in the Section 8 Administrative Plan, allotted 30 points to residents within the City, 20 points to residents within the County, and 15 points to residents within the State. In practice, the points were applied accumulatively. As a result, in-City residents received 65 points, in-County received 35 points, and in-State received 15 points. Other various local preference points, including disability preference, elderly preference and a very low income preference, at the time (and still) only provided five points. Notably, this residency preference point extended the time on the wait list for non-Dubuque residents.⁹ In an interview, former Director of HCDD, David Harris, stated this preference was implemented because the City had noticed an “influx of people coming in and applying from other areas. We felt that was not the intent of our program. It was there to help Dubuque residents.”

In an interview with Janet Walker, Assisted Housing Supervisor for the Section 8 Program, she indicated that while the section of the Administrative Plan outlining preference allotments indicates that a participant’s position on the wait list is determined by preference point status, the section defining family explains that the disabled and elderly, no matter where they reside, would receive priority over a single person from Dubuque. Ms. Walker also asserted that the very low income preference was intended to be allotted to individuals above 30% area median income, only after a threshold of 75% of vouchers served participating households meeting extremely low income standards¹⁰, or below 30% area median income were served by the Program. This very low income preference allotment would allow for some income diversity in the program. However, Ms. Walker further explained that extremely low income applicants comprised approximately 98% of the program’s applicants, and in practice, the very low income preference was confusing for staff to implement, and was actually allotted to all applicants.

⁶These incidents were reported to the Northern Illinois University (NIU) Center for Governmental Studies by City employees and were included in NIU’s analysis of events leading up to the commissioning of the 2010 Dubuque Crime and Poverty Study. An interview with Sharon Shol, a member of the NIU team, revealed that the information was provided and confirmed by City staff, primarily Michael Van Milligan and Kelly Larson. Exact dates and other specifics were not provided to NIU and were, therefore, not included in NIU’s report. Ms. Shol asserted that the timeline was a collaborative process, and the City had input and opportunity to correct any information prior to the release of the report. See NIU 2010 Dubuque Crime and Poverty Study Summary Report, page 87.

⁷See Sorting Out Section 8 Stories, Telegraph Herald, June 24, 2007

⁸City Manager Van Milligen’s January 25, 2008 Budget Proposal.

⁹Throughout this LOF, “residency preference points” will refer to points allotted based on the applicant’s residence in Dubuque, Dubuque County, or Iowa. “Local preference points” will refer to the whole point system, which includes residency points and other preference points assigned by the City for the elderly, disabled, very low income, or individuals qualifying for other social services in Dubuque designated for point allotment.

¹⁰ HUD regulations refer to this income demographic as “extremely low income.” Dubuque consistently referred to this demographic as “very, very low income.”

Section 8 Program 2007

The WLARR summarizing applicant data from January 1, 2007 to December 31, 2007 indicates that in 2007, after the residency preference was implemented, a total of 890 individuals applied to the Section 8 Program, and of these 406 identified as African American, approximately 45%, a decline of 12 percentage points from the previous year's 57%, and 450 identified as Caucasian approximately 51%.

Statistical Summary Report (SSR) data indicates that at the end of 2007 there were 242 African American participant households. While wait list data is not available for this time period, data collected by Janet Walker pertaining to participant and applicant resolution information, i.e. whether an applicant was ineligible, had been housed, their voucher had expired, or whether they had been purged from the wait list was recorded separately from the server system that the City ceased to utilize in 2012. This data was compiled in a master spreadsheet of application status resolution information (ASR Spreadsheet), contains race data, and reveals that in 2007, 104 out of 301 resolved applications submitted by African Americans were resolved with the applicants being housed and utilizing a voucher, approximately 34%. Of these 104 resolved applications, 85 applied to the program prior to the creation in January of 2007 of the residency preference point allotment. Of the resolved applications submitted by Caucasians in 2007, , 154 out of the 340 were resolved with the utilization of a voucher, approximately 45%.

In 2008, the City added a Corporal position to the Police Department as part of a five year hiring plan proposed in 2007. This Corporal position was assigned to the Community Policing Officers division, but was stationed with the HCDD as a Section 8 Housing Investigator to investigate allegations of fraud or other program violations. The salary for this position was taken from the HCDD budget, rather than the Police Department's budget.

During this time, Dubuque's Section 8 Program was consistently rated 100% by HUD's Section Eight Management Assessment Program (SEMAP), which measures the administrative performance of agencies administering Voucher Programs. While the success (or lack thereof) of the Program and the City's ability to manage it sufficiently would later be raised by the City Manager as a reason for reducing the Program's size, records reviewed failed to reveal administrative concerns or an inability to manage the program well.

Section 8 Program 2008

The HCDD Statistical Summary Report (SSR) dated January 1, 2009 summarizing Section 8 demographic information for the 2008 calendar year, reveals that at the end of 2008 there were 899 participants in the Section 8 Program, and of these participants, 188 were African American, approximately 21%, and 681 were Caucasian, approximately 77%.¹¹

The WLARR summarizing applicant data from January 1, 2008 to December 31, 2008 indicates that in 2008, there were 651 applicants to the Section 8 Program. 182 self-identified as African American, approximately 28%, and 307 self-identified as Caucasian, approximately 47%. It also reveals that for approximately 24% of applications received there was no race data.

¹¹This was the first year for which SSR data was provided for the Compliance Review.

The ASR Spreadsheet¹² indicates that in 2008, 43 of the 323 resolved applications from African Americans were resolved with the utilization of a voucher, approximately 13%, whereas 126 out of 399 resolved applications from Caucasians were resolved with the utilization of a voucher, approximately 32%.

Events in 2009

Section 8 Program 2009

The January 1, 2010 SSR, summarizing Section 8 demographic information for the 2009 calendar year, revealed that African American participation in Dubuque's Section 8 Program increased significantly throughout 2009, ending with a total of 323 African American participant families in a program with 1076 families enrolled, approximately 31% of the program, and an almost 10% increase from 2008. As previously noted, the African American population for the City was approximately 4%. Interviews with City staff indicated that they intentionally increased the number of vouchers issued annually in 2009, to maximize HUD administrative payments to the HCDD, but that lease up rates fluctuated throughout the year, and the SSR captured lease up information on January 1. Thus, throughout the course of the year, lease up rates could vary depending on program turnover.

The WLARR summarizing applicant data from January 1, 2009 to December 31, 2009, indicates that throughout 2009, individuals identifying as African American applied in greater numbers than individuals identifying as Caucasian. In 2009 a total of 1456 applications were received, and of these, 1404 identified the race of the applicant. Of the applications with race notated, 811 self-identified as African American, approximately 56%, and 574 self-identified as Caucasian, or 39%, a large increase over 2008 when African Americans comprised 28% of total Section 8 applicants.

The available wait list data from 2009, comes from a March 31, 2009 Wait List. It indicates that at the time of the report there were 388 applicants accepted to the waitlist, 174 of these applicants were from Dubuque, an additional 14 were from Iowa, and 200 applicants were from outside of Iowa. Of the 200 out of state applicants, 119 provided Chicago addresses. While this March Wait List does not contain race data, it was cross referenced with the data contained in the ASR Spreadsheet, which did identify race. Of the 214 families from outside of Dubuque, 69% identified as African American, 11% identified as Caucasian, and 20% reported no race identification. Of the 119 families from Chicago, 79% were African American, 2% were Caucasian, and 20% reported no race. The higher percentages of African Americans applying from outside of

¹² HCDD Staff assert that the system used by the HCDD was changed in or around early 2012, and data containing race, preference point, and address information for specific time frames is no longer retrievable. Thus, the data provided for review was previously captured and printed off by the HCDD during the course of other business. These wait lists are not uniform; some provide preference point information, some provide race and/or address data, while others provide placement position on the waitlist. In addition to the wait lists, a spread sheet maintained by Janet Walker, separate from the other HCDD data, containing applicant/participant resolution information was obtained. This spreadsheet dates back to 2005 and contains information up to the system change in spring of 2012. With this spreadsheet, Ms. Walker kept track of applicant status resolution, i.e. whether an applicant had been housed, was ineligible, withdrawn (purged), their voucher had expired. This is the "Applicant Status Resolution (ASR) Spreadsheet."

Dubuque were also reflected in the race and address data included on a November 12, 2010 Waiting List Bedroom Size Report. The November list included 155 applicants from outside Dubuque, and of these non-Dubuque applicants, 135 were African American, approximately 87%. By the close of 2009 the number of applicants accepted to the waitlist increased significantly, as the Consolidated Plan (Con Plan) submitted by the City to HUD in early 2010, reported that as of January 1, 2010, there were 981 applicants accepted to the waitlist. .

The ASR Spreadsheet reveals that from January 1, 2009 to November 24, 2009, out of the 483 resolved applications submitted by African Americans, 200 were resolved with voucher utilization, and out of 444 resolved applications submitted by Caucasians 184 were resolved with voucher utilization. These resolution numbers indicate that approximately 41% of both African American and Caucasian resolved applicants were resolved with the families utilizing a voucher. This was a significant increase from the previous year, in which 13% of African American applications were resolved with voucher utilization and approximately 32% of resolved Caucasian applications were resolved with voucher utilization.

Misperceptions on Crime and Race

Minutes from a March 3, 2009, City Council meeting indicate that crime did not appear to be a concern of the counsel. The minutes record that the City Manager stated that “Dubuque compares favorably with other Iowa communities in terms of crime rates and safety, and this information is provided to companies seeking to locate in Dubuque.” However, within the next six months perceptions concerning crime in Dubuque changed dramatically, were tied to racial tension in the City, and would lead to administrative policy changes at the HCDD.

During the late summer of 2009, two high profile murders involving African-American perpetrators occurred, including a stabbing on North-end Street and a stabbing on Downtown Street. Public opinion, as reflected in a Telegraph Herald Sunday opinion article, indicated that the perception throughout the general community was that crime, particularly violent crime, had increased, and that this increase correlated with newcomers to the community, “particularly those arriving ‘from Chicago and Milwaukee’ – essentially code words for African-Americans.”¹³ In response to growing fears based on the perception of increased crime in the community, the City convened a public forum for citizen input on September 17, 2009, and commissioned Alta Vista Research to conduct a study on the correlation between those committing crimes and those participating in the Section 8 Program. This study cost the City \$2990.

On September 18, 2009, the day after the City’s public forum, local resident Mr. T. M.¹⁴ sent the City an email providing a list of suggestions for addressing crime from a housing perspective. This email reflected the perception that increased crime in the community was tied to housing concerns and included the recommendations to reduce Section 8 vouchers and clearing all renters through the police department. The email and recommendations were forwarded to the City Manager.

¹³Opinion Article, Confront Crime. Not the Race, Telegraph Herald, Sept. 13, 2009.

¹⁴Name withheld for privacy.

The Telegraph Herald's opinion page summarized the September 17, 2009 forum, stating, "It isn't all that surprising that the city's first meeting to discuss crime prevention deteriorated into a discussion of race." A later opinion piece by the Telegraph Herald also captured the tension in the community on September 22, 2009, when it noted the following:

Letters on Crime Create Challenges:

Community concern about crime has increased, particularly in the wake of two homicides in Dubuque within a month, and where there are concerns there are more submissions for our letters column.

This creates some challenges for us. When non-whites are involved – especially as defendants – we notice an uptick in letters and comments. Some easily apply broad-brush comments referring to all members of certain races. (When whites are defendants, we don't hear as much.)

In any case, at what point does a letter cross the line from opinion worthy of public consumption and consideration to a racist screed that will not appear?

There is no single, simple answer. It is a judgment call, and we'll try to make those judgments fairly and consistently.

During the October 5, 2009, City Council meeting, Mr. T.M.'s email was entered into the record, and upon recommendations from the City Manager and council members, Mr. T.M. and other volunteers were appointed to the Safe Community Task Force (SCTF). The SCTF was broken down into smaller sub-committees, each with a different priority, including the "Enforcement" sub-committee.

In the beginning of October 2009, City Manager Van Milligen began conducting "Section 8" staff meetings attended by David Harris, Janet Walker, Police Chief Mark Dalsing and other police officers. These staff meetings were held to discuss Section 8 lease up rates and policy proposals. As these meetings were not open to the public, no records or minutes were kept. Staff reported that during these meetings, City Manager Van Milligen would propose policy changes, including the removal of preference points, voucher freezes, and reducing the size of the program by limiting voucher issuance. Such proposals would later be proposed through more formal means and implemented in the Section 8 Program.

On October 27, 2009, the Housing Commission met. Minutes from this meeting indicate that the results from the Alta Vista study were expected by the November meeting. Budget considerations were also discussed as the HCDD had experienced a \$166,000 loss in Section 8 administrative fees during the previous fiscal year, 2009 (July 1 2008 – June 30 2009). Janet Walker explained the shortfall to the Commission. She said that during this time HUD was distributing insufficient administrative fees to PHA's across the country, paying only 90.715% of what was actually earned by the programs. For Dubuque, this resulted in a \$39,600 reduction. Additionally, due to the economic climate, HCDD's investments had not earned as much as previous years. Leasing and occupancy rates decreased, causing a further loss of \$38,700. Finally, there was the increased expense of the Section 8 investigator and a part-time receptionist. Ms. Walker posed ideas

for addressing the funding short falls: (1) applying for a grant to cover the FSS coordinator salary; (2) proposing that the Police Department cover the investigator salary; and (3) “remaining 100% occupied and leased.” Ms. Walker’s 100% occupancy suggestion would have allowed the PHA to maximize the administrative fee payment from HUD and to benefit from re-benchmarking, which would have resulted in higher funding in the subsequent year.

On November 24, 2009, Bob Woodward from Alta Vista verbally communicated the information in the Report on Rental Housing and Arrest Activity in the City of Dubuque to the Housing Commission. The analysis contained in the Alta Vista report was accomplished by matching both the names of individuals arrested with the names of individuals participating in Section 8 Program, and by matching the addresses of individuals arrested, and the addresses of rental houses participating in the Section 8 Program. The name matching analysis revealed that approximately 5% of name records matched. That is, approximately 5% of the arrest activity in Dubuque was connected to Section 8 participants, thus the initial assessment was that Section 8 voucher usage was not connected to higher crime activity, as voucher holders comprised approximately 4% of the population in Dubuque. During this overview of the information, the initial conclusion was that during the two month time period analyzed, “persons arrested for criminal activities in Dubuque [we]re no more or less likely to live in Section 8 housing.”

The meetings minutes reflect that immediately after receiving this information, the Housing Commissioners implemented administrative plan changes. The changes were not communicated to the Department. As there are no meeting minutes of the City Manager’s Section 8 meetings, the Department could not determine if the implementation of the changes were a direct result of recommendations made at those meetings. However, it is apparent the changes were planned prior to receiving the information contained in the Alta Vista Report. These changes altered the administration of the Section 8 Program significantly, and were intended, as revealed in subsequent internal City memorandum, to close the wait list to “non-residents.” The changes were as follows:

- (1) It allowed the HCDD to open or close the waiting list according to the number of applicants on the waiting list.
- (2) It removed the five point preference point allotment for very low income applicants. As previously discussed, this preference point was intended to be applied only after a threshold of 75% of participating households being admitted were “very, very low income” (at or below 30% of area median income). However, staff interviews indicated the application of this preference was confusing, and in practice it was applied more generally.
- (3) The Commission adopted more restrictive screening criteria and expanded categories of behavior (including the activities of children) that could lead to termination of a participant’s voucher.
- (4) Finally, the wait list was closed to those not qualifying for local preference points (residency, elderly, disabled, etc.).

Thus, in practice, the removal of the five point preference allotment for very low income individuals had the effect of closing the wait list to non-Iowa residents that were not elderly or disabled, as those individuals applying to the program from outside of Iowa would no longer receive any preference point allotment that would allow them to apply for the program. Additionally, this change would allow the City to open the wait list if the number of applicants on the list became too low, meaning that if individuals on the bottom of the wait list without any preference points did approach the top of the list, it could be opened allowing new applicants with higher preference points to receive a voucher prior to those without preference points.

On November 25, 2009, the application packet given to new applicants reflected the new admissions policy which included an explanation of who would be eligible for placement on the waiting list. The amendment stated that the Program was “open to anyone qualifying for the following local preference points and is accompanied by written verification: Applicant household who resides or is working at least 30 hours per week within the City of Dubuque, County of Dubuque or State of Iowa.” This amendment was part of the applicant packet provided to the Department in June 2011.

The Alta Vista Study as Reported in the Telegraph Herald

As explained to the Housing Commission, the initial assessment was that Section 8 voucher usage was not connected to higher crime activity, as voucher holders comprised approximately 4% of the population in Dubuque. However, when reviewing the data, the Telegraph Herald focused on the address matching analysis which revealed a higher match rate of approximately 22%. Thus, the press reported that the study concluded that a disproportionately large percentage of arrests were associated with Section 8 addresses, perhaps through unauthorized visitors or guests not listed as members of the Section 8 Program, but reporting such addresses.

However, the discrepancy in the report between the name matching analysis and the address matching analysis was based on a methodological flaw. When performing the address match, Alta Vista utilized the street address of the Section 8 property, and the street address of the individual arrested, but did not sub-identify apartment numbers. Thus, if a Section 8 voucher was utilized at an apartment complex, and an arrestee listed the complex as his address, regardless of apartment number, a match was identified between the arrest address, and the voucher address. Interviews with HCDD staff indicate that City employees and officials were aware that the Alta Vista study was flawed.

On either Saturday November 28 or Sunday November 29, 2009, a meeting was held with representatives from the City, Alta Vista, and the press to discuss the study, whether the arrest rate for Section 8 participants was disproportional to the general population, and whether the information contained in the report was accurate. The Telegraph Herald reported that the City Manger would “ask the City Council to authorize a closer look at the issue, rather than draw conclusions from a study involving two months of arrests.”¹⁵

Waitlist Management

¹⁵Conclusion from study: A false positive, Telegraph Herald, Dec. 6, 2009.

On December 2, 2009, the Alta Vista written report was transmitted to the City. In his memo transmitting the report from the HCDD to the City Manager's office, Director Harris requested an additional study to explore opportunities to improve the program and further analyze the issue. In a memo dated the same day, City Manager Van Milligen transmitted the report from his office to the Mayor and City Council, concurring with the need for additional study, but stating: "It should be no surprise that Section 8 tenants represent a disproportionate percentage of crime. These are people of income levels at 50% of area median income or below, averaging \$8,500 in annual earnings. As stated in a 2007 report from the United States Government Accountability Office, Economic Research shows an association between poverty and crime." (Internal citations omitted).

In a separate memo, also dated December 2, 2009, to the Mayor and City Council, the City Manager explained the Admissions Policy changes adopted by the Housing Commission on November 24, stating that the Section 8 wait list had been closed to non-Dubuque residents, and requesting final approval of the changes. An interview with Director Harris revealed that in or around this time, City Manager Van Milligen instructed him to freeze the issuance of vouchers.

In a December 6, 2009 Telegraph Herald article, City Manager Van Milligen is reported as saying that a detailed look at the program, participants and any relationship to criminal activity could give City leaders more insight when setting policies. Mr. Van Milligen said: "Should we have 1,100 Section 8 units? Maybe we should have 900. I don't know. I think (the report) has raised some questions that we ought to look at. I think we might find some solutions out of this."¹⁶

On December 7, 2009, Director Harris provided a Section 8 status report to the City Manager, who provided an update on the policies to the City Council in their meeting on the same day. The report from Harris detailed that the residency preference point allotment had gone into effect in January 2007, and that in November of 2009, the month prior to the report, the wait list had been closed to nonresidents. This information, along with the Alta Vista report and the Administrative Plan changes were received and filed by the City Council. The meetings minutes state: "City Council discussion included expressing disappointment in how the process was started, exercising caution so as not to blame all Section 8 recipients; requesting updates from the Safe Community Task Force, concern over the voucher program and its effects on the elderly and disabled recipients, study the relationship to crime in all programs not just Section 8 . . ." The recommendation to conduct another study was approved.

Two days later, on December 9, 2009, the SCTF's Enforcement Sub-Committee met; minutes from the meeting reveal that Section 8 was the dominant topic. These minutes were received and filed by the City Council on December 21, 2009.

Events in 2010

¹⁶Study: Section 8, crime linked, Telegraph Herald, Dec. 6, 2009.

An interview with Janet Walker revealed that beginning in January 2010 applications for the Section 8 Program decreased significantly, from approximately 30-60 a week, to 2 or 3 a week.

On January 6, 2010, the SCTF Enforcement Sub-Committee met again. Members of the Dubuque police department attended. Notes from this meeting include the following:

- “[C]rime appears to be drug related, whether direct transactions or individuals stealing money to procure drugs.
- There is a gang element in town, perhaps 200+ individuals
- Section 8 is obviously a hot topic of late and crime locations do center around Section 8 tenant concentrations.”

January 15, 2010 Budget Recommendation: Reduce Vouchers to 900

On January 15, 2010, City Manager Van Milligen provided a memorandum to the Mayor and City Council detailing recommended policy changes to the Section 8 Program included in his FY 2011 (July 1, 2010, to June 30, 2011) budget recommendation. This memo detailed his administrative concerns regarding HCDD’s operation of Section 8, including his concerns that HUD funds only provided for three case workers for the 1,060 housing vouchers, leaving each caseworker with 354 cases. He concluded that the Section 8 Program was grossly understaffed. The memo did not provide data indicating how current staffing levels had affected the administration of the program, nor did it cite any outside evaluations of the program to support this assertion. Also absent from his analysis was a record of any incidents in which the staff to caseload ratio had resulted in errors, mistakes in management, or an inability to perform. In an interview with David Harris, he indicated Mr. Van Milligen’s concerns for the caseload stemmed from issues pertaining to monthly reporting and investigations for terminations not being processed rapidly enough.

The January 15, 2010, memo contained a proposal to hire an additional Family Self Sufficiency Coordinator as well as the recommendation that HCDD freeze the issuance of new vouchers, relinquishing approximately 10 vouchers per month to bring the City from 1,060 utilized vouchers to 900, the same reduction mentioned in his December 6, 2009 quote in the Telegraph Herald. The memo detailed that the reduction in vouchers would result in the City losing an estimated \$99,840 in administrative fees from HUD. The City would then cover this shortfall in funding from City taxpayer funds, as detailed in the line by line itemization of the proposal. The salary for the additional FSS Coordinator was not specified in the memo, and it appears the salary would have been covered from the City’s general fund, until January 2012, when Federal funding would pick up the cost of the position.

This proposal went on to provide that the reduction in Section 8 vouchers would assist the City in reaching the goal of bringing the housing inspection cycle, an inspection cycle that included the HCDD’s inspection process outside of Section 8, from 7.5 years to fewer than 5. However, the FY 2009 Budget had included the hiring of an additional housing inspector, which along with new portable computers, was already projected to reduce the housing inspection cycle to the under 5.5 year mark. The memo stated that “some might question” the decision to not wait

for further study on the Section 8 Program to be completed prior to the implementation of policy changes, but concluded that the changes proposed were strictly an administrative matter as the City did not have the resources to operate at its current capacity.

In addition to relinquishing the vouchers, the January 15, 2010 memo proposed that the reduction would also be implemented through the closing of the wait list to non-Dubuque residents. While a wait list for January 2010 was not obtainable, the 2010 Consolidated Plan (discussed below) reported that on January 1, 2010, 1063 families were participating in the program, and the wait list contained 981 applicants. A wait list dated March 31, 2009, as previously noted, contained 214 non-Dubuque households, 69% of which were African American, 11% Caucasian, and 20% without race identified, and of the 214, 112 were from Chicago, with 79% of Chicago families identifying as African American, and only 2% identifying as Caucasian. As discussed above, the number of African Americans applying to the Section 8 Program had increased from 28% the year before, to 56%, the only year reporting a greater number of African American applicants than Caucasian applicants in the data submitted. 2009 was also the year with the highest percentage of participating African Americans, with 323 families making up 31% of program participants. The wait list had already been closed to any new applicants from outside of the residency preference area not qualifying for elderly or disabled local preference points.

January 20, 2010 SCTF Enforcement Sub-Committee Meeting

On January 20, 2010, the SCTF Enforcement Sub-Committee met. The minutes from this meeting included the following notes discussing Section 8:

- “One area landlord told of out of control partying, perhaps twenty beds in one property near the library, fights, drugs and noise.”
- “People come to Dubuque, get on our system, stay the twelve months and ‘port out’ to another city.”
- “There is now a purging of the Section 8 waiting list, which has about 880 candidates.”
- “There are two twenty-something males on Section 8 that many seemed to know of, ‘laughing at us.’ Both able bodied.”
- “defiant youths walking in the middle of the street, people walking pit bulls and so on.”
- “Run the Section 8 program as one that helps those in need, not rewarding those acting irresponsibly and looking for a hand out. Thus relinquish as many vouchers as makes sense for our community. No more maintaining vouchers to achieve maximum Federal funding.”

Formal Budget Proposal for FY 2011

On January 25, 2010, the City Manager transmitted his formal proposal for the FY 2011 Budget to the Mayor and City Council. This formal proposal stated that “The City Council’s top priority is maintaining Dubuque as a safe community.” Included in this report was a chart tracking crime in Dubuque for Calendar Years 2003-2009. This chart revealed that despite the

community's perception, overall crimes against persons had gone down the previous year, from 122 to 118, but had included the two murders committed during the preceding summer of 2009, a one murder increase from the City's yearly average of one. In comparing 2009 to 2008, there were four more incidents of robbery and one more incident of aggravated assault. In comparing 2009 to 2007, overall crimes against persons had dropped from 149 to 118. The portion of the budget proposal discussing Section 8 repeated the information included in the City Manager's January 15th memo pertaining to the reduction of the Program for administrative reasons

In a February 1, 2010 City Council meeting, the Council, upon suggestion by the City Manager, adopted the first set of recommendations from the SCTF. A list of these recommendations was not included in the minutes. The particular recommendations were not specified in the minutes, but a review of other SCTF proposals indicated that the SCTF recommended shrinking the Section 8 program, increased screening of applicants, and greater neighborhood involvement, among other measures.

February 3, 2010 SCTF Enforcement Sub-Committee Meeting

On February 3, 2010, the SCTF Enforcement Sub-Committee met again. The meetings minutes contained the following:

- "most crime is committed by people with no roots in our community – nor will they ever become involved and become contributing members of our society here."
- "We have to go back to the people the criminals stay with, especially on S8. Encourage S8 to build a life vs. screw up and stay on the system."
- "Ralph just did a deposition on a burglary. Woman came here, three kids, no income besides some child support and SSI, not on S8. Her boyfriend blew in to town, three time felon for domestic abuse, stole from her. Such people must divest themselves of these dregs."
- Mark Dalsing, the new Chief of Police, was in attendance and provided that "He's not sure that a reduction in S8 vouchers would reduce crime and sees many S8 as good people."

On February 11, 2010, Human Rights Director Kelly Larson recommended retaining Urban Strategies, Inc. as the facilitator for the SCTF meetings for \$44,600. Ms. Larson had been acting as the facilitator. This proposal was approved by the City Manager and Council at the February 15, 2010, meeting.

City Council Discusses Budget Reduction

In a special session held by the City Council on February 16, 2010, covering the budget proposal, the recommended reduction in vouchers was discussed. Director Harris provided that if the reduction was implemented, it would be unlikely that the number could be increased in future years as future funding would be calculated off the previous year's voucher issuance. Thus, the reduction in vouchers would alter the funds available to the program in subsequent years. Concerns were raised by three residents during the public meeting: leaving unused funding on the table; rescinding vouchers for the disabled; and the needs of the elderly. The City

Manager responded that vouchers would not be rescinded, but processed on a point preference system, more research was being done to define “disabled,” and there were other programs available in addition to Section 8.

City Commission Discusses the Analysis of Impediments to Fair Housing Choice

On February 17, 2010, Dubuque’s Long Range Planning Advisory Commission held a regular session. Action items on the agenda included the Consolidated Plan (Con Plan) for FY 2011-2015 and the 2010 AI to Fair Housing. HCDD staff member, Aggie Tauke presented the draft Con Plan and AI. This 2010 AI, drafted by the City’s Human Rights Director and based on research conducted by Alta Vista, was an update of the AI completed by John Marshall Law School in 2001. It included the same fair housing impediments as the 2001 AI: (1) The lack of a diverse stock of accessible affordable housing dispersed throughout Dubuque; (2) an environment where there are few minorities to serve as role models; (3) the perception that Dubuque is not a welcoming and inclusive community for outsiders and particularly minorities to locate; (4) the failure of victims of housing discrimination to file complaints and the absence of a deterrent for subtle discrimination; and (5) the small number of minority home owners in Dubuque. The 2010 AI did not include any discussion of current racial tensions in the community.

Minutes from this meeting provide that Tauke reviewed how the Con Plan was consistent with Dubuque’s 2008 Comprehensive Plan and reviewed the priorities, objectives and outcomes of the plan and why they were required for compliance with CDBG program. One of the Commissioners noted that “the Consolidated Plan is inconsistent with the City Council’s decision to decrease the number of housing vouchers.” The Con Plan included the AI that identified a lack of affordable housing as a significant impediment. Tauke replied that the reduction would improve the City’s ability to administer the program, but did not provide evidence indicating such improvements were necessary, or how such improvements would address the lack of affordable housing in Dubuque.

Notably, the Con Plan did not reveal that the City anticipated reducing the voucher program, or that a freeze on new voucher issuance had been in place since December 2009. Rather, the portion of the Con Plan discussing Section 8 provided only the numbers for participation as of January 1, 2010, which reflected participation at 1063, and reflected 981 applicants on the waiting list, despite SCTF Enforcement Sub-Committee meeting minutes indicating that a purge of the wait list had recently been undertaken. The proposed reduction and freeze of vouchers, already implemented, was also not discussed in the City’s Five Year and Annual PHA Plan.

HCDD Director Refutes Sub-Committee’s Allegations

On February 19, 2010, Director Harris sent a letter to the Housing Commissioners regarding the SCTF Enforcement Sub-Committee’s meeting minutes, specifically those from the January 20th meeting, responding to the allegations made by the Sub-Committee members regarding Section 8. Director Harris’ letter refuted the allegations made at the meeting, including reports of out of control partying, abuse of the program and that the program was a

“moral, ethical, economic blight.” Director Harris confirmed that individuals had ported during the current year: 15 had ported out; and 6 had requested to port in.

February 23, 2010 Housing Commissioner Meeting

On February 23, 2010, Aggie Tauke presented the new Consolidated Plan and AI to the Housing Commissioners, explaining once again why it was required for CDBG recipients. The Housing Commissioners did not discuss how the reduction to the Section 8 Program would affect the impediment of a lack of affordable housing, or how the closure of the Section 8 wait list to non-Dubuque residents would affect the impediment of Dubuque being perceived as unwelcoming to newcomers, particularly minorities. The minutes state that, “The Commissioners received a list of the impediments as well as objectives and recommended actions to improve these issues.”

The next item on the meeting agenda was Director Harris’ letter responding to the SCTF Enforcement Sub-Committee meeting minutes. Mr. T.M. represented the Enforcement Sub-Committee. The Commissioners explained the minutes should be more accurate and perhaps reviewed by multiple people prior to being distributed to the public as an open record as “the way the minutes currently read creates misunderstandings about what was discussed.”

The third action item on the agenda was the formal closure of the Section 8 Waiting List to all applicants except those that qualify for local residency preference points for the City of Dubuque. The November 24, 2009, abolishment of the very low income preference point allotment, along with the closure of the wait list to individuals not qualifying for local preference points, had already closed the wait list to individuals outside of Iowa who were not elderly or disabled. This February 23, 2010 closure, however, would prohibit all non-Dubuque residents, including the elderly and disabled, from applying for the program as well. The meeting minutes state: “The waiting list would be closed to all households except those providing verification of “City of Dubuque” local preference points for *residency*.” (Emphasis added). This closure was approved, seconded, and all members of the Commission were in favor.

Second Crime Study and the FY 2011 CDBG Planning Process

On February 28, 2010, the City Council held a special work session to receive recommendations from the SCTF, which included recommendations to enforce housing code violations and noise ordinances more aggressively. On March 1, 2010, the Council approved the issuance of a Request for Proposals to conduct an expanded study on crime and poverty, and the Council received the AI from the Long Range Planning Advisory Commission, which advised that the AI was consistent with the Comprehensive Plan.

On March 9, 2010, the City Council adopted the FY 2011 CDBG Annual Action Plan (AAP), based on the AI and Consolidated Plan, outlining the City’s projected actions to address impediments identified in the AI with CDBG funds. The AAP, submitted at the same time as the Con Plan, similarly identified Section 8 as the City’s primary means of creating affordable housing; however, it also, without explanation, provided that HCDD administered only 900 vouchers. In an interview with David Harris, he indicated that the number discrepancy between

the documents was a reporting error that most likely arose due to the timing of when the Plans were initially drafted.

Additionally, the AAP indicated the City planned to address affordable housing concerns through Housing Code Enforcement (HCE), as recommended by the SCTF, focusing 10% of its CDBG funding on HCE. The HCE allotment was the third highest allotment of CDBG funds; only the allotments for staffing and the homeowner rehabilitation program, which was projected to assist 48 households, were higher.

Housing Commission Concerned with Inflammatory Nature of Meeting Minutes

On March 10, 2010, the Mayor and City Council received a memo from the Housing Commission concerning the SCTF Enforcement Sub-Committee's meeting minutes. The Commission was concerned that the "statements contained in the minutes were grievances that could be characterized as either disjointed, anonymous, third-hand, misconceptions and/or un-actionable." And that "by its ratification of the January 20 Minutes" the Enforcement Sub-Committee had "construed a public record which can, and has, been seen by some citizens of Dubuque as containing inflammatory (and in some cases unsubstantiated) claims, and has demonstrated a willingness to use such information to mischaracterize the effectiveness of City programs."

Wait List Remains Closed

During the March 23, 2010, Housing Commission Meeting, Janet Walker explained that while the Commission had approved the closing of the wait list to all applicants except those that qualify for local residency preference points for the City of Dubuque, HUD would not allow for the change in administrative policy. The minutes reflect that the City's legal department was researching the issue. A review of the City's records subsequent to this meeting revealed that the wait list still remained closed to applicants not qualifying for local preference points.

City Submits Five Year and Annual PHA Plan

Also on March 23, 2010, the City submitted its Five Year and Annual PHA Plan to the HUD Office of PIH. Despite having implemented the policy changes as discussed throughout this letter, the City provided signed certifications that the Plans were in conformance with the City's Con Plan and with civil rights requirements and AFFH obligations. Under Section 6.0, PHA Plan Update, it stated:

Mayor Buol and the Dubuque City Council have initiated open dialogue on crime issues in our community and how to address them In an effort to reduce public misperception about the clientele involved in the Section 8 Program the City of Dubuque Housing Commission has revised its policies to include additional screening criteria. (Pg 4)

The PHA Plan did not mention the freeze on the issuance of new vouchers, or the goal to reduce the voucher program to 900 participant households. The immediately subsequent Section 6.1, PHA Plan Elements, which discussed eligibility requirements, did not provide information on the removal of the very low income preference point, or the closure of the wait list to individuals not qualifying for preference points, in place since November 24, 2009. Nor did it accurately reflect the residency preference points as they occurred in practice, as it provided that residents within Dubuque received 30 points, within the County received 20 points, and within Iowa received 15, and omitted that the application of the points was accumulative, resulting in 65 points for residents of Dubuque and 35 points for residents of the County.

Additionally, Section 9.0 Housing Needs did not contain any discussion of the reduction of distributed vouchers. This section, which included the City's strategy for addressing housing needs, specifically identified the first need to be addressed as the shortage of affordable housing for all eligible populations, and asserted that to address this need the City would maximize the number of affordable units available to the PHA. As part of this strategy, the City provided that it would maintain lease-up rates by marketing the program to owners, particularly those outside of areas of minority and poverty concentration and that it would maintain lease up rates by effectively screening Section 8 applicants to increase owner acceptance of the program.

City Signs Contract for Second Crime Study

On April 5, 2010, the City Council approved the contract with Northern Illinois University to conduct an expanded study on crime and poverty. The cost of this study was \$73,119.

In a joint memorandum to City Manager Van Milligen, dated August 6, 2010, Director Harris, the City Attorney and the Chief of Police, provided an outline of the on-going and proposed efforts to address the SCTF recommendations. On page 12, the Section 8 Program was discussed, and the memorandum provided that "The City Council has addressed community concerns about the real or perceived impact of the Section 8 Program on the community by: (1) Decreasing the desired number of Section 8 vouchers in the program to 900 (2) Limiting voucher eligibility to Dubuque residents (3) Increasing the staff capacity of the Family Self Sufficiency Program (4) Adding a Police corporal position working within the Housing & Community Development Department to investigate Section 8 violations." The memo then provided additional SCTF recommendations regarding Section 8, including to "Increase public understanding of the Section 8 Program."

Voucher Issuance Resumed

During the August 24, 2010 Housing Commission Meeting, the Commission was informed that projections were indicating that by September 1, 2010, the number of vouchers utilized would reach 900 (despite the initial proposal that this would take 16 months, the reduction occurred within nine months). A letter requesting renewed voucher issuance, so as to keep the program participation at the new baseline of around 900 vouchers, was sent to the City Manager. Additionally, the Commission received information on a proposed policy change for the Homeless Assistance (HPRP) program, to require both a criminal background check, and

local preference points for eligibility. Staff interviews indicate that uniformity in eligibility requirements was desired in all City programs. After a lengthy discussion the Housing Commission requested a memo outlining the proposal. The minutes did not record any discussion of how a homeless individual would provide proof of residency.

In October of 2010, after receiving approval from the City Manager to do so, the HCDD resumed issuance of Section 8 vouchers. The January 1, 2011 SSR (revealing data from 2010) shows that from October to December 2010, 14 vouchers were issued, and of these only two were issued to African American participants.

Section 8 Program Demographic Data 2010

A wait list, dated November 12, 2010 indicates that at that time, 405 households remained on the wait list since the purges in the beginning of the year, which had resulted in the removal of 387 African Americans from the wait list versus 168 Caucasians. While the HCDD did conduct annual purges, as is permitted to keep waitlist records fresh, this purge's scope was larger, and had a greater impact due to the new policies that prevented out of state residents who no longer qualified for a preference point allotment from reapplying to the program. Prior to the implementation of the new policies, purged applicants could reapply, and would simply be delegated to the bottom of the list. Individuals qualifying for residency or other preferences, who were predominantly white, were still able to reapply and regain access to the list. Those from Chicago were not. Ultimately, in 2010, 90% of all African American applications were resolved through purging (as opposed to reaching resolution through receipt of a voucher or simply remaining on the waitlist) v. 68% of all Caucasian applicants resolved through purging. As for the 405 households still on the waitlist, 160 of these individuals had been accepted after the November 24, 2009 policy changes had gone into effect. Of these 160 households, 39 were identified as African American, approximately 24%. Of the 245 households accepted to the wait list prior to November 24, 2009, 154 were African American, approximately 38%. This reflects a percentage point difference of 14%.

The ASR Spreadsheet indicates that between November 25, 2009 and December 2010, 387 African American applications were resolved via purging from the wait list, approximately 90% of the 430 African American applications reaching resolution during this time frame, while 168 out of 248, approximately 68%, of Caucasian applications were resolved through purging. The majority of the purging occurred in January through March of 2010. The ASR Spreadsheet also reveals that there were participants housed during the freeze, but that the majority of these were vouchers issued prior to the freeze's implementation, that were utilized after. Of the 430 resolved applications of African Americans in 2010, only 19 were housed, approximately 4%, while 46 out of 248 of resolved Caucasian applications were housed, approximately 19%. As previously noted, the WLARR data for 2009 indicated that African Americans were applying to the program at a rate greater than Caucasians. In 2009 a total of 1456 applications were received, and of these, 811 self-identified as African American, approximately 56%, and 574 self-identified as Caucasian, approximately 39%.

The January 1, 2011 SSR data, which summarizes participation for 2010, provides that participation in the Section 8 voucher program dropped from 1,076 to 787 participant families,

an overall loss of 289 participant families, 165 of which were African American. While African Americans comprised 31% of participant families prior to the policy changes and voucher freeze, they comprised approximately 54% of the participating families lost. Additionally, in comparing SSR data from January 1, 2010 to January 1, 2011, participation in the program by African American families dropped from 31% to 21%. Many of those admitted after November 2010 when the freeze was rescinded had been placed on the wait list prior to the policy changes implemented in November of 2009. Thus, SSR data from January 1, 2012, which indicates African American participation reached 24% during 2011, reflects a population of participants that applied for the program prior to the actions taken by the City in 2009 that restricted access to the waitlist.

City Refuses to Increase Program Utilization

On November 15, 2010, after receiving notice that participation in the City's voucher program was significantly underutilized, HUD's Office of PIH requested information from the City explaining why there was an underutilization of vouchers. The City responded that the reduction in vouchers was to address administrative short falls. PIH informed the City that the underutilization would result in the loss of approximately \$100,000 in administrative fees, would cost the community approximately \$650,000 in rental assistance paid to landlords, and would result in the permanent reduction of the program. The Department also expressed concerns regarding the City's obligation to AFFH. The City refused to take efforts to increase utilization of the Program.

Results of the NIU Study

In mid-January 2011, NIU completed its 2010 Quantitative Research Study on Crime and Poverty in Dubuque.

The NIU study was designed to compare community perceptions of crime in Dubuque to actual crime data. The study included: (1) a public opinion survey; (2) an analysis of Dubuque's crime rates and trends over time compared to similarly sized communities in Iowa; (3) an analysis of Dubuque's crime incidents over time, and the extent to which Section 8 housing recipients were connected to crime; (4) a review of research studies related to poverty, Section 8 housing assistance, crime, fear of crime, and crime prevention; and (5) a set of recommendations based on the research and evidence. (Page 5 of 779)

The NIU Study reported that: "More than three-quarters of respondents (76%) indicated that crime was a major or moderate problem in Dubuque. Among the respondents who had lived in the City for five or more years, 89% said that crime had increased significantly or somewhat within the past five years."

However, the NIU Study found that Dubuque's crime profile was not uniquely different from other cities and that the pattern of crime in Dubuque had remained fairly constant, additionally finding that crime from high crime areas, in general, had not diffused to other adjacent areas or neighborhoods.

The NIU Study concluded that no statistically determined causal assertions between Section 8 voucher holders and crime could be made from the analysis, but that the analysis indicated that there was a greater propensity for crime victimization, location or arrests within clusters of the Section 8 community. (Page 321 of 779)

Further, the NIU Study indicated that authorized Section 8 participants have nearly the same proportional arrest rate in Dubuque as the non-Section 8 segment of the population. For example, for the period under study, authorized Section 8 participants represented 5.2% of Dubuque's total population and 5.8% of total unique arrestees. (Page 77 of 779)

The Department observes that the NIU study confirmed that increased crime concerns in Dubuque were the result of misperceptions, rather than due to an actual increase. Based on a review of Telegraph Herald articles, meeting minutes, internal City memorandum and interviews, the Department observes that the misperceptions about crime and the Section 8 program were tied to the racial tensions exposed after the two high profile murders during the summer of 2009, which involved African American perpetrators. The two murders, in conjunction with the rapidly increasing African American population in downtown Dubuque, and racial tensions within the City, influenced the public discussions on the perceived increased crime and the actions taken by the City in response.

The Department further observes that even prior to the release of the NIU study, or the Alta Vista study, the City's own record indicates that overall crime in Dubuque had not increased, as evidenced by the City Manager's January 25, 2010 Budget Proposal, in which the City Manger highlighted the priority of making Dubuque a safe community. As previously discussed, page 2 of the proposal contained the table reflecting arrest data from 2003 to 2009 indicating that, with the exception of the highly publicized additional murder the summer before, crime in FY 2009 had not increased.

The City's Response to Notice of HUD's Compliance Review

In a May 16, 2011 response letter to the Department's initial notice of the Compliance Review, the City Manager detailed efforts made by the City to address impediments in the City's AI.

For the first impediment, a lack of accessible, affordable housing, the City Manger provided that the City had: (1) contributed funding to 36 units at The Washington Court Apartments; (2) supported the rehabilitation of units at 759 Bluff Street; (3) supported the development of Manasseh House/Salvia House and Davis Place through the establishment of urban revitalization districts; (4) added a part-time accessibility inspector; (5) increased housing code inspection and enforcement; (6) received exception rent approval to allow Section 8 voucher usage throughout the City; (7) over five years assisted 37 first time homebuyers with purchases and rehab, assisted 30 existing homeowners with rehabilitation funds; and 28 rental properties with HOME funds and lead funds; (8) provided significant financial assistance to the homeless; and finally (9) is constructing a \$50 million storm water management project in the Washington Neighborhood, to establish a one mile creek with hike/bike trails, lighting, landscaping, an educational amphitheater, and the planting of over 11,000 trees.

For the third impediment, to address the perception that Dubuque is not a welcoming community, the City Manager provided that the City had: (1) supported the Greater Dubuque Development Corporation and Dubuque Works, incepted in 2009 and home to a program that welcomes newcomers and provides community tours and connects individuals to community services; (2) in 2005 provided CDBG funds to establish the Multicultural Family Center; (3) in 2006 expanded the local fair housing ordinance to include sexual orientation and in 2007 added gender identity; (4) supported the creation of Proudly Accessible Dubuque; (5) created a speaker's bureau that consists of volunteers that speak to groups regarding their experiences as minorities in Dubuque; and (6) since 2006 has provided City staff with three 3.5 hour training sessions on culture, communication and intercultural styles and offers five hours of inter-cultural competence training to City Boards and Commission members twice a year.

Additionally, the City Manager asserted that the Section 8 Program was reduced for administrative reasons, as the City was not able to administer the program and the additional self-sufficiency corollary programs with the limited staff the City could afford, highlighting that the City had only three administrative case workers with an approximate caseload of 330 participant families each. The City Manager did not assert that the Section 8 reductions were made in an effort to address the community's concerns regarding the perception that Section 8 participants contributed to an increased crime rate; however, the letter did note that the Program was at risk of losing support in the community due to the perception of a lack of accountability.

Interviews with David Harris and Janet Walker also indicated that caseloads were high, and that these caseloads slowed caseworker's responses if there were problems with participants. However, the review failed to reveal whether the City explored any other alternatives, rather than reducing the program, to correct these concerns, such as the hiring of an additional caseworker. In an interview with David Harris, he provided that an average salary for a caseworker was approximately \$40,000. The Department, based on costs calculated and provided by the City during the course of the review, observes the following: (1) the City lost approximately \$99,840 in administrative fees in 2010 due to the reduction in vouchers; (2) spent \$2,990 on the Alta Vista study; (3) spent \$44,600 for Urban Strategies to facilitate SCTF meetings; (4) spent \$73,119 on the NIU study; (5) set aside \$10,000 for mandatory tenant criminal background checks for landlords to obtain free of charge through Rental Services Inc., and (5) also incurred expense for the hiring of the additional FSS coordinator.

The Department's review indicates that the City had made previous efforts to address the impediments identified in the City's AI, but they do not mitigate the City's actions to restrict its Section 8 program. The City did not address the effects the City's policy changes to its Section 8 program and the reduction in vouchers would have on the existing barrier to fair housing choice, a lack of affordable housing, and in particular how the City's policies would impede fair housing choice of minorities in the community.

The Department observes that the negative attitudes of Dubuque residents towards the Section 8 Program, particularly associated with African Americans, displayed in public forums and the opinion section of the Telegraph Herald, and the City's reinforcement of the negative perceptions with the closing of the wait list to only those who qualified for local preference

points, and the reduction of vouchers, exacerbated the perception that Dubuque is unwelcoming and hostile to outsiders, particularly African Americans, despite whatever welcoming efforts the City encouraged through the multicultural center and Dubuque Works. By closing the wait list to the vast majority of non-residents, the City sent a very clear message that non-residents, who were, based on the percentages of the populations from the adjacent communities, much more likely to be African American than Dubuque residents (30-40% African American v. 4% African American in Dubuque), were not welcome in Dubuque.

Additionally, the City's foregoing assertions pertaining to administrative concerns are not supported by the record or the chronology of events as they occurred in Dubuque. As previously noted, the Department's review failed to reveal any evidence that alternatives to the reduction in vouchers, such as the hiring of an additional caseworker, were considered. The assertion that the City would be unable to provide the corollary program assistance in the FSS, Getting Ahead, or Circles programs, without the reduction was not substantiated by the information the City provided. The Department observes that cost containment measures discussed by the City in the October 2009 Housing Commission Meeting, including diverting the cost of the Section 8 Investigator to the Police Department or 100% lease up could have been implemented. Rather, the review indicated the City's priority was reducing the program to address community concerns that were connected to misperceptions of increased crime and lack of accountability, caused by "newcomers," specifically African American Section 8 Program participants.

Finally, the Department observes that the City Manager, City Council and Housing Commission were, due to the timing of the approval of the Con Plan, AAP, and the Five Year and Annual PHA Plan coinciding with the decision to shrink the Program, aware of or should have been aware of the AI. The City was therefore aware that there was a critical shortage of affordable housing within the community and that the community, due to its unique history of poor race relations as recently as the early 1990s, had an overwhelmingly negative perception of not being welcoming to outsiders, specifically African Americans and other minorities. Despite this knowledge, the City reduced the size and acted to greatly restrict African American participation in the Section 8 Program to limit an avenue via which African Americans could move to Dubuque, and subsequently submitted certifications that the Five Year and Annual PHA Plan were consistent with civil rights laws and the City's own Con Plan.

Attachment B: Timeline of Events

- Early 2007, exact date unknown: Residency preference point allotment created. Interviews with staff contain the following comments: Question: Would a person with no preference ever reach the top of your waiting list? Answer: "In theory, no." David Harris, Director. Question: What is the likelihood that people with less preference points will reach the top of the waiting list? Answer: "It could take years..." Janet Walker, Assisted Housing Supervisor, Section 8 program.
- June 24, 2007: Telegraph Herald article, "Sorting out Section 8 Stories," discusses public opinion regarding perceptions of influx of people from areas like Chicago.
- January 25, 2008: City Manager's Budget Proposal for upcoming year includes proposal to hire additional police officers, including a Section 8 Investigator that will be assigned to police department, but stationed at HCDD. Also lays out plan to hire an additional housing inspector, which will bring the housing inspection cycle down from seven years to less than five years.
- April 2008: Section 8 investigator hired.
- March 3, 2009: City Council meeting minutes provide that City Manager Van Milligan states that Dubuque compares favorably with other cities in terms of crime rates and safety.
- Summer of 2009: Two high profile murders with African American perpetrators occur.
- September 8, 2009: City Council meeting minutes provide there was discussion of the creation of a Safe Community Task Force (SCTF) to address the perception of increased crime in Dubuque.
- September 17, 2009: Public forum to discuss creation of SCTF. Telegraph Herald reports discussion focused on race. The City will order a crime study from Alta

Vista Research. The study will focus on the connection between crime and rental housing, specifically Section 8.

September 18, 2009:

Email from Terry Mozena, local prominent resident, to the City, thanking them for the forum, and including a list of ideas to address crime from a housing perspective.

September/October 2009:

Interview with Janet Walker indicates that during this time, City Manager Van Milligan began holding Section 8 meetings with City staff to discuss potential policy changes and how to run the program.

October 5, 2009:

City Council meeting: Mozena email accepted into record, Mozena and others appointed to SCTF upon recommendations from City Manager and other council Members.

October 27, 2009:

Housing Commission meeting minutes provide that, Section 8 program has a budget shortfall due to: HUD prorating the Administrative fees, investments had not earned as much money as previous years, a higher turnover rate of clients the previous year, resulting in a lower leasing and occupancy rate, and additional expense of the Section 8 investigator salary and a part time receptionist. Recommended ideas for addressing the shortfall: applying for a grant to cover FSS coordinator salary, proposing that the Police Department cover the investigator's salary, and attempt 100% occupancy and lease.

November 24, 2009:

Housing Commission meeting minutes indicate that the Alta Vista Study has been completed with a finding that "persons arrested for criminal activities in Dubuque are no more or less likely to live in Section 8 housing." Administrative plan changed to allow opening and closure of wait list based on number of individuals on the list, and to remove the very low income preference point allotment. Also adopted stronger eligibility and denial of assistance/termination requirements pertaining to conduct of all members of household to include juveniles. While the minutes do not reflect it, the waitlist was also restricted to only individuals who

qualify for one of the local preference points.
Memo from Harris to Van Milligan states:
“preference points for very low-income applicants
have been eliminated...this means the waiting list
has been closed to non-residents who do not qualify
according to any of these preferences.”

November 25, 2009:

Application packet provided to Section 8 applicants amended to state: “The City of Dubuque’s waiting list is open to anyone qualifying for the following local preference points and is accompanied by written verification: Applicant household who resides or is working at least 30 hours per week within the City of Dubuque, County of Dubuque or State of Iowa.” It continues with a list of other qualifying preferences, including the elderly, disabled, or other individual utilizing various community programs in Dubuque.

November 28-29, 2009:

Meeting held with press to discuss the Alta Vista Study. Press notes that higher percentage of Section 8 addresses correlating with crime incidents. It is not made clear at this meeting that the addresses used in the Study were apartment building addresses, rather than individual addresses. Thus, if an individual arrested reported an apartment as his address, his entire building was used in the address correlation by Alta Vista.

November/December 2009:

Exact date unknown, City Manager Van Milligan verbally instructs David Harris to freeze the issuance of vouchers.

December 2, 2009:

Memo from City Manager to Mayor and City Council advising of changes to the Section 8 program: “The most significant change is preference points for very low-income applicants have been eliminated. The effect of this amendment is to restrict the waiting list only to new applicants who qualify for elderly, disabled, supported community living, or local residence preference points. This means the waiting list has been closed to non-residents who do not qualify according to any of these preferences.”

December 2, 2009:

Alta Vista Study formally transmitted to the City. Request for an additional study is made by David Harris to City Manager, so as to better understand the results. In a memo dated the same day, City Manager Van Milligen transmitted the report from his office to the Mayor and City Council, concurring with the need for additional study, but stating: "It should be no surprise that Section 8 tenants represent a disproportionate percentage of crime. These are people of income levels at 50% of area median income or below, averaging \$8,500 in annual earnings. As stated in a 2007 report from the United States Government Accountability Office, Economic Research shows an association between poverty and crime."

December 6, 2009:

In a December 6, 2009 Telegraph Herald article, City Manager Van Milligen is reported as saying that a detailed look at the program, participants and any relationship to criminal activity could give City leaders more insight when setting policies. Mr. Van Milligen said: "Should we have 1,100 Section 8 units? Maybe we should have 900. I don't know. I think (the report) has raised some questions that we ought to look at. I think we might find some solutions out of this." This is the first record of the reduction to 900 vouchers.

December 7, 2009:

City Council meeting. Minutes provide that Director Harris provided status report on changes to the Section 8 program, and "City Council discussion included expressing disappointment in how the process was started, exercising caution so as not to blame all Section 8 recipients; requesting updates from the Safe Community Task Force, concern over the voucher program and its effects on the elderly and disabled recipients, study the relationship to crime in all programs not just Section 8" The recommendation to conduct another study was approved.

December 9, 2009:

SCTF meeting. Minutes indicate Section 8 dominant topic.

January 6, 2010:

On January 6, 2010, the SCTF Enforcement Subcommittee met again. Members of the Dubuque

police department attended, focus again was on Section 8.

January 15, 2010:

City Manager provides recommendation to cut the Section 8 program to 900 as it is "grossly understaffed." City will lose \$100,000 in administrative fees that would otherwise be paid by HUD to the City. States people might question action taken prior to the resolution of additional studies.

January 20, 2010:

SCTF meeting. Minutes provide Section 8 topic again:

"One area landlord told of out of control partying, perhaps twenty beds in one property near the library, fights, drugs and noise."

"People come to Dubuque, get on our system, stay the twelve months and 'port out' to another city."

"There is now a purging of the Section 8 waiting list, which has about 880 candidates."

"There are two twenty-something males on Section 8 that many seemed to know of, 'laughing at us.' Both able bodied."

"defiant youths walking in the middle of the street, people walking pit bulls and so on."

"Run the Section 8 program as one that helps those in need, not rewarding those acting irresponsibly and looking for a hand out. Thus relinquish as many vouchers as makes sense for our community. No more maintaining vouchers to achieve maximum Federal funding."

January 25, 2010:

City Manager transmits his proposed Budget to Mayor and City Council. He emphasizes that his recommendations will help to make Dubuque a safe community. Budget contains reduction of Section 8 program to 900 vouchers.

February 1, 2010:

City Council meeting minutes, First set of SCTF recommendations adopted

February 3, 2010:

SCTF Enforcement Sub-committee meeting minutes, continued negative discussion of Section 8

February 11, 2010:

Memo from City Manager to Mayor and City Council Members, recommendation to contract with

Urban Strategies to facilitate SCTF meetings. Cost \$44,600.

February 15, 2010: City Council meeting. Contract with Urban Strategies approved

February 16, 2010: City Council meeting. Minutes provide discussion that, "if the number of vouchers is reduced, unlikely the number can be increased in future years." Open to public comment and concern for elderly and disabled is brought up.

February 17, 2010: Long Range Planning Advisory Commission meeting. Minutes provide that there was discussion of AI and that decision to cut vouchers is inconsistent with the City's AI.

February 19, 2010: Housing Commission meeting. David Harris' provides response to inflammatory SCTF January 20, 2010 meeting minutes. Including information on the very low levels of people porting, the lack of "party" houses, and that the Section 8 investigator routinely investigates fraud and individuals are not allowed to remain in the program if they are not complying with program requirements.

February 23, 2010: Housing Commission meeting. Discussion of AI, Con Plan, but no discussion that reduction of vouchers inconsistent with plan. Brief discussion that perception of Section 8 is not correct. Approved restricting eligibility to the waitlist to only individuals qualifying for residency preference points.

February 28, 2010: City Council work session with SCTF to discuss recommendations from SCTF

March 1, 2010: City Council meeting. Minutes provide that expanded study proposals will be sought. Long Range Planning Commission advises that the AI *is* consistent with Consolidated Plan, despite discussion on February 17 that it was not. Minutes

from the February 17 meeting were attached in information provided to the Council.

- March 9, 2010: City Council meeting. Minutes provide the City Manager's Budget was adopted. Adoption of program year 2010 FY 2011 Annual Action Plan, City Manager Van Milligen is authorized to prepare and submit info to HUD
- March 23, 2010: Housing Commission meeting. Minutes provide that HUD is not allowing for the change in administrative policy that would restrict the program to only individuals residing within Dubuque.
- April 5, 2010: City Council meeting. Minutes provide that Northern Illinois University's contract approved for an additional study. Study cost is \$73,119.
- August 24, 2010: Housing Commission meeting. Minutes provide there was discussion of requiring Dubuque residency prior to participation in the Homeless Assistance Program, "like we do in Section 8 program." No discussion on how a homeless individual would verify residency. Participant families in Section 8 program had dropped to below 900, and a request for permission to resume voucher issuance was sent to the City Manager.
- November 15, 2010: HUD Office of PIH and City discuss program's underutilization in teleconference.
- January 2011: NIU completes study, Section 8 participants are not found to be involved in criminal incidents at a higher percentage than those not utilizing vouchers.
- May 16, 2011: City's response to notice of HUD onsite review.
- June 20-24, 2011: HUD onsite compliance review.