**Section 112.156 Assets for Independence Program**

a) The Assets for Independence (AFI) Program is a federal grant program that enables agencies to implement and demonstrate an asset-based approach for giving low-income families help out of poverty. The AFI Program allows eligible low-income Illinois citizens currently residing in Illinois, subject to the availability of State and federal funds and authorization from DHS, to open and maintain an Individual Development Account (IDA) at a federally insured financial institution.

b) IDAs are matched savings accounts designed to help low-income and low-wealth families accumulate savings to purchase a first home, start a small business or continue their education. IDAs promote savings and enable participants to acquire a lasting asset after saving for a few years. The IDA program is open to all people within the State who meet the federal and State account holder eligibility guidelines and rules for income and assets.

c) An IDA is a trust created or organized exclusively for the purpose of paying the qualified expenses of an eligible individual, or enabling the eligible individual to make an emergency withdrawal, but only if the written governing instrument creating the trust contains the following requirements:

1) No contribution will be accepted unless the contribution is in cash (including electronic transfers) or by check.

2) The trustee is a federally insured financial institution or a State insured financial institution, if no federally insured financial institution is available.

3) The assets of the trust will be invested in accordance with the direction of the eligible individual after consultation with DHS providing deposits for the individual.

4) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

5) Except as provided in subsection (c)(6) of this Section, any amount in the trust that is attributable to a deposit provided under section 410 of the Assets for Independence Act (AFIA) (PL 105-285) (42 USC 604 note) may be paid or distributed out of the trust only for the purpose of paying the qualified expenses of the eligible individual.

6) Any balance in the trust on the day after the date on which the individual for whose benefit the trust is established dies shall be distributed within 30 days after that date as directed by that individual to another IDA established for the benefit of an eligible individual.

d) For purposes of subsection (c) of this Section, a custodial account shall be treated as a trust if the assets of the custodial account are held by a bank (as defined in section 408(n) of the Internal Revenue Code of 1986 (26 USC 408(n)) or another person who demonstrates, to the satisfaction of the Secretary of Health and Human Services (HHS), that the manner in which that person will administer the custodial account will be consistent with the requirements of AFIA and if the custodial account would, except for the fact that it is not a trust, constitute an IDA described in subsection (c) of this Section. In the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of that custodial account shall be treated as the trustee of the account.

e) An individual may make deposits to his or her IDA only from earned income as defined in section 911(d)(2) of the Internal Revenue Code of 1986.

f) The moneys in an IDA and match moneys from the AFI fund shall be used solely for qualified expenses, defined under section 404(8) of the AFIA, as follows:

1) Post-secondary education expenses, which means the following:

A) Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution.

B) Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

C) An "eligible educational institution" means the following institutions classified by the Illinois Board of Higher Education:

i) An Illinois Public College or University; or

ii) An Illinois Community College.

2) First Home Purchase

A) Qualified acquisition costs with respect to a principal residence for a qualified first-time homebuyer if paid from an IDA directly to the persons to whom the amounts are due.

i) "Principal residence" means a main residence, the qualified acquisition costs of which do not exceed 120 percent of the average area purchase price applicable to the residence.

ii) "Qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

iii) "Qualified first-time homebuyer" means an individual participating in the project involved (and, if married, the individual's spouse) who has no present ownership interest in a principal residence during the three-year period ending on the date of acquisition of the principal residence to which this subsection (f)(2) applies.

iv) "Date of acquisition" means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this subsection (f)(2) applies is entered into.

B) Program participants will be eligible to withdraw money from an IDA for a first-time home purchase if they have participated in the program for at least 6 months.

3) Business capitalization expenses

A) "Qualified business capitalization expenses" means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

B) "Qualified expenditures" means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

C) "Qualified business" means any business that does not contravene any law or public policy (as determined by the Secretary of HHS).

D) "Qualified plan" means a business plan, or a plan to use a business asset purchased, that:

i) Is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having

demonstrated fiduciary integrity;

ii) Includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

iii) May require the eligible individual to obtain the assistance of an experienced entrepreneurial adviser.

4) Transfers to IDAs of family members are amounts paid from an IDA directly into another such account established for the benefit of an eligible individual who is:

A) the individual's spouse; or

B) any dependent of the individual with respect to whom the individual is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

g) Moneys in an IDA that are used for the qualified expenses listed in subsection (f) of this Section shall be matched from the AFI Fund created as a fund to be held by the Secretary of DHS. Program participants will receive match funds of 1:1 for homeownership accounts. Program participants will receive match funds up to 3:1 for educational accounts, pursuant to funding availability. The AFI Fund is a source of funding from HHS and the Illinois Department of Human Services specifically designated to fund Individual Development Account Initiatives pursuant to provisions of AFIA.

h) Not more than $2,000 of moneys from the AFI Fund shall be provided to any one individual.

i) Not more than $4,000 of moneys from the AFI Fund shall be provided to any one household.

j) Persons eligible to open an IDA and to receive AFI Fund moneys are individuals currently residing in Illinois who are:

1) Able to demonstrate, via the most recent federal tax return, that they are currently eligible for assistance under the TANF program; or

2) Able to demonstrate:

A) via the most recent federal tax return, that the adjusted gross income of their household in the calendar year preceding the determination of eligibility was equal to or less than 200% of the poverty line, as determined by the Federal Office of Management and Budget or the earned income credit, described in section 32 of the Internal Revenue Code of 1986 (taking into account the size of the household); and

B) that the net worth of their household, as of the end of the calendar year preceding the determination of eligibility, does not exceed $10,000, as determined by AFIA section 408(2)(B) and (C).

k) Moneys in an IDA, including accrued interest and matching deposits, shall be disregarded for the purpose of determining the eligibility and benefit level for TANF in the case of the individual establishing the IDA with respect to any period during which the individual maintains or makes contributions into the IDA (see Section 112.151).

l) To be considered fully enrolled in the IDA program, an individual must have:

1) Completed a program application;

2) Submitted a copy of the previous year's federal tax return;

3) Submitted a copy of a credit report issued to him or her during the previous three months;

4) Participated in the IDA orientation;

5) Completed and signed a participant account agreement; and

6) Opened an IDA account at an authorized financial institution.

m) DHS reserves the right to deny applicants that state that their only asset goal is home ownership, if those applicants do not meet the following eligibility thresholds:

1) Earned income must exceed 100% of the federal poverty line as determined by the federal Office of Management and Budget; and

2) Credit scores must exceed a FICO (Fair Isaac and Company) score of 515.

n) Those individuals who do not meet the credit or income threshold requirement for the IDA homeownership initiative will be provided with the following alternatives:

1) Participation in the IDA microenterprise or continuing education initiative; or

2) Participation in a credit-counseling program.

o) IDA program participants shall complete basic financial management training to satisfy the federal requirement for this training. Financial education partners can provide either basic financial education or asset specific education to program participants. This training can be offered online, via teleconference, via self-study options, via partner agencies or through direct classroom training. DHS will create a menu of financial education providers that account holders may use to fulfill their financial education requirements. This education will be provided free of charge to program participants.

p) IDAs shall only be opened with the permission of DHS. Accounts may be opened via the Internet, with DHS assistance or via a telephone call to a customer representative. DHS staff will provide those individuals who complete orientation with permission to open an account by calling and utilizing a Personal Identification Number.

q) Emergency Withdrawals

1) Withdrawals for non-authorized expenses may not be taken from IDAs unless approved, in writing, by a representative from DHS for emergency purposes only. An emergency withdrawal is a withdrawal by an eligible individual that:

A) is a withdrawal of only those funds, or a portion of those funds, deposited by the individual in the IDA of the individual;

B) is permitted by a qualified entity on a case-by-case basis; and

C) is made for:

i) expenses for medical care, or necessary to obtain medical care, for the individual or a spouse or dependent of the individual;

ii) payments necessary to prevent the eviction of the individual from the residence of the individual or foreclosure on the mortgage for the principal residence of the individual; or

iii) payments necessary to enable the individual to meet necessary living expenses following loss of employment.

2) No other participant funds may be available for solving this emergency need. An individual shall reimburse an IDA for any funds withdrawn from the account for an emergency withdrawal, not later than 12 months after the date of the withdrawal. Participants that request more than one emergency withdrawal from their IDA in a calendar year will be removed from the IDA program. These participants will forfeit their right to participate in this program in the future. Program participants that make unauthorized withdrawals from their IDAs will be removed from the IDA program and will forfeit their right to participate in this program in the future. Under no circumstances, and at no time, shall an IDA holder lose the ability to withdraw moneys from his or her IDA.

r) DHS will set up a sweep account to manage electronic withdrawals from participant checking and savings accounts to IDAs. These accounts will carry no balance and will serve solely as a facilitator of the electronic funds transfer process.

s) IDAs will be set up to draft program participant's primary bank accounts on a date agreed upon by the account holder. This process will ensure timely deposits to accounts and decrease the need for social service intervention with account holders. All accounts will utilize this feature to gather participant deposits.

t) Program participants will be eligible to withdraw moneys from an IDA for eligible post-secondary education expenses and business capitalization expenses if they have participated in the program for six months and have fulfilled the financial education requirements listed in subsection (o) of this Section. Program participants will be eligible to withdraw money from an IDA for a first-time home purchase if they have participated in the program for 6 months and have fulfilled the financial education requirements listed in subsection (o) of this Section. Program participants may then complete an approved Withdrawal Request Form and submit it to the DHS Project Director. Once approved by the Project Director, the Director will submit a request that can be used for making a purchase. The request for a transfer of funds from the AFI Fund must be signed by two representatives of DHS. One of these representatives must be the DHS Chief Financial Officer.

u) All vendors will receive payment from a participant's IDA and the corresponding matching funds owed from the match funds pool. Match funds will be sent to the vendor from whom the participant is purchasing the asset. DHS will be responsible for keeping written records of funds transferred and assets purchased.

v) Program participants will need to submit a separate request for each qualified asset purchase. The provisions of subsection (t) of this Section shall apply when paying asset vendors for multiple qualified asset purchases. Purchase requests will be processed within five working days after receipt of a completed purchase requisition. A complete purchase requisition shall consist of a participant Withdrawal Request Form and a purchase order with a vendor clearly identified as the authorized payee.

w) An IDA holder shall have a 36-month period, beginning on the date DHS authorizes the holder to open the IDA, within which to make a qualified purchase.

(Source: Amended at 32 Ill. Reg. 17167, effective October 20, 2008)