

# **CONTRA COSTA COUNTY**

Administration Building | 1025 Escobar St., Martinez



## **AGENDA**

**Tuesday, March 17, 2026**

**1:00 PM**

### **HOUSING AUTHORITY**

***DIANE BURGIS, CHAIR***

***JOHN GIOIA***

***CANDACE ANDERSEN***

***KEN CARLSON, VICE CHAIR***

***SHANELLE SCALES-PRESTON***

***CYNTHIA JORDAN***

***JOANN SEGURA***

***JOSEPH VILLARREAL, EXECUTIVE DIRECTOR, (925) 957-8001***

The public may attend the Board meeting in person and remotely via call-in or Zoom. Board meetings are televised live on Comcast Cable 27, ATT/U-Verse Channel 99, and WAVE Channel 32, and can be seen live online at [www.contracosta.ca.gov](http://www.contracosta.ca.gov). Meetings of the Board are closed-captioned in real time. For real time translation of the Board of Supervisors meeting, please go to the Wordly website: <https://attend.wordly.ai/join/UPPW-1508>.

Persons who wish to address the Board during public comment or with respect to an item on the agenda may comment in person or may call in during the meeting by dialing 1 855-758-1310. A caller should indicate they wish to speak on an agenda item by pushing "#2" on their phone. Persons who wish to address the Board in person should complete the form provided for that purpose. Access via Zoom is also available using the following link: <https://cccounty-us.zoom.us/j/81863939331>. Those participating via Zoom should indicate they wish to speak on an agenda item by using the "raise your hand" feature in the Zoom app. To provide contact information, please contact Clerk of the Board at [clerkoftheboard@cob.cccounty.us](mailto:clerkoftheboard@cob.cccounty.us) or call 925-655-2000. If the Zoom connection malfunctions for any reason, the meeting may be paused while a fix is attempted. If the connection is not reestablished, the Board will continue the meeting in person without remote access.

Public comments generally will be limited to two minutes per speaker. In the interest of facilitating the business of the Board, the total amount of time that a member of the public may use in addressing the Board on all agenda items is 10 minutes. Your patience is appreciated.

A lunch break or closed session may be called at the discretion of the Board Chair. Staff reports related to open session items on the agenda are also accessible online at [www.contracosta.ca.gov](http://www.contracosta.ca.gov).

**1:00 P.M. Convene and call to order**

- 1. **CONSIDER CONSENT ITEMS (Items listed as C.1 through C.3 on the following agenda) – Items are subject to removal from Consent Calendar by request of any Commissioner. Items removed from the Consent Calendar will be considered with the Discussion Items.**

**2. DISCUSSION ITEMS**

**D.1.** HOLD public hearing and RECEIVE report on the Housing Authority of the County of Contra Costa's (HACCC) workforce vacancies, recruitment, and retention efforts in compliance with Assembly Bill 2561. (Gov. Code § 3502.3.) RECEIVE testimony and CLOSE the public hearing. (No fiscal impact) [26-914](#)

**D.2.** CONSIDER approving the Housing Authority’s Annual Agency Budget for Fiscal Year Ending March 31, 2027; and ADOPT PHA Board Resolution No. 5275 approving the Annual Agency Budget on HUD Form 52574. [26-911](#)

**Attachments:** [HUD-52574 PHA Board Resolution FY 2026-27 \(unsigned\)](#)

- D.3** CONSIDER accepting a report on the status of the U.S. Department of Housing and Urban Development's (HUD) homeless programs funding cuts. **26-946**

**Attachments:** [Homeless Programs Funding Cuts](#)

- D.4** CONSIDER accepting a report on the U.S. Department of Housing and Urban Development's (HUD) proposed rule changing treatment of mixed-status households in HUD's section 214 programs. The proposed rule change will impact approximately 29 families/118 people in the voucher program and 7 families/31 people in public housing. **26-949**

**Attachments:** [CRS Noncitizen Eligibility For Federal Housing Program](#)  
[OP ED - Public Housing](#)  
[HUD Mixed Status Website](#)  
[CBPP Mixed Status Analysis](#)  
[NHLP Analysis of Mixed Status Families](#)  
[CAHA Letter re Mixed Status Rule](#)  
[HUD Proposed Rule re Eligible Status](#)

- D.5 PUBLIC COMMENT (2 Minutes)

### 3. CONSENT ITEMS

- C.1.** RATIFY HACCC'S Executive Director's execution of Purchase and Sales Agreements Authorizing the sale of four parcels of land in Richmond, located at 1710-1714 First Street, 317/325 Silver Avenue, 525 Silver/1711 Giaramita, and 308, 320,322 Market/1748 3RD Street. **26-910**

- C.2.** RECEIVE the Housing Authority of the County of Contra Costa's investment report for the quarter December 31, 2025 **26-912**

**Attachments:** [Investment Report for Board- Qtr 12-31-25](#)

- C.3.** APPROVE and AUTHORIZE the Executive Director of the Housing Authority of the County of Contra Costa, or his designee, to execute a contract with Staples Business Advantage that will expire on February 2, 2029, to provide the Housing Authority with office products and supplies in an amount not to exceed \$300,000. **26-913**

### 4. ADJOURN

**AGENDA DEADLINE: Thursday, 12 noon, 12 days before the Tuesday Board meetings.**

**GENERAL INFORMATION**

The Board meets in all its capacities pursuant to Ordinance Code Section 24-2.402.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the Clerk of the Board to a majority of the members of the Board of Supervisors less than 96 hours prior to that meeting are available for public inspection at 1025 Escobar Street, First Floor, Martinez, CA 94553, during normal business hours.

All matters listed under CONSENT ITEMS are considered by the Board to be routine and will be enacted by one motion. There will be no separate discussion of these items unless requested by a member of the Board before the Board votes on the motion to adopt. Each member of the public will be allowed two minutes to comment on the entire consent agenda.

Persons who wish to speak on matters set for PUBLIC HEARINGS will be heard when the Chair calls for public testimony. Each speaker during public testimony will be limited to two minutes. After public testimony, the hearing is closed and the matter is subject to discussion and action by the Board. Comments on matters listed on the agenda or otherwise within the purview of the Board of Supervisors can be submitted to the office of the Clerk of the Board via mail: Board of Supervisors, 1025 Escobar Street, First Floor, Martinez, CA 94553 or to [clerkoftheboard@cob.cccounty.us](mailto:clerkoftheboard@cob.cccounty.us).

Time limits for public speakers may be adjusted at the discretion of the Chair.

The County will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Clerk of the Board at least 24 hours before the meeting, at (925) 655-2000.

Anyone desiring to submit an inspirational thought nomination for inclusion on the Board Agenda may contact the Office of the County Administrator or Office of the Clerk of the Board, 1025 Escobar Street, Martinez, California.

Subscribe to receive to the weekly Board Agenda by calling the Office of the Clerk of the Board, (925) 655-2000 or using the County's on line subscription feature at the County's Internet Web Page, where agendas and supporting information may also be viewed: <https://contra-costa.legistar.com/Calendar.aspx>

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Pursuant to Government Code section 84308 (the Levine Act), members of the Board of Supervisors are disqualified and not able to participate in any agenda item involving contracts (except for contracts exempt from the Levine Act under Government Code section 84308(a)), franchises, discretionary land use permits and other entitlements, if the Board member received, within the previous 12 months, more than \$500 in campaign contributions from the applicant or contractor, an agent of the applicant or contractor, or any financially interested participant who actively supports or opposes the County's decision on the agenda item. Members of the Board of Supervisors who have received, and applicants,

contractors or their agents who have made, campaign contributions totaling more than \$500 to a Board member within the previous 12 months are required to disclose that fact for the official record of the subject proceeding. Disclosures must include the amount of the campaign contribution and identify the recipient Board member, and may be made either in writing to the Clerk of the Board of Supervisors before the subject hearing or by verbal disclosure at the time of the hearing.



# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 26-914

**Agenda Date:** 3/17/2026

**Agenda #:** D.1.

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** Public Hearing on the Housing Authority of the County of Contra Costa's Vacancies and Recruitment and Retention Efforts (Assembly Bill 2561/Government Code Section 3502.3)

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

HOLD public hearing and RECEIVE report on the Housing Authority of the County of Contra Costa's (HACCC) workforce vacancies, recruitment, and retention efforts in compliance with Assembly Bill ("AB") 2561. (Gov. Code § 3502.3.) RECEIVE testimony and CLOSE the public hearing.

### BACKGROUND:

AB 2561 was introduced to address the issue of job vacancies in local government, which adversely affects the delivery of public services and employee workload. Among other requirements, the bill mandated that public agencies present the status of vacancies and recruitment and retention efforts during a public hearing before the agency's governing body at least once per fiscal year. The bill was enacted into law and is codified at Government Code section 3502.3. The new law became effective January 1, 2025.

In compliance with Government Code section 3502.3, HACCC is required to do the following:

1. **Public Hearing:** At least once each fiscal year, at a public hearing before the Board, HACCC shall present information regarding the status of vacancies and recruitment and retention efforts (Gov. Code § 3502.3(a)(1)) and identify any necessary changes to policies, procedures, and recruitment activities that may lead to obstacles in the hiring process (Gov. Code § 3502.3(a)(3)).

If the Board of Commissioners adopts an annual or multiyear budget during the fiscal year, this presentation must occur prior to the Board's adoption of the final budget for HACCC. (Gov. Code § 3502.3(a)(2).)

2. **Employee Organization Participation:** Upon request, allow the recognized employee organization for each bargaining unit at HACCC to make presentations during the public hearing concerning vacancies and recruitment and retention efforts. There are 2 bargaining units at HACCC: AFSCME/PEU Local One Clerical and AFSCME/PEU Local One Maintenance. (Gov. Code § 3502.3(b).)
3. **Additional Reporting for High Vacancy Rates:** If vacancies within a single bargaining unit meet or exceed 20% of authorized full-time positions in that bargaining unit, upon request of the recognized employee organization for that bargaining unit, HACCC must provide additional information during the

public hearing, including the following: (1) the total number of vacancies; (2) the number of applicants; (3) the average time to fill positions; and (4) opportunities to improve compensation and working conditions for employees in the bargaining unit. (Gov. Code § 3502.3(c).)

Neither of HACCC's bargaining units has a vacancy rate of 20% or higher.

To improve recruitment and retention, HACCC has shifted to keeping some key positions continually open for applications. HACCC has also been aggressive (within its federal fiscal constraints) in increasing its salary scale for many positions over the past two Union negotiating cycles.

In examining its policies, procedures and recruitment activities for any changes that could be made to remove obstacles to the hiring process, HACCC has identified the following:

- Consider changing minimum qualifications for some positions at or near entry-level;
- Consider updating job descriptions for several positions where there is significant overlap; and
- Examine new advertising channels for some of our key positions with consistent hiring needs.

**FISCAL IMPACT:**

There is no direct fiscal impact associated with conducting the public hearing required under Government Code section 3205.3. However, addressing recruitment and retention issues may involve future budget and bargaining considerations, which will be presented to the Board as necessary.

**CONSEQUENCE OF NEGATIVE ACTION:**

Non-compliance with Government Code section 3502.3.



# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 26-911

**Agenda Date:** 3/17/2026

**Agenda #:** D.2.

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** ANNUAL AGENCY BUDGET

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

1. APPROVE the Housing Authority's Annual Agency Budget for Fiscal Year Ending 3/31/27; and
2. ADOPT PHA Board Resolution No. 5275 Approving the Annual Agency Budget on HUD Form 52574.

### BACKGROUND:

In compliance with the U. S. Department of Housing and Urban Development's (HUD) regulations, the Housing Authority of the County of Contra Costa (HACCC) has prepared its proposed budget for fiscal year ending March 31<sup>st</sup>, 2027.

Funding for HACCC's programs is generally provided for by the federal budget. The federal fiscal year (FFY) 2026 budget provides HUD with program funding for CY 2026. HUD then allocates funds to HACCC based on eligibility criteria specific to each program. However, due to limited congressional appropriations per program, HUD then prorates funding nationally, reducing the funded amount to below 100% of eligibility. The national proration rates for each program are continuously estimated and adjusted throughout the calendar year, and only finalized once the calendar year is completed.

If Congressional approval of the Federal Budget is delayed, continuing resolutions usually authorize HUD to advance funding to HACCC at an interim level using conservative estimates. Upon approval, HUD spends a month or two determining proper program funding. Last year, Congress approved the Federal Budget in March 2025.

Three primary factors impact the funding of a housing authority's public housing and housing choice voucher (HCV) programs. These factors are the amount of funding allocated to HUD by Congress, the national utilization rate (number of families housed nationally) and the local utilization rate (number of families housed locally).

Congressional funding of HUD sets baseline funding for the Department's programs. For well over a decade HUD has not been fully funded by Congress. As a result, housing authority programs are almost always funded at less than 100% of need.

Once Congressional funding is known, HUD adjusts the funding provided to housing authorities based on the national utilization rate of each program. Utilization is the number of families under contract at a given time or period. At the national level, if utilization has increased past HUD's budget projections because more families are being housed, then HUD will reduce the money available to each housing authority. If fewer families are being housed nationally, then the money available to each housing authority is increased.

At the individual housing authority level proration works in reverse. Within the parameters set by Congressional funding and national utilization, funding for an individual housing authority will rise when local utilization increases and will fall when the number of families housed drops.

HACCC's proposed budget is based on calculating current program funding eligibility and applying an estimate of the national proration rate. Staff monitors HACCC's budget to actual on a monthly basis and reports any significant changes that occur.

Over the past ten years, public housing proration levels have been as follows:

|      |         |             |
|------|---------|-------------|
| 2026 | 86.00%  | (not final) |
| 2025 | 102.58% |             |
| 2024 | 96.97%  |             |
| 2023 | 93.02%  |             |
| 2022 | 104.93% |             |
| 2021 | 96.85%  |             |
| 2020 | 112.11% |             |
| 2019 | 97.77%  |             |
| 2018 | 94.74%  |             |
| 2017 | 93.10%  |             |
| 2016 | 90.21%  |             |

During the same period, HCV administrative fee proration levels have been as follows:

|      |        |             |
|------|--------|-------------|
| 2026 | 88.00% | (not final) |
| 2025 | 88.19% | (not final) |
| 2024 | 92.83% |             |
| 2023 | 97.17% |             |
| 2022 | 89.39% |             |
| 2021 | 85.80% |             |
| 2020 | 81.05% |             |
| 2019 | 81.10% |             |
| 2018 | 80.62% |             |
| 2017 | 77.99% |             |
| 2016 | 83.86% |             |

In developing HACCC's proposed budget, staff has analyzed all categories of revenue and expense and applied the most appropriate methods of projection for each category. Large costs, such as housing assistance payments, payroll, benefits, temporary staffing, software systems, insurance, debt service, etc. have been specifically projected using detailed spreadsheets or supporting schedules. Wherever possible, projections are based on foreknowledge of the future data. For all other costs, projections are based on historical trends for time periods between three to twelve months, depending on trends and the recency of operational changes. Finally, all results have been reviewed against current and prior periods for quality control.

Key revenue assumptions are:

1. Public Housing Program Operating Subsidy will be prorated at 86%
2. Housing Voucher Program Administrative Fees will be prorated at 88%

Key expense assumptions are:

1. Costs will generally increase by the most recent year over year CPI inflation rate of 2.7%
2. Housing Voucher Program will expend approximately \$1,500,000 developing a field office in Antioch

HACCC’s proposed overall budget is shown below in comparison to last year’s approved budget, along with the projected change in reserve levels. This overview is followed by a breakdown of HACCC’s four major program areas, HCV, Public Housing, State and Local programs and Continuum of Care programs. Each section provides a brief program overview, the projected budget, last year’s approved budget, the projected change in reserve levels and an explanation of the change from prior year. A more detailed budget is available for viewing at HACCC’s administrative office.

**Agency Summary**

| Agency Budget         | 2026-2027 Budget | 2025-2026 Budget | Change        |
|-----------------------|------------------|------------------|---------------|
| Operating Revenue     | \$ 43,280,078    | \$ 42,661,348    | \$ 618,730    |
| Operating Expense     | \$ 46,149,720    | \$ 43,753,691    | \$ 2,396,029  |
| Net Operating         | \$ -2,869,642    | \$ -1,092,343    | \$ -1,777,299 |
| Non-Operating Revenue | \$ 239,861,377   | \$ 223,672,017   | \$ 16,189,360 |
| Non-Operating Expense | \$ 242,256,147   | \$ 226,299,852   | \$ 15,956,295 |
| Net to Reserves       | \$ -5,264,412    | \$ -3,720,178    | \$ -1,544,234 |

| Agency Reserves     | Unrestricted Reserves | Actuarial Reserves * | Restricted Reserves | Net Invested in Capital Assets |
|---------------------|-----------------------|----------------------|---------------------|--------------------------------|
| Projected 3/31/2026 | \$ 26,955,526         | \$ -11,886,806       | \$ 2,793,015        | \$ 21,817,304                  |
| FY Budget Impact    | \$ -5,335,413         | \$ 0                 | \$ 71,001           | \$ 4,806,553                   |
| Projected 3/31/2027 | \$ 21,620,113         | \$ -11,886,806       | \$ 2,864,016        | \$ 26,623,857                  |

\*Actuarial reserves are unfunded Pension and Other Post-Employment Benefits (OPEB) liabilities.

As a reminder, program reserves are restricted for use within each program. The designation of restricted or unrestricted reserves merely indicates that the funds are obligated for special use within the program (restricted) or that they can be used for any purpose eligible under the program (unrestricted).

**MAJOR PROGRAM AREAS:**

**Housing Choice Voucher Programs**

Program Description - Housing Choice Voucher (HCV) programs provide housing assistance to families in the private rental market. HACCC qualifies families for the program based on income. These families find a home in the private rental market and HACCC provides them with a subsidy via a housing assistance payment (HAP) contract with the property owner. HAP is paid by HACCC directly to the owner. Through its HCV programs, HACCC provides affordable housing assistance to 9,300 households. 8,937 households are assisted by the Housing Voucher Program, 201 by the Mainstream Voucher Program, and 162 by the Emergency Housing Voucher Program. Of the HCV program households, 207 are also enrolled in the Family Self-Sufficiency Program.

Budget Summary:

| Housing Choice Voucher Budget | 2026-2027 Budget | 2025-2026 Budget | Change |
|-------------------------------|------------------|------------------|--------|
|                               |                  |                  |        |

|                       |                |                |               |
|-----------------------|----------------|----------------|---------------|
| Operating Revenue     | \$ 15,891,334  | \$ 15,708,415  | \$ 182,919    |
| Operating Expense     | \$ 17,094,411  | \$ 16,938,360  | \$ 156,051    |
| Net Operating         | \$ -1,203,077  | \$ -1,229,945  | \$ 26,868     |
| Non-Operating Revenue | \$ 231,201,444 | \$ 214,024,904 | \$ 17,176,540 |
| Non-Operating Expense | \$ 232,701,444 | \$ 215,918,769 | \$ 16,782,675 |
| Net to Reserves       | \$ -2,703,077  | \$ -3,123,810  | \$ 420,733    |

| Housing Choice Voucher Reserves | Unrestricted Reserves | Actuarial Reserves * | Restricted Reserves | Net Invested in Capital Assets |
|---------------------------------|-----------------------|----------------------|---------------------|--------------------------------|
| Projected 3/31/2026             | \$ 10,370,678         | \$ -6,077,244        | \$ -182,561         | \$ 3,868,994                   |
| FY Budget Impact                | \$ -2,703,077         | \$ 0                 | \$ 0                | \$ 1,500,000                   |
| Projected 3/31/2027             | \$ 7,667,601          | \$ -6,077,244        | \$ -182,561         | \$ 5,368,994                   |

\*Actuarial reserves are unfunded Pension and Other Post-Employment Benefits (OPEB) liabilities.

#### Explanation of Change:

The increase in revenue is based on HUD's preliminary funding projections of program utilization combined with changes in market rents, prorated based on HUD's projections of federal funding availability. The increase in operating expense is a result of increased program size, increased staffing, and general inflationary increases across the program. The increase in Non-Operating Expense is due to the increase in housing assistance subsidies provided to participants and development of a field office in Antioch.

### Public Housing Operating and Capital Funds

Program Description - HACCC owns and manages 963 public housing units at 12 different sites throughout the County. The Operating funds for all properties come from tenant rents as well as an operating subsidy received from HUD that is designed to cover the gap between rents collected from the low-income tenants and annual operating expenses. HUD allocates the Capital Fund annually via formula to approximately 3,200 housing authorities. Capital Fund grants may be used for development, financing, modernization, and management improvements within public housing.

#### Budget Summary:

| Public Housing Budget | 2026-2027 Budget | 2025-2026 Budget | Change        |
|-----------------------|------------------|------------------|---------------|
| Operating Revenue     | \$ 14,117,911    | \$ 14,205,373    | \$ -87,462    |
| Operating Expense     | \$ 17,521,098    | \$ 16,094,414    | \$ 1,426,684  |
| Net Operating         | \$ -3,403,186    | \$ -1,889,041    | \$ -1,514,145 |
| Non-Operating Revenue | \$ 2,411,783     | \$ 2,346,893     | \$ 64,890     |
| Non-Operating Expense | \$ 2,411,783     | \$ 2,346,893     | \$ 64,890     |
| Net to Reserves       | \$ -3,403,186    | \$ -1,889,041    | \$ -1,514,145 |

| Public Housing Reserves | Unrestricted Reserves | Actuarial Reserves * | Restricted Reserves | Net Invested in Capital Assets |
|-------------------------|-----------------------|----------------------|---------------------|--------------------------------|
| Projected 3/31/2026     | \$ 4,933,564          | \$ -3,500,118        | \$ 0                | \$ 14,727,225                  |
| FY Budget Impact        | \$ -3,403,186         | \$ 0                 | \$ 0                | \$ 2,411,783                   |
| Projected 3/31/2027     | \$ 1,530,378          | \$ -3,500,118        | \$ 0                | \$ 17,139,008                  |

\*Actuarial reserves are unfunded Pension and Other Post-Employment Benefits (OPEB) liabilities.

#### Explanation of Change:

The decrease in revenue is based on HUD's preliminary funding projections of program lease up combined with changes in project expense levels and prorated based on HUD's projections of federal funding availability. The increase in expense is driven by improved maintenance staffing and general inflationary increases across the program.

### State and Local Programs

Program Description - HACCC administers a variety of programs and activities that are either not funded by HUD or that involve non-restricted HUD funds. Currently, HACCC is the managing general partner for two tax credit projects (DeAnza Gardens & Casa Del Rio). HACCC receives management fees for administering the Public Housing and HCV programs under HUD's asset-management model.

#### Budget Summary:

| State & Local Budget  | 2026-2027 Budget | 2025-2026 Budget | Change      |
|-----------------------|------------------|------------------|-------------|
| Operating Revenue     | \$ 12,337,074    | \$ 11,912,038    | \$ 425,036  |
| Operating Expense     | \$ 10,600,453    | \$ 9,885,394     | \$ 715,059  |
| Net Operating         | \$ 1,736,621     | \$ 2,026,644     | \$ -290,023 |
| Non-Operating Revenue | \$ 0             | \$ 0             | \$ 0        |
| Non-Operating Expense | \$ 894,770       | \$ 733,970       | \$ 160,800  |
| Net to Reserves       | \$ 841,851       | \$ 1,292,674     | \$ -450,823 |

| State & Local Reserves | Unrestricted Reserves | Actuarial Reserves * | Restricted Reserves | Net Invested in Capital Assets |
|------------------------|-----------------------|----------------------|---------------------|--------------------------------|
| Projected 3/31/2026    | \$ 11,651,283         | \$ -2,309,444        | \$ 2,975,576        | \$ 3,221,086                   |
| FY Budget Impact       | \$ 770,850            | \$ 0                 | \$ 71,001           | \$ 894,770                     |
| Projected 3/31/2027    | \$ 12,422,133         | \$ -2,309,444        | \$ 3,046,577        | \$ 4,115,856                   |

\*Actuarial reserves are unfunded Pension and Other Post-Employment Benefits (OPEB) liabilities.

#### Explanation of Change:

The projected change in revenue is primarily a result of increased participation of DeAnza Gardens tax credit property in the Project Based Voucher program. The increase in expense is primarily due to necessary operational

and capital improvements at the DeAnza Gardens tax credit property.

**Housing Certificate Programs**

Program Description - HACCC administers a Housing Certificate Program tied to the Continuum of Care Program (formerly known as Shelter Plus Care). The Continuum of Care Program provides rental assistance for hard-to-serve homeless persons with disabilities in connection with supportive services funded from sources outside the program. HACCC assists approximately 241 households under this program.

Budget Summary:

| <b>Housing Certificate Budget</b> | <b>2026-2027 Budget</b> | <b>2025-2026 Budget</b> | <b>Change</b> |
|-----------------------------------|-------------------------|-------------------------|---------------|
| Operating Revenue                 | \$ 933,759              | \$ 835,523              | \$ 98,236     |
| Operating Expense                 | \$ 933,759              | \$ 835,523              | \$ 98,236     |
| Net Operating                     | \$ 0                    | \$ 0                    | \$ 0          |
| Non-Operating Revenue             | \$ 6,248,149            | \$ 7,300,221            | \$ -1,052,072 |
| Non-Operating Expense             | \$ 6,248,149            | \$ 7,300,221            | \$ -1,052,072 |
| Net to Reserves                   | \$ 0                    | \$ 0                    | \$ 0          |

| <b>Housing Certificate Reserves</b> | <b>Unrestricted Reserves</b> | <b>Actuarial Reserves *</b> | <b>Restricted Reserves</b> | <b>Net Invested in Capital Assets</b> |
|-------------------------------------|------------------------------|-----------------------------|----------------------------|---------------------------------------|
| Projected 3/31/2026                 | \$ 0                         | \$ 0                        | \$ 0                       | \$ 0                                  |
| FY Budget Impact                    | \$ 0                         | \$ 0                        | \$ 0                       | \$ 0                                  |
| Projected 3/31/2027                 | \$ 0                         | \$ 0                        | \$ 0                       | \$ 0                                  |

\*Actuarial reserves are unfunded Pension and Other Post-Employment Benefits (OPEB) liabilities.

Explanation of Change:

The increase in operating revenue and expense is due to general inflationary increases operating the program. The decrease in non-operating revenue and expense is due to expectations of reduced program funding.

**FISCAL IMPACT:**

**CONSEQUENCE OF NEGATIVE ACTION:**

Should the Board of Commissioners choose not to adopt Resolution No. 5275 approving HACCC’s budget for the fiscal year 2026-2027, HACCC will not be in compliance with HUD regulations. Further, HACCC will not be in compliance in fulfilling its financial and programmatic obligations to program participants and property owners, as well as HACCC employees, contractors, and vendors.

**Public reporting burden** for this collection of information is estimated to average 136.2 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, completing the operating budget and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information including suggestions for reducing this burden, to the Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0026. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information is required by Section 6(c)(4) of the U.S. Housing Act of 1937. The information is the operating budget for the low-income public housing program and provides a summary of the proposed and budgeted receipts and expenditures, approval of budgeted receipts and expenditures, and justification of certain specified amounts. HUD reviews the information to determine if the operating budget adopted by the public housing agency (PHA) and the amounts are reasonable, and that the PHA complies with HUD prescribed procedures. PHA boards must approve the operating budget, and HUD requires boards to certify their approval through this form. Responses are required to obtain benefits. This information does not lend itself to confidentiality.

PHA Name: Housing Authority of the County Contra Costa PHA Code: CA011

PHA Fiscal Year Beginning: 04/01/2026

Board Resolution Number: 5275

Acting on behalf of the Board of Commissioners of the above-named PHA as its Chairperson or Executive Director (as authorized), I make the following certifications and agreement to the Department of Housing and Urban Development (HUD) regarding the Board's approval of (check one or more as applicable):

DATE

- Operating Budget approved by Board resolution on: 03/17/2026
- Operating Budget submitted to HUD, if applicable, on:
- Operating Budget revision approved by Board resolution on:
- Operating Budget revision submitted to HUD, if applicable, on:

PHA Comments:

I certify on behalf of the above-named PHA that:

1. All statutory and regulatory requirements have been met;
2. The PHA has sufficient operating reserves to meet the working capital needs of its developments;
3. Proposed budget expenditure are necessary in the efficient and economical operation of the housing for the purpose of serving low-income residents;
4. The budget indicates a source of funds adequate to cover all proposed expenditures;
5. The PHA will comply with the wage rate requirement under 24 CFR 968.110(c) and (f); and
6. The PHA will comply with the requirements for access to records and audits under 24 CFR 968.110(i).

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct.

**WARNING:** Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802).

|  |            |       |
|--|------------|-------|
| Board Chairperson or Executive Director's Name, as authorized: | Signature: | Date: |
|--|------------|-------|

**Identification:** CA011-Housing Authority of the County Contra Costa PHA Board Resolution form HUD-52574 (ID - 12152) for CY 2026 printed by ZACHARIAH MCCASLIN in HUD Secure Systems/Public Housing Portal at 03/05/2026 09:36PM EST



# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 26-946

**Agenda Date:** 3/17/2026

**Agenda #:** D.3

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** REPORT ON THE STATUS OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S HOMELESS PROGRAMS FUNDING CUTS

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

CONSIDER accepting a report on the status of the U.S. Department of Housing and Urban Development's (HUD) homeless programs funding cuts.

### BACKGROUND:

As communicated to the Board previously, HACCC is facing significant cuts in several of its homeless programs. The cuts faced by HACCC are based on the earlier than planned end of the Emergency Housing Voucher (EHV) program along with HUD's decision on November 14, 2025, to limit Continuum of Care (CoC) funding for permanent supportive housing to no more than 30% of each CoC's total funding pool. The change in the CoC rules directly affects HACCC's Shelter Plus Care and Project Based Rental Assistance (PBRA) programs. Our partners in these programs are the County's Health, Housing and Homeless program along with the nonprofit HOPE Solutions. These cuts will also indirectly affect several of HACCC's project-based voucher sites. These are separate from the PBRA units. Added to these cuts are more cuts expected due to HUD newly proposed mixed-status rule which is still pending public comment.

The cuts to HACCC's programs were slated to first impact the Shelter Plus Care program beginning April 1, 2026. As part of the recently approved federal budget, HUD was told to fully fund all CoC contracts renewing in the first quarter of 2026. This would include HACCC's CoC grant, which expires March 31, 2026. As of the writing of this Board Order, HUD has not indicated it will comply with that Congressional order, and, even if it will, when HACCC can expect payment under the renewed grant.

As for the EHV program, the new federal budget has provided extra tenant-protection vouchers (TPV). These are normally used to provide ongoing housing vouchers to families living in a variety of HUD-funded buildings whose contract terms have expired and are now converting to market-rate. There are not enough TPVs for all expiring EHV's, so a decision will have to be made about whether and when to absorb EHV families into our voucher program. This would have the effect of preserving their housing but shrinking the overall number of units available to Contra Costa families. The alternative is to wait for HUD's FYE 2026 budget to be finalized to see how the TPV application process will be managed and how many households can be served this way. If we receive TPVs, overall affordable housing will not be reduced, or will be reduced by less than simply converting all EHV's to "regular" vouchers. The issue here is that as many as 1/3 of all housing authorities around the country may go into shortfall, including HACCC. If that happens, and we do not receive any/enough TPVs, then families may be left without any housing support.

Because these changes are still pending HUD's departmental budget decisions, which will not be made known for about another month, staff are waiting to update the analysis provided to the Board in December 2025. Staff will update the Board further at its March 17, 2026, meeting. As a reminder, attached to this Board Order is the presentation provided to the Board in December 2025. While the timing of some of the cuts are now in question, the basic facts about the number of people served by these programs, and now in danger of losing their housing, is still valid.

**FISCAL IMPACT:**

Based on 2025 funding levels, HUD's pending cuts will cost the Housing Authority (HACCC) approximately \$14,580,472 in funding dedicated to homeless households in 2026. This funding supports permanent housing for as many as 550 households. Additionally, it is expected that HUD's proposed mixed status (related to citizenship) rule will add additional cuts this year. That analysis is pending.

**CONSEQUENCE OF NEGATIVE ACTION:**

None. Informational item only.

# Homeless Programs Funding Cuts

HACCC BOC

December 9, 2025

# Projected homeless program funding loss in 2026 (Max)

| Program   | Unit Count | 2025 Grant/Cost |
|---|------------|-----------------|
| Shelter Plus Care Tenant-based Rental Assistance (TBRA)       | 273        | \$7,987,602     |
| Shelter Plus Care Project-based Rental Assistance (PBRA)      | 15         | \$434,610       |
| Emergency Housing Vouchers (EHV)<br>-Includes incoming ports- | 262        | \$6,158,260     |

# Homeless Programs Losing Funding in 2026

- Shelter Plus Care TBRA
- First funding provided in FFY92.
- Competitively awarded to HACCC/CoC.
- Requires equal supportive services match.
- Homeless persons living on the streets or in emergency shelters with severe mental illness, chronic substance abuse problems, or AIDs.
- CoC PSH now (?) capped at 30%.

# Homeless Programs Losing Funding in 2026

- Shelter Plus Care PBRA
- Similar to TBRA
- Tied to specific buildings and units.
- CoC PSH now (?) capped at 30%.

# Homeless Programs Losing Funding in 2026

- EHV's funded through the American Rescue Plan Act of 2021.
- Homeless, at-risk of homelessness, fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, or were recently homeless or have a high risk of housing instability.
- Funding will run out 4-5 years early

# Program Expiration Timeline

| Program                  | Unit Count | Date Ends          | Annual Funding Lost |
|--------------------------|------------|--------------------|---------------------|
| Incoming EHV's - 10 PHAs | 13         | Various 2026       | \$305,563           |
| Shelter Plus Care TBRA   | 273        | March 31, 2026     | \$7,987,602         |
| Shelter Plus Care PBRA   | 15         | June 30, 2026      | \$434,610           |
| Incoming EHV's - SFHA    | 49         | September 30, 2026 | \$1,151,736         |
| HACCC's EHV's            | 200        | December 20, 2026  | \$4,700,962         |

# Average Income and Subsidy by Program

| Program                 | Average Annual Income | Average Monthly Subsidy |
|-------------------------|-----------------------|-------------------------|
| EHV                     | \$17,202              | \$1,895                 |
| Shelter Plus Care (All) | \$18,784              | \$2,047                 |

- 100% of Households in both programs contain one or more disabled persons
- Average income in both programs  $\leq$  15% AMI (Acutely Low Income)

# EHV Location and Age Ranges

| City          | Households | Individuals | Min Age   | Max Age   |
|---------------|------------|-------------|-----------|-----------|
| Antioch       | 68         | 108         | 26        | 77        |
| Bay Point     | 4          | 10          | 50        | 72        |
| Concord       | 22         | 37          | 30        | 84        |
| Danville      | 1          | 2           | 38        | 38        |
| El Cerrito    | 3          | 3           | 37        | 60        |
| El Sobrante   | 1          | 1           | 57        | 57        |
| Martinez      | 24         | 36          | 23        | 80        |
| Oakley        | 1          | 1           | 69        | 69        |
| Orinda        | 1          | 1           | 67        | 67        |
| Pleasant Hill | 6          | 8           | 39        | 78        |
| Richmond      | 28         | 39          | 28        | 88        |
| San Pablo     | 6          | 11          | 33        | 74        |
| San Ramon     | 1          | 1           | 63        | 63        |
| Walnut Creek  | 14         | 14          | 25        | 74        |
| <b>Total</b>  | <b>180</b> | <b>272</b>  | <b>23</b> | <b>88</b> |

# Shelter Plus Care Location and Age Ranges

| City          | Households | Individuals | Min Age   | Max Age   |
|---------------|------------|-------------|-----------|-----------|
| Antioch       | 45         | 76          | 27        | 76        |
| Bay Point     | 5          | 10          | 49        | 71        |
| Brentwood     | 4          | 9           | 20        | 66        |
| Concord       | 42         | 74          | 37        | 83        |
| Danville      | 4          | 4           | 68        | 72        |
| El Cerrito    | 5          | 7           | 40        | 71        |
| El Sobrante   | 5          | 10          | 33        | 78        |
| Hercules      | 6          | 9           | 33        | 69        |
| Lafayette     | 2          | 7           | 46        | 60        |
| Martinez      | 26         | 35          | 28        | 78        |
| Moraga        | 8          | 15          | 41        | 61        |
| Oakley        | 1          | 2           | 68        | 68        |
| Pinole        | 1          | 2           | 58        | 58        |
| Pittsburg     | 28         | 47          | 29        | 78        |
| Pleasant Hill | 9          | 12          | 47        | 75        |
| Richmond      | 38         | 69          | 29        | 76        |
| San Pablo     | 15         | 23          | 35        | 76        |
| San Ramon     | 9          | 12          | 42        | 83        |
| Walnut Creek  | 14         | 18          | 32        | 84        |
| <b>Total</b>  | <b>267</b> | <b>441</b>  | <b>20</b> | <b>84</b> |

# Goals

- Net loss of 550 units, **but**:
- Preserve long-term affordable housing for the most vulnerable by transferring as many as possible to HCV/PBV
  - Acutely low-income
  - Disabled
  - Elderly
- Preserve housing foundational to programs that HACCC, H3, EHSD, DCD, nonprofits like HOPE Solutions and RCD and many other community organizations build upon.
- Transition help from BOS, not on-going subsidy

# Goals

- Avoid landlord/tenant issues and eviction chaos
  - CA rules vs. sudden elimination of long-term subsidy
- Avoid owner mortgage defaults (small owners + nonprofits)

| EHV Owner Unit Count | # EHV Owners | % of Total EHV Owners |
|----------------------|--------------|-----------------------|
| 1                    | 62           | 64.5%                 |
| 2                    | 14           | 14.6%                 |
| 3                    | 9            | 9.4%                  |
| 4                    | 7            | 7.3%                  |
| 5                    | 1            | 1.0%                  |
| 7                    | 3            | 3.1%                  |

# Original Ask

- \$1.5 million
- 40% of Shelter Plus Care TBRA for 5 months
  - Start of 2026 PBRA grant
- Assume/hope some portion of this ask will remain
  
- Transition 60% of Shelter Plus Care TBRA to HCV/PBV (budget?)
- Transition EHV's to HCV/PBV (budget?)
- Convert PBRAs to PBVs (still plan, question is timing, convert PBRA CoC funds to S+C)

# Yesterday's Changes

## FY 25 COC NOFO Update

- The Department has withdrawn a Notice of Funding Opportunity (NOFO) with respect to the Continuum of Care (CoC) grant program. This withdrawal will allow the Department to make appropriate revisions to the NOFO, and the Department intends to do so. In the previous FY 24-25 NOFO, the Department reserved the right to make changes to the NOFO instead of processing renewals for a variety of reasons, including to accommodate a new CoC or Youth Homelessness Demonstration Program (YHDP) priority or new funding source. The Department still intends to exercise this discretion and make changes to the previously issued CoC NOFO to account for new priorities. HUD anticipates reissuing a modified NOFO well in advance of the deadline for obligation of available Fiscal Year 2025 funds.

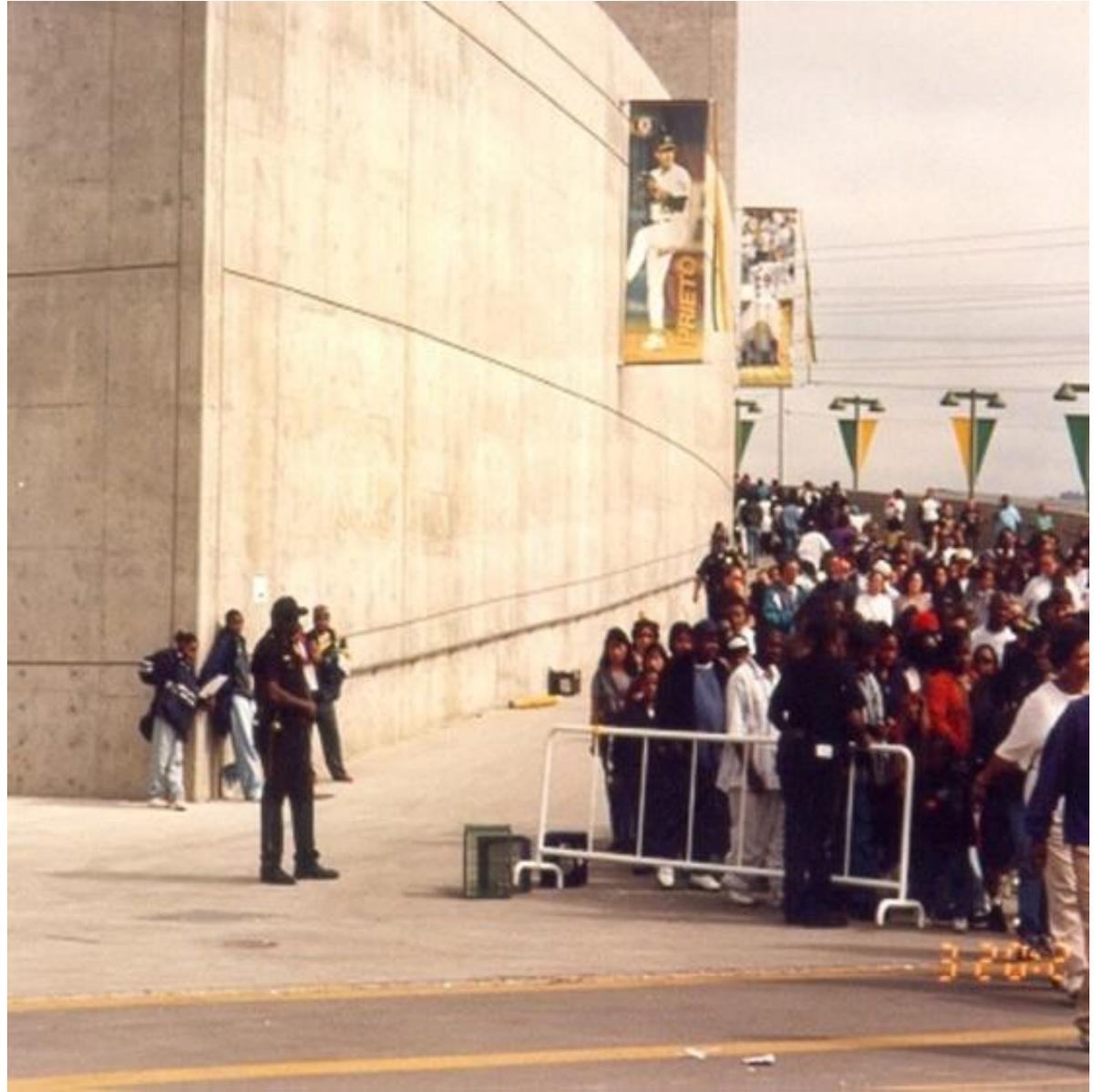
# Yesterday's Changes

- HCV reserves dropped from \$1.9 million to \$421,738 (0.2%)
  - Retros
  - PBVs online @ Legacy Court in North Richmond
  - PBVs online @ Nevin Plaza in Richmond
  - PBVs online @ DeAnza Gardens in Bay Point
  - HUD recaptured  $\approx$  \$7 million in early 2025 for shortfall PHAs
- HCV funding expires December 31, 2025
- Window in January 2026?
- CR through January 31, 2026



**LONG LINES AND CHAOS**  
SECTION 8 HOUSING, PORTSMOUTH







Chengqing / Ming Pao



# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 26-949

**Agenda Date:** 3/17/2026

**Agenda #:** D.4

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** REPORT ON THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S (HUD) PROPOSED RULE CHANGING TREATMENT OF MIXED-STATUS HOUSEHOLDS IN HUD'S SECTION 214 PROGRAMS

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

CONSIDER accepting a report on the U.S. Department of Housing and Urban Development's (HUD) proposed rule changing treatment of mixed-status households in HUD's section 214 programs. The proposed rule change will impact approximately 29 families/118 people in the voucher program and 7 families/31 people in public housing.

### BACKGROUND:

Federal housing programs include both direct assistance programs that provide low-cost apartments and rental vouchers to low-income families, administered through local public, quasi-public, and private intermediaries; as well as relatively flexible grants to state and local governments that can be used to serve homeless people, build affordable housing, provide assistance to first-time homebuyers, and promote community development. The federal government also makes tax credits available to states to distribute to developers of low-cost housing and provides mortgage insurance or guarantees to lenders that make certain types of mortgages to eligible homebuyers or developers of multifamily housing.

Most of these programs are administered at the federal level by the Department of Housing and Urban Development (HUD), although some are administered by other agencies, including the Department of Agriculture's (USDA's) Rural Housing Service (RHS), the Internal Revenue Service (IRS), and the Department of Veterans Affairs (VA). In nearly all cases, the assistance the programs provide flows through other entities, including local, quasi-governmental Public Housing Agencies (PHAs); state or local governments; nonprofit or in some cases for-profit organizations; or, in the case of mortgage insurance programs, financial institutions.

Different laws, and different agency interpretations of those laws, govern noncitizen eligibility for federal housing programs. Two primary laws address their eligibility for the programs. Section 214 of the Housing and Community Development Act of 1980, as amended, makes certain categories of noncitizens eligible for a prescribed set of federal direct housing assistance programs (including the largest rental assistance programs: Public Housing, Housing Choice Vouchers, and Section 8 project-based rental assistance, as well as rural rental assistance). The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, [P.L. 104-193 <https://www.congress.gov/bill/104th-congress/house-bill/3734/text>](https://www.congress.gov/bill/104th-congress/house-bill/3734/text)), makes all noncitizens except those deemed *qualified aliens* ineligible for *federal public benefits*, defined to include housing assistance. A deeper discussion of these laws and who is covered by them, is attached. The analysis is written by the

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Congressional Research Service and is written for Congress.

On February 20, 2026, HUD published a proposed rule titled “Housing and Community Development Act of 1980: Verification of Eligible Status” with public comments due by April 21, 2026. The proposed rule is attached. The proposed rule seeks to forbid mixed-status families, households that contain both eligible U.S. citizens/legal residents and members with ineligible citizenship/immigration status, from receiving any federal housing assistance or living in federally funded housing under most of HACCC’s programs.

HUD’s current regulations have been in place since the 1990s and require that each family member applying for assistance under a Section 214 covered program either: (1) submit a declaration declaring that he or she is a U.S. citizen, as defined in 24 CFR 5.504(b), or a noncitizen with eligible immigration status; or (2) elect not to contend eligible immigration status and, therefore, not submit documentation for verification. If an applicant declares they are a U.S. citizen, then HUD’s current regulations do not require verification of citizenship. Applicants who declare eligible immigration status must submit evidence of their status. This status is then verified by housing authorities.

In the proposed rule, HUD seeks to significantly expand verification requirements and stop allowing mixed-status families to live in HUD-funded programs under Section 214. HUD summarizes their intent in the proposed rules as follows:

“SUMMARY: Section 214 of the Housing and Community Development Act of 1980, as amended (“Section 214”), prohibits the Secretary of HUD from making financial assistance available to persons other than United States citizens or certain categories of eligible noncitizens in HUD’s public and specified assisted housing programs. This proposed rule would revise HUD’s Section 214 implementing regulations to require the verification of U.S. citizenship or the eligible immigration status of all applicants and recipients of assistance under a covered program regardless of age. The proposed rule would also make prorated assistance a temporary condition pending verification of eligible status of all family members, where permitted by statute, as opposed to under HUD’s current regulations where prorated assistance could continue indefinitely. These amendments would bring HUD’s regulations into greater alignment with the wording and purpose of Section 214 and align with the current Administration’s priorities and regulatory reform efforts.”

Later in the proposed rule HUD states that they believe the “proposed rule would bring HUD’s Section 214 implementing regulations into greater alignment with the wording and purpose of Section 214 by revising HUD’s regulations to require the verification of U.S. citizenship or the eligible immigration status of all applicants and recipients of assistance under a covered program regardless of age, and to make prorated assistance a temporary condition pending verification of eligible status of all family members, where permitted by statute.” They also state their belief that the proposed amendments “would also align with the current Administration’s priorities and regulatory reform efforts. Further, on February 19, 2025, the President issued Executive Order 14218, “Ending Taxpayer Subsidization of Open Borders” (“EO 14218”).<sup>23</sup> Among other provisions, section 2(a) of EO 14218 directs the head of each Department or agency, including HUD, to enhance eligibility verification systems, to the maximum extent possible, to ensure that taxpayer-funded benefits exclude any ineligible alien.”

HUD then goes on to state that they acknowledge “that this rulemaking would adversely affect some tenants and applicants for Section 214 covered programs, especially mixed families and ineligible aliens, as well as responsible entities. The most significant effect of this rulemaking would be to transfer assistance from mixed status families to fully eligible households. However, HUD believes that this cost is adequately offset by the reallocation of HUD funds to the intended recipients.”

Under current HUD regulations, mixed-status households may remain housed in Section 214 covered HUD programs with assistance that is prorated to eligible household members only. This approach was designed to ensure no federal subsidy is provided on behalf of ineligible members while allowing families, often including U.S. citizen children to remain stably housed. The proposed rule would require mixed status families to either remove ineligible members, regardless of age, or give up their housing assistance entirely in the case of the Housing Choice Voucher program, or be forced to move-out of (or be evicted from) HUD funded homes through programs such as Public Housing, Rental Assistance Demonstration Program, Project Based Assisted units etc. The proposed rule also removes the “do not contend” option and requires each family member to submit declarations and sign verification consent forms that allow information sharing with HUD and the Department of Homeland Security (DHS) for verification purposes. HUD has also informed housing authorities that quarterly reviews and updates of citizenship will be required and monitored, with sanctions for noncompliance.

HUD’s messaging on the proposed rule change implies that any mixed-status family removed from their housing program will be replaced on a one-for-one basis with an eligible family. However, staff’s preliminary analysis indicates that HACCC will likely see a small reduction in the number of families served. This is because mixed-families receive less subsidy than they would otherwise be entitled to receive combined with the fact that HACCC is on the verge of shortfall in the Voucher program and that HUD received a significant cut to the public housing program in the new federal budget. Based on average costs, HACCC expects to serve 9 fewer families on the Voucher program. Because mixed status families pay significantly higher rent than average, HACCC will almost certainly lose rental revenue on the public housing side.

The following example shows how the household rent is calculated for mixed-status families on the Voucher program. This is known as proration.

Family size: 6 people  
 Ineligible members: 3  
 Proration: 3 eligible members/6 total people in family = 50%

|                | Regular HCV Calculation | Prorated Calculation |
|----------------|-------------------------|----------------------|
| Total Rent     | \$4,000                 | \$4,000              |
| Family Portion | \$1,000                 | \$2,500              |
| HACCC Subsidy  | \$3,000                 | \$1,500              |

Thus, replacing this mixed status family with a family where no members are mixed status but with all other facts the same (household size, income, etc.) would cost HACCC an extra \$1,500 per month or \$18,000 per year.

As required, HUD released its [Regulatory Impact Analysis \(RIA\) of the proposed rule](https://www.regulations.gov/document/HUD-2026-0199-0006) on February 20. The RIA is required to change federal regulations and provides a relatively objective analysis of the costs and benefits of the proposed rule, including administrative costs if implemented. The RIA notes that “[m]ost of the costs of the rule would be ... borne by the households adversely affected,” meaning immigrant families forced to separate. Since mixed-status families pay proportionately higher rent than fully eligible households, the proposed rule will leave public housing agencies (PHAs) and housing providers less money to serve families, at a time when families

across the country are struggling to pay rent. The RIA confirms this: “Absent an increase in appropriations... fewer households would receive housing assistance.”

At the State level, there are over 7,000 mixed status households in California, many with children who have no adult eligible household members. Nationally, it is estimated that over 20,000 mixed-status households (roughly 80,000 people) currently receive HUD rental assistance, with a large share being children.

In addition to the analysis from the Congressional Research Service, attached are the following:

- An opinion piece discussing the proposed change from HUD Secretary Scott Turner published in the Washington Post;
- A screenshot from HUD’s webpage discussing the proposed change;
- A detailed analysis of the impacts of the proposed rule from the Center on Budget and Policy Priorities;
- An analysis of the proposed rule from the National Housing Law Project that focuses more on regulatory and legal issues;
- A letter opposing the proposed change from the California Association of Housing Authorities (of which HACCC is an active member); and
- The proposed regulatory change published in the Federal Register.

**FISCAL IMPACT:**

Based on average subsidy costs in the voucher program, this rule change would lead to more expensive subsidies. Because of this, it is expected that the Housing Authority (HACCC) will house fewer people if the rule is changed as proposed. Based on average costs for the families currently served, HACCC would see a 45% increase in costs and would serve 9 fewer families, a 31% reduction from the mixed-status families served currently. On the public housing side, the families served would remain the same but, on average, families with no mixed status members would pay less rent. Actual outcomes will depend on which families are next served based on wait list position, family income and size, etc.

**CONSEQUENCE OF NEGATIVE ACTION:**

None. Informational item only.



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# Noncitizen Eligibility for Federal Housing Programs

Updated January 23, 2023

**Congressional Research Service**

<https://crsreports.congress.gov>

R46462

**CRS REPORT**  
Prepared for Members and  
Committees of Congress

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## Noncitizen Eligibility for Federal Housing Programs

R46462

January 23, 2023

Maggie McCarty  
Specialist in Housing Policy

Abigail F. Kolker  
Analyst in Immigration  
Policy

For a copy of the full report,  
please call 7-5700 or visit  
[www.crs.gov](http://www.crs.gov).

Noncitizen eligibility for federal housing programs varies based on the programs in question, the laws and regulations that govern them, the agency that administers them, the immigration status of a noncitizen, and the composition of the noncitizen's household.

Two primary laws directly address noncitizen eligibility for federal housing programs. The first is Section 214 of the Housing and Community Development Act of 1980, as amended. It applies to specified programs; primarily, federal rental assistance programs administered by the Department of Housing and Urban Development (HUD) and the Department of Agriculture (USDA), including the Public Housing, Housing Choice Voucher, Section 8 project-based rental assistance programs, and rural rental assistance. The law makes eligible for assistance certain categories of noncitizens, including most categories of immigrants, while excluding unauthorized immigrants and those in temporary status (e.g., tourists and students). The second is Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, P.L. 104-193). PRWORA makes all noncitizens, except those deemed *qualified aliens*, ineligible for *federal public benefits*, defined to include housing assistance (both terms are defined in law). While HUD and USDA have issued rules and guidance implementing Section 214 and some subsequent laws, PRWORA's provisions have not been fully implemented via rulemaking. Some federal housing programs are not covered by either of these laws and in some cases (e.g., Farm Labor Housing) are governed by noncitizen restrictions included in their authorizing statutes. In other cases, noncitizen restrictions are at agency discretion.

Under the terms of these laws and agency guidance, the following conditions apply:

- In the case of most federal rental assistance programs, including public housing, Housing Choice Vouchers, Section 8 project-based rental assistance, and rural rental assistance, most noncitizens with permanent status are eligible for assistance, whereas temporary and unauthorized immigrants are ineligible. Mixed-status families (those comprised of both eligible and ineligible members) may receive prorated, or reduced, benefits, depending on the program.
- In the case of most federal grant-funded and other housing assistance programs (including HUD homeless assistance), federal regulations do not require the verification of recipients' immigration status.
- In the case of federally guaranteed single-family mortgage programs, noncitizen eligibility varies based on agency guidance.

The Trump Administration took a number of administrative actions to change the treatment of housing assistance in *public charge* determinations and the treatment of mixed-status families in housing programs; these actions have been reversed by the Biden Administration.

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## Introduction

The federal government has authorized and funds a variety of housing programs, including direct assistance for low-income renters; grants and other aid for states, localities, and nonprofits to meet local housing needs; and loans and loan guarantees for mortgage lending to support homeownership. The availability of these programs for noncitizens<sup>1</sup> varies depending on the underlying laws that authorize or govern them, the federal agencies that administer them and the guidance they have issued, and the immigration status of a noncitizen and his or her household members. (While this report discusses policy implementation and the positions agencies have taken under the statutes, it does not provide a legal analysis of ambiguities in the statutes.)

This report begins by introducing the range of federal housing programs and the range of immigration statuses of noncitizens. It continues with an overview of the relevant statutes governing noncitizen eligibility, followed by a discussion of policy implementation as applied to various programs. The report closes with a discussion of recent administrative actions relevant to federal housing programs.

## Housing Programs

Federal housing programs include both direct assistance programs that provide low-cost apartments and rental vouchers to low-income families, administered through local public, quasi-public, and private intermediaries; as well as relatively flexible grants to state and local governments that can be used to serve homeless people, build affordable housing, provide assistance to first-time homebuyers, and promote community development. The federal government also makes tax credits available to states to distribute to developers of low-cost housing and provides mortgage insurance or guarantees to lenders that make certain types of mortgages to eligible homebuyers or developers of multifamily housing.

Most of these programs are administered at the federal level by the Department of Housing and Urban Development (HUD), although some are administered by other agencies, including the Department of Agriculture's (USDA's) Rural Housing Service (RHS), the Internal Revenue Service (IRS), and the Department of Veterans Affairs (VA). In nearly all cases, the assistance the programs provide flows through other entities, including local, quasi-governmental Public Housing Agencies (PHAs); state or local governments; nonprofit or in some cases for-profit organizations; or, in the case of mortgage insurance programs, financial institutions. (For more information about federal housing programs, see CRS Report RL34591, *Overview of Federal Housing Assistance Programs and Policy*.)

Different laws, and different agency interpretations of those laws, govern noncitizen eligibility for federal housing programs. Two primary laws address their eligibility for the programs. Section 214 of the Housing and Community Development Act of 1980, as amended, makes certain categories of noncitizens eligible for a prescribed set of federal direct housing assistance programs (including the largest rental assistance programs: Public Housing, Housing Choice Vouchers, and Section 8 project-based rental assistance, as well as rural rental assistance). The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, P.L. 104-

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<sup>1</sup> Throughout this report, the terms *noncitizens*, *foreign nationals*, and *aliens* are used interchangeably. U.S. immigration law uses the term *alien*, defined by the Immigration and Nationality Act, to mean persons who are not U.S. citizens or U.S. nationals (e.g., persons born in certain U.S. territories, such as American Samoa). Moreover, for the purposes of this report, the term *U.S. citizen* includes U.S. nationals.

193), makes all noncitizens except those deemed *qualified aliens* ineligible for federal public benefits, defined to include housing assistance.

## Noncitizens and Immigration Categories

Noncitizen eligibility for public benefits, including housing programs, varies by immigration status. The following is a list of the immigration categories discussed in this report:

- **Afghan parolees** are Afghans<sup>2</sup> paroled into the United States between July 31, 2021, and September 30, 2023.<sup>3</sup>
- Certain humanitarian cases include **Cuban-Haitian entrants<sup>4</sup>** and **certain abused spouses and children** (e.g., Violence Against Women Act (VAWA) Self-Petitioners).<sup>5</sup>
- **Deferred Action for Childhood Arrivals (DACA)<sup>6</sup>** recipients are unauthorized childhood arrivals who have been granted renewable two-year protection from removal.
- **Freely Associated States (FAS) migrants<sup>7</sup>** are citizens of the Marshall Islands, Micronesia, or Palau. They are permitted to live in the United States indefinitely under the terms of those nations' Compacts of Free Association with the United States.<sup>8</sup>
- **Lawful permanent residents (LPRs)<sup>9</sup>** are permitted to live in the United States permanently (also referred to as *green card* holders).
- **Nonimmigrants<sup>10</sup>** are admitted to stay in the United States on a temporary basis and for a specific purpose (e.g., tourists; students; diplomats; temporary workers, including H-2A agricultural guest workers).<sup>11</sup>

<sup>2</sup> Or individuals with no nationality who last habitually resided in Afghanistan.

<sup>3</sup> Or those paroled after September 30, 2023, with a qualifying family connection (e.g., child, spouse, parent of specified individuals).

<sup>4</sup> For more information, see U.S. Citizens and Immigration Services (USCIS), *Cuban Haitian Entrant Program (CHEP)*, at <https://www.uscis.gov/archive/archive-news/cuban-haitian-entrant-program-chep>.

<sup>5</sup> This refers to certain aliens who have been abused (subject to battery or extreme cruelty) in the United States by a spouse or other family/household member, aliens whose children have been abused, and alien children whose parent has been abused. In these cases, an alien must have been approved for, or has pending an application/petition with a prima facie case for, immigration preference as a spouse or child or cancellation of removal.

<sup>6</sup> For more information, see CRS Report R45995, *Unauthorized Childhood Arrivals, DACA, and Related Legislation*.

<sup>7</sup> For background information, see CD1316834, *Summary of S. 2218, the Covering Our FAS Allies Act, as introduced*, available to congressional clients upon request.

<sup>8</sup> For background information on the compacts, see CRS Report RL31737, *The Marshall Islands and Micronesia: Amendments to the Compact of Free Association with the United States*.

<sup>9</sup> For more information, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

<sup>10</sup> For more information, see CRS Report R45040, *Immigration: Nonimmigrant (Temporary) Admissions to the United States*.

<sup>11</sup> For more information, see CRS Report R44849, *H-2A and H-2B Temporary Worker Visas: Policy and Related Issues*.

- **Parolees**<sup>12</sup> are aliens granted permission to enter or remain temporarily in the United States for urgent humanitarian reasons or significant public benefit. Immigration parole is granted on a case-by-case basis.
- **Refugees**<sup>13</sup> and **asylees**<sup>14</sup> are persons fleeing their countries because of persecution, or a well-founded fear of persecution, on account of race, religion, nationality, membership in a particular social group, or political opinion. They are permitted to live in the United States indefinitely. After one year in these statuses, they may apply to adjust their immigration status to become LPRs.<sup>15</sup>
- **Temporary Protected Status (TPS)**<sup>16</sup> holders have been granted temporary relief from removal due to armed conflict, natural disaster, or other extraordinary circumstances in their home countries that prevent their safe return.
- **Ukrainian parolees** are Ukrainians<sup>17</sup> paroled into the United States between February 24, 2022, and September 30, 2023.<sup>18</sup>
- **Unauthorized immigrants** (sometimes referred to as *undocumented* immigrants) are foreign nationals who enter without inspection, enter with fraudulent documents, or enter legally but overstay the terms of their temporary stay.
- **Victims of trafficking**<sup>19</sup> and their families who have received a T nonimmigrant visa can live in the United States for up to four years;<sup>20</sup> they may apply for LPR status after three years.
- Certain aliens present in the United States are granted **withholding of removal**<sup>21</sup> based on persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Withholding of removal provides protection from removal.<sup>22</sup>

As discussed below, different federal housing programs are governed by different laws and regulations. Depending on the program, noncitizens may or may not be eligible based on their immigration status. (In addition, they must also meet the program's eligibility requirements.) Mixed-status families are comprised of members with differing immigration statuses. For the purposes of this report, *mixed-status families* refers to families that contain individuals who are

<sup>12</sup> 8 U.S.C. §1182(d)(5).

<sup>13</sup> For more information, see CRS Report RL31269, *Refugee Admissions and Resettlement Policy*.

<sup>14</sup> For more information, see CRS Report R45539, *Immigration: U.S. Asylum Policy*.

<sup>15</sup> Applying for an *adjustment of status* refers to the process of applying for LPR status (i.e., a green card) from within the United States (as opposed to applying for an immigrant visa from a U.S. embassy or consulate abroad).

<sup>16</sup> For more information, see CRS Report RS20844, *Temporary Protected Status and Deferred Enforced Departure*.

<sup>17</sup> Or non-Ukrainian individuals who habitually resided in Ukraine.

<sup>18</sup> Or those individuals' spouses or unmarried children under the age of 21 who are paroled into the United States after September 30, 2023.

<sup>19</sup> 22 U.S.C. §7101 et seq.

<sup>20</sup> Victims of trafficking who have not received a T visa but have received a Continued Presence document from the Department of Homeland Security (granted in order to help law enforcement prosecute human traffickers) may also remain in the United States. U.S. Department of Homeland Security (DHS), *Continued Presence: Temporary Immigration Status for Victims of Human Trafficking*, at <https://www.dhs.gov/blue-campaign/materials/pamphlet-continued-presence>.

<sup>21</sup> 8 U.S.C. §1231.

<sup>22</sup> For more information, see CRS Report R45993, *Legalization Framework Under the Immigration and Nationality Act (INA)*.

eligible and individuals who are ineligible for housing programs based on their varying immigration statuses.

## Laws Governing Noncitizen Eligibility

### Section 214

Section 214 of the Housing and Community Development Act of 1980<sup>23</sup> established the first federal restrictions on noncitizen eligibility for federal housing programs. The original restrictions were limited to nonimmigrant students, but over time the restrictions were expanded to additional categories of noncitizens.<sup>24</sup>

As currently written, Section 214 states that only certain categories of noncitizens are eligible for benefits under specified housing programs. Programs covered under Section 214 include the programs under the U.S. Housing Act of 1937 (Public Housing, Housing Choice Vouchers, and Section 8 project-based rental assistance) as well as some older programs that are no longer active.<sup>25</sup> Section 214 was amended by PRWORA in 1996 to also apply to certain rural housing programs administered by USDA's RHS, including the Section 502 Single Family Direct Loan program, the Section 504 Very Low-Income Rural Housing Repair loan and grant program, the Section 521 Rural Rental Assistance program, and the Section 542 Rural Development Voucher program.<sup>26</sup> (Prior to the extension of Section 214 to select rural housing programs, the Secretary of Agriculture was prohibited from restricting access to rural housing programs to anyone who would otherwise qualify under Section 214.<sup>27</sup>)

The programs to which Section 214 applies provide direct rental or homeownership assistance to low-income families. Public Housing and Housing Choice Vouchers are administered by quasi-governmental, local PHAs. Single-family rural housing programs are administered by local Rural Development offices. The other Section 214-covered programs are primarily administered by private property owners—both for-profit and nonprofit—under contract with HUD or RHS.<sup>28</sup>

Under Section 214, the applicable Secretary may not make financial assistance available to a noncitizen unless the noncitizen is a resident of the United States and also is an LPR,<sup>29</sup> refugee,<sup>30</sup>

<sup>23</sup> P.L. 96-399, §214, 94 Stat. 1637, codified at 42 U.S.C. §1436a.

<sup>24</sup> The original student restrictions were expanded by the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), §329. Section 214 has been amended numerous times since.

<sup>25</sup> These include the Section 235 Homeownership Assistance, Section 236 Rental Assistance, and Section 101 Rental Supplement programs.

<sup>26</sup> For more information on rural housing programs, see CRS Report RL31837, *An Overview of USDA Rural Development Programs*.

<sup>27</sup> This restriction on the Secretary was added to the Housing Act of 1949 in 1988 by P.L. 100-242, §302(a); see 42 U.S.C. §1471(h).

<sup>28</sup> For more information about federal housing programs, see CRS Report RL34591, *Overview of Federal Housing Assistance Programs and Policy*.

<sup>29</sup> 42 U.S.C. §1436a(a)(1) and (2) and (6).

<sup>30</sup> 42 U.S.C. §1436a(a)(3).

asylee,<sup>31</sup> or parolee,<sup>32</sup> is granted withholding of removal on the basis of prospective persecution;<sup>33</sup> or is a citizen of a Freely Associated State (FAS) living in the United States.<sup>34</sup> Unauthorized aliens, DACA recipients, TPS holders, and temporary nonimmigrants are ineligible for assistance under Section 214-covered programs.

## Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA; P.L. 104-193)

Among other things,<sup>35</sup> PRWORA established new restrictions on the eligibility of noncitizens for public benefits. PRWORA explicitly states that aliens, unless they are qualified aliens, are not eligible for federal public benefits. PRWORA defines *federal public benefit* to include “public or assisted housing ... or any similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.”<sup>36</sup> However, the law does not specify further; thus, it has been left to agency guidance to determine which programs are federal public benefit programs (see the “Implementing Regulations” section). PRWORA also included more stringent eligibility requirements for *federal means-tested public benefit programs*, but no housing programs have been determined to fall under this category.<sup>37</sup>

### Qualified Alien

PRWORA created the term *qualified alien*,<sup>38</sup> which did not previously exist in immigration law, to encompass the categories of noncitizens who are *not prohibited* by PRWORA from receiving

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<sup>31</sup> 42 U.S.C. §1436a(a)(3).

<sup>32</sup> 42 U.S.C. §1436a(a)(4). In contrast to PRWORA (see section below), under Section 214 there is no time restriction on parolees.

<sup>33</sup> 42 U.S.C. §1436a(a)(5).

<sup>34</sup> 42 U.S.C. §1436a(a)(7). P.L. 114-201 amended Section 214 to give preference for covered federal housing programs in Guam to U.S. citizens and nationals over all other eligible noncitizens. This policy change had been advocated by the Delegate from Guam out of concern that migrants from the Federated States of Micronesia, Palau, and the Marshall Islands are competing with Guam residents for limited housing assistance. See Representative Madeleine Z. Bordallo, “Bordallo Housing Amendment Passes House,” press release, February 2, 2016, <https://bordallo.house.gov/media-center/press-releases/bordallo-housing-amendment-passes-house>.

<sup>35</sup> As mentioned in the previous section, PRWORA extended Section 214 to also apply to certain rural housing programs administered by the U.S. Department of Agriculture (USDA), including the Sections 502 (direct), 504, 521, and 542 programs (P.L. 104-193, §441).

<sup>36</sup> P.L. 104-193, §401(c)(1)(B).

<sup>37</sup> Federal means-tested public benefits (FMTPB) are programs where eligibility is partially based on one’s household income. These include Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), non-emergency Medicaid, and State Child Health Insurance Program (CHIP). Many qualified aliens are barred from FMTBP for five years. In addition, many qualified aliens are subject to *sponsor deeming*, meaning that a portion of the immigrant’s sponsor’s income and resources are used for the purpose of determining whether the alien meets the financial eligibility requirement of the FMTPB. Moreover, if the alien does receive a FMTPB, the granting agency can seek reimbursement from the immigrant’s sponsor. Some categories of noncitizens are not subject to these stricter rules for FMTPB, including refugees, asylees, Cuban/Haitian Entrants, Vietnamese-born Amerasians, and aliens granted withholding of removal. For more information, see CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policy Overview*.

<sup>38</sup> P.L. 104-193 §431; 8 U.S.C. §1641.

federal public benefits. Qualified aliens are legal permanent residents,<sup>39</sup> refugees,<sup>40</sup> asylees,<sup>41</sup> aliens paroled into the United States for at least one year,<sup>42</sup> and aliens granted withholding of removal.<sup>43</sup> The Illegal Immigration Reform and Immigrant Responsibility Act (P.L. 104-208) added certain abused spouses and children (e.g., VAWA Self-Petitioners) as another class of qualified aliens.<sup>44</sup> The Balanced Budget Act of 1997 (P.L. 105-33) added Cuban-Haitian entrants.<sup>45</sup> Qualified aliens are not automatically eligible for federal benefit programs; they are still subject to all eligibility and availability restrictions of the program.

Nonqualified aliens are all other noncitizens, including nonimmigrants, DACA recipients, TPS holders, short-term parolees, asylum applicants, and unauthorized immigrants.

### Exemptions

PRWORA exempts certain types of programs, usually thought of as emergency programs, from alien eligibility requirements, including short-term, in-kind emergency disaster relief and services or assistance (such as short-term shelters) designated by the Attorney General as (1) delivering in-kind services at the community level, (2) providing assistance without individual determinations of each recipient's needs, and (3) being necessary for the protection of life and safety. For housing, then-Attorney General Janet Reno determined this to include the following:

- short-term shelter or housing assistance for the homeless; victims of domestic violence; or runaway, abused, or abandoned children; and
- programs, services, or assistance to help individuals during periods of heat, cold, or other adverse weather conditions.<sup>46</sup>

Aliens who do not meet the definition of qualified aliens are eligible for these emergency programs.

In addition, any aliens who were receiving the following assistance on the date of the enactment of PRWORA (August 22, 1996) are exempt from PRWORA's eligibility restrictions as they pertain to those programs:

- programs for housing or community development assistance or financial assistance administered by the Secretary of HUD,
- any program under Title V of the Housing Act of 1949 (USDA rural housing programs), or

<sup>39</sup> 8 U.S.C. §1641(b)(1).

<sup>40</sup> 8 U.S.C. §1641(b)(3) and (6). For the purposes of this report, this includes refugee-like conditional entrants who arrived prior to 1980. For more information, see CRS Report R45539, *Immigration: U.S. Asylum Policy*.

<sup>41</sup> 8 U.S.C. §1641(b)(2).

<sup>42</sup> 8 U.S.C. §1641(b)(4).

<sup>43</sup> 8 U.S.C. §1641(b)(5).

<sup>44</sup> Certain battered aliens are eligible for federal public benefits if they can demonstrate (in the opinion of the agency providing such benefits) "[that] there is a substantial connection between such battery or cruelty and the need for the benefits to be provided" (P.L. 104-193 §431(c)(1)(A); 8 U.S.C. §1641(c)).

<sup>45</sup> 8 U.S.C. §1641(b)(7).

<sup>46</sup> 61 *Federal Register*, p. 45985, August 30, 1996, <https://www.govinfo.gov/content/pkg/FR-1996-08-30/pdf/96-22233.pdf>. The notice of final order was published in January 2001, and did not significantly alter the original notice.

<sup>66</sup> 66 *Federal Register*, p. 3613, January 16, 2001, <https://www.govinfo.gov/content/pkg/FR-2001-01-16/pdf/01-1158.pdf>.

- any assistance under Section 306C of the Consolidated Farm and Rural Development Act (USDA rural development programs).<sup>47</sup>

Finally, PRWORA exempts nonprofit charitable organizations that provide federal public benefits from having to verify the eligibility of program participants.<sup>48</sup> Many housing programs, such as homeless assistance programs, are administered by nonprofit organizations and therefore are not required to verify their clients' citizenship status. Thus, nonqualified aliens may receive housing services from these organizations, regardless of their eligibility status. Programs not administered by nonprofit organizations must verify noncitizen applicants' immigration status (for example, see discussion in the "Verification of Immigration Status and Documentation Requirements: HUD" text box later in this report).

### Groups Granted Benefits to the Same Extent as Refugees

Subsequent to the enactment of Section 214 and PRWORA, Congress enacted the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386). While the law did not amend Section 214 or PRWORA, it made victims of trafficking eligible for benefits and services "under any Federal or State program" to the same extent as refugees (§107).

After the elected Afghan government's collapse and Taliban takeover in August 2021, Congress passed the Extending Government Funding and Delivering Emergency Assistance Act (P.L. 117-43, Division C, §2502), which provided Afghan parolees with benefits to the same extent as refugees until March 31, 2023, or the end of their parole term, whichever is later.

In response to Russia's renewed invasion of Ukraine in February 2022, Congress passed the Additional Ukraine Supplemental Appropriations Act, 2022 (P.L. 117-128, Title IV, §401), which provided Ukrainian parolees with benefits to the same extent as refugees (with the exception of the initial resettlement program [i.e., the State Department's Reception and Placement Program]) until the end of their parole term.

Thus, victims of trafficking and these groups of Afghan and Ukrainian parolees are eligible for/not prohibited from receiving housing assistance.

## Differences Between Section 214 and PRWORA

As shown in Table 1, nearly all noncitizens who are eligible under Section 214 are qualified aliens under PRWORA, and vice versa. However, there are several categories of noncitizens where the laws are different:

- While both statutes allow eligibility for parolees, PRWORA states that parolees are only *qualified aliens* if they are granted parole for at least one year, while no time limit is specified in Section 214.
- PRWORA permits otherwise ineligible aliens receiving certain benefits on August 22, 1996, to continue to receive such benefits.
- Section 214 lists FAS migrants as eligible but they are not qualified under PRWORA.
- There are two categories of noncitizens listed as qualified aliens under PRWORA that are not listed as eligible under Section 214:
  - Certain abused spouses and children (e.g., VAWA Self-Petitioners), and
  - Cuban-Haitian entrants.

<sup>47</sup> P.L. 104-193 §401(b)(1)(E); 8 U.S.C. §1611(b)(1)(E). For a description of USDA rural housing and rural development programs, see CRS Report RL31837, *An Overview of USDA Rural Development Programs*.

<sup>48</sup> 8 U.S.C. §1642(d).

The inconsistent statutory treatment of certain categories of noncitizens between Section 214 and PRWORA has led some to call for statutory changes.<sup>49</sup> For Section 214-covered programs, the importance of these differences is unclear because the applicability of PRWORA to such programs has not been clarified. However, it would appear that administratively, aliens who are qualified under PRWORA may be being treated as eligible under Section 214 programs. As a specific example, HUD's Office of General Counsel issued a memorandum in late 2016 stating that the department has determined that VAWA Self-Petitioners are in "satisfactory immigration status" when applying for assistance under Section 214-covered programs.<sup>50</sup> HUD has not issued similarly direct guidance regarding Cuban/Haitian entrants. However, when asked for clarification on the status of Cuban/Haitian entrants in a comment on a proposed rule, HUD responded that "any immigrant who is lawfully in this country and meets other program eligibility requirements is eligible to participate in HUD's rental assistance programs."<sup>51</sup> As Cuban/Haitian entrants are legally present, it may be presumed they are to be treated as eligible under Section 214 (and there are some indications that program administrators are doing so).<sup>52</sup>

**Table 1. Eligible Immigration Categories: Comparison of Section 214 and PRWORA**

| Immigration Categories  | Section 214-Eligible           | Qualified Alien under PRWORA |
|---|--------------------------------|------------------------------|
| Afghan parolees   | Eligible <sup>a</sup>          | Qualified <sup>a</sup>       |
| Certain abused spouses and children (e.g., VAWA Self-Petitioners) | Deemed eligible <sup>b</sup>   | Qualified                    |
| Cuban-Haitian entrants  | Presumed eligible <sup>c</sup> | Qualified                    |
| Deferred Action for Childhood Arrivals (DACA)                     | Ineligible                     | Not Qualified                |
| Freely Associated States (FAS) Migrants                           | Eligible                       | Not Qualified                |
| Lawful permanent residents  | Eligible                       | Qualified                    |
| Nonimmigrants (e.g., tourists, students, temporary workers)       | Ineligible                     | Not Qualified                |

<sup>49</sup> For example, in the 108<sup>th</sup> Congress, Senator Christopher (Kit) Bond offered S.Amdt. 224, which was passed by a voice-vote and added to the Senate version of H.J.Res. 2, a FY2003 omnibus appropriations bill, but it was not included in the final version of the bill. The amendment would have added the category *qualified alien* to the categories of noncitizens eligible for housing benefits under Section 214, bringing the section into conformity with PRWORA. While the Bond amendment was not included in the conference agreement, the conference report directed: "the Department [of Housing and Urban Development] to work with the Department of Justice to develop any necessary technical corrections to applicable housing statutes with respect to qualified aliens who are victims of domestic violence and Cuban and Haitian immigrants to ensure that such statutes are consistent with the Personal Responsibility and Work Opportunity Act of 1996 and the Illegal Immigration Reform and Personal Responsibility Act of 1996" (H.Rept. 108-10).

<sup>50</sup> Memorandum from Tonya Robinson, Acting General Counsel, to Julian Castro, Secretary, Subject: "Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance under Section 214 of the Housing and Community Development Act of 1980," December 15, 2016, <http://library.niwap.org/wp-content/uploads/Eligibility-of-VAWA-Self-Petitioners-2016-12-14.pdf>.

<sup>51</sup> U.S. Department of Housing and Urban Development (HUD), "Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs; Final Rule," 74 *Federal Register* 4826, January 27, 2009.

<sup>52</sup> For example, the HUD Multifamily Occupancy Guidebook lists Cuban/Haitian Entrant status as one of the statuses that is acceptable when verifying tenant eligibility (<https://www.hud.gov/sites/documents/43503C3HSGH.PDF>). Further, the administrative plans of some entities administering federal housing programs list Cuban/Haitian entrants as eligible for assistance (see, for example, <https://www.cityofpensacola.com/DocumentCenter/View/1796/Housing-Choice-Voucher-Program-Administrative-Plan-PDF>).

| Immigration Categories  | Section 214-Eligible     | Qualified Alien under PRWORA                       |
|---|--------------------------|--|
| Otherwise ineligible aliens receiving certain benefits on August 22, 1996 | Ineligible               | Qualified for federal public benefits <sup>d</sup> |
| Parolees  | Eligible (no time limit) | Qualified if granted parole for more than one year |
| Refugees and asylees  | Eligible                 | Qualified  |
| Temporary Protected Status (TPS)  | Ineligible               | Not Qualified                                      |
| Ukrainian parolees  | Eligible <sup>e</sup>    | Qualified <sup>e</sup>                             |
| Unauthorized immigrants   | Ineligible               | Not Qualified                                      |
| Victims of trafficking  | Eligible <sup>f</sup>    | Qualified <sup>f</sup>                             |
| Withholding of removal  | Eligible                 | Qualified  |

Source: Table prepared by CRS, based on 42 U.S.C. Section 1436a (for Section 214) and 8 U.S.C. Section 1641 (for PRWORA), unless otherwise noted.

- a. The Extending Government Funding and Delivering Emergency Assistance Act (P.L. 117-43, Division C, §2502) made certain Afghan parolees eligible for "resettlement assistance, entitlement programs, and other benefits available to refugees." Thus, they are eligible for housing programs to the same extent that refugees are eligible for them.
- b. While not explicitly listed under Section 214, HUD guidance indicates these categories may be being treated as eligible for assistance under it. See discussion in the "Differences Between Section 214 and PRWORA" section.
- c. See discussion in the "Differences Between Section 214 and PRWORA" section.
- d. Otherwise ineligible aliens who were receiving housing, community development, or financial assistance administered by the Secretary of HUD, assistance under any program under Title V of the Housing Act of 1949, or any assistance under Section 306C of the Consolidated Farm and Rural Development Act on the date PRWORA was enacted (August 22, 1996) are exempt from PRWORA's eligibility restrictions.
- e. The Additional Ukraine Supplemental Appropriations Act, 2022 (P.L. 117-128, Title IV, §401) made certain Ukrainian parolees eligible for "resettlement assistance, entitlement programs, and other benefits available to refugees" (excluding the initial resettlement program). Thus, they are eligible for housing programs to the same extent that refugees are eligible for them.
- f. The Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) made victims of trafficking eligible for benefits and services "under any Federal or State program" to the same extent as refugees (§107; 22 U.S.C. §7101 et seq.) Thus, victims of trafficking are eligible for housing programs to the same extent that refugees are eligible for them.

## Other Laws

While Section 214 and PRWORA are the primary laws governing noncitizen eligibility for federal housing programs, these two laws do not cover the full universe of housing programs. In most cases, authorizing statutes for other housing programs do not address noncitizen eligibility.

However, the statute authorizing the Farm Labor Housing grant and loan programs (the Section 514 and Section 516 programs) administered by USDA establishes noncitizen eligibility requirements for those programs.<sup>53</sup> Specifically, it requires that residents of Farm Labor Housing

<sup>53</sup> The Farm Labor Housing loan program is authorized by Section 514 of the Housing Act of 1949, as amended (42 U.S.C. §1484); the Farm Labor Housing Grant program is authorized by Section 516 of the act, as amended (42 U.S.C. §1486). In order to be eligible, a tenant must be *domestic farm labor*, a term defined to include limitations on noncitizen eligibility (42 U.S.C. §1484(f)(3)(A)).

properties be either U.S. citizens or persons legally admitted for permanent residence. In 2018, the law was amended to also make eligible persons legally admitted and authorized to work in agriculture (e.g., temporary agricultural workers under the H2A program).<sup>54</sup>

## Implementing Regulations

The statutory restrictions on noncitizen eligibility for federal housing programs included in Section 214, PRWORA, and others laws require federal agencies to issue regulations and guidance to interpret and apply the provisions to specific programs. That implementation process has taken many years in some cases, and never begun in others. This section of the report briefly outlines the relevant regulatory processes by agency. It is followed by a discussion of how these policies are implemented for specific programs.

### HUD

While Section 214 was enacted in 1980, and substantially amended and expanded in scope in 1981, HUD's regulations to implement the law were not finalized until the late 1990s. The delay is attributable to a number of factors, including laws directing the agency to suspend implementation of various final rules issued over that period,<sup>55</sup> a court injunction,<sup>56</sup> and the need to amend the proposed rules to reflect statutory changes to Section 214.<sup>57</sup>

HUD's current regulations implementing Section 214 can be found at 24 C.F.R. Section 5.500, Subpart E. They establish treatment of mixed-status families as well as requirements regarding how program administrators should verify noncitizen eligibility.

HUD has not issued regulations implementing the noncitizen provisions of PRWORA. The agency has also not defined which of its programs are federal public benefits and thus subject to PRWORA's noncitizen eligibility restrictions.<sup>58</sup> One exception is HUD homeless programs; HUD has clarified via a letter and fact sheet that a number of activities funded under those programs are exempt from PRWORA restrictions, as discussed later in this report. Further, HUD has clarified that none of its programs are considered to be *federal means-tested public benefits*<sup>59</sup> (such programs have more stringent eligibility requirements under PRWORA).

<sup>54</sup> See P.L. 115-141, 132 STAT. 365.

<sup>55</sup> For example, following publication of a final rule to implement Section 214 on October 4, 1982, but before it was made effective, P.L. 98-181 was enacted, which contained a provision prohibiting HUD from implementing the statutory changes contained in the rule for at least one year. HUD published a new final rule on April 1, 1986, but after several delayed implementation dates, the FY1987 HUD appropriations law (P.L. 99-500) prohibited HUD from using funds appropriated in that or any other act to implement the rule.

<sup>56</sup> For more information, see the "Supplementary Information" section of Department of Housing and Urban Development, "Aliens: Withdrawal of Restrictions on the Use of Assisted Housing: Final Rule," 53 *Federal Register* 842, January 13, 1988.

<sup>57</sup> For a summary of the regulatory process for the implementation of Section 214, see the "Supplementary Information" section of Department of Housing and Urban Development, "Revised Restrictions on Assistance to Noncitizens," 91 *Federal Register* 25726, May 12, 1999.

<sup>58</sup> The exception is the Lead Hazard Control program. The comments section of a Department of Justice Attorney General Final Order (66 *Federal Register* 3615) issued in 2001 notes that HUD had determined that benefits under the Lead Hazard Control Program were not federal public benefits within the meaning of PRWORA.

<sup>59</sup> See 65 *Federal Register* 49994, August 16, 2000; 8 C.F.R. §213a. Both HUD and the Department of Health and Human Services contended that the term *federal means-tested public benefit* should only apply to mandatory funded programs. (None of HUD's programs are mandatory funded programs.) The Department of Justice found that this was

## **USDA**

As noted previously, in 1996 PRWORA amended Section 214 to expand its noncitizen restrictions to certain rural housing programs. From 1988 until PRWORA was enacted, the law had prohibited the Secretary of Agriculture from restricting access to rural housing programs to anyone who would otherwise be eligible under Section 214.

USDA did not undertake a separate rulemaking process to implement laws restricting noncitizen eligibility in rural housing programs, nor did it issue any clarification regarding which, if any, of its rural housing programs (particularly those not covered by Section 214) are considered federal public benefits for purposes of PRWORA. Instead, USDA has implemented various noncitizen restrictions as a part of broader rural housing program rulemaking.<sup>60</sup>

One notable aspect of USDA's implementation of Section 214—compared to HUD's—is that USDA regulations do not directly address treatment of mixed-status families and, instead, only require the verification of eligibility for the head of household.

## **Policies for Specific Federal Housing Programs**

### **Section 214-Covered Programs**

The largest federal direct housing assistance programs are all covered by the restrictions on noncitizen eligibility set forth in Section 214. These include HUD's Public Housing program, the Housing Choice Voucher (HCV) program, and the Section 8 project-based rental assistance program, as well as USDA's Section 521 rental assistance, Section 542 voucher, and Section 502 and Section 504 single-family direct loan and grant programs. These programs all provide deep subsidies to reduce the costs of low-income families' rent or mortgage payments. Combined, they serve roughly 5 million families.<sup>61</sup>

Under Section 214, each of these programs limits eligibility to U.S. citizens and certain noncitizens made eligible under the section (for specific immigration categories and their eligibility under Section 214, see **Table 1**). However, there are differences in how these restrictions are implemented for mixed-status families between those programs administered by HUD and those administered by USDA.

### **Mixed-Status Families in Section 214-Covered Programs**

Some households that include U.S. citizens or eligible noncitizens also include ineligible noncitizens (including, but not limited to, unauthorized noncitizens). These mixed-status families are treated differently in Section 214-covered programs administered by HUD and USDA.

HUD's regulations implementing Section 214 require the proration of assistance to families in which at least one member—which may include the head of household—has ineligible

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a permissible interpretation of the statute (see Department of Justice, "Memorandum Opinion for the General Counsel for the Department of Health and Human Services, Proposed Agency Interpretation of 'Federal Means-Tested Public Benefits' Under Personal Responsibility and Work Opportunity Reconciliation Act of 1996," January 14, 1997).

<sup>60</sup> For specific regulations, see **Table 2** later in this report.

<sup>61</sup> For more information on these and other federal housing programs, see CRS Report RL34591, *Overview of Federal Housing Assistance Programs and Policy*.

immigration status. A prorated housing benefit is calculated by reducing the benefit due to the family by the proportion of ineligible noncitizens in the household.<sup>62</sup>

In contrast, USDA's regulations implementing Section 214 for rural housing programs do not directly address mixed-status families. Instead, they base noncitizen eligibility only on the status of the head of household, with no proration of benefit for mixed-status households. Thus, a mixed-status family headed by an ineligible noncitizen (e.g., an ineligible mother with two U.S. citizen children) is ineligible for assistance under Section 214-covered USDA rural housing programs, but is eligible for prorated benefits under Section 214-covered HUD programs. Conversely, a mixed-status family headed by a U.S. citizen with ineligible noncitizen members (e.g., a U.S. citizen married to an ineligible noncitizen) is eligible for full benefits under Section 214-covered USDA rural housing programs, but would receive prorated benefits under Section 214-covered HUD programs.

**Verification of Immigration Status and Documentation Requirements: HUD**

Section 214 requires noncitizen applicants to provide documentation of eligible immigration status. In the case of HUD programs, under federal regulations and guidance all applicants must sign a certification (under penalty of perjury) for each household member (1) declaring status as a U.S. citizen, (2) declaring eligible immigration status and providing supporting documentation, or (3) stating that the individual is choosing not to claim eligible status and acknowledging ineligibility for assistance. Individuals age 62 and older and individuals who were receiving assistance prior to September 30, 1996, are exempted from providing documentation.

HUD program administrators are required to verify any documentation provided by noncitizens. They are authorized to use the Systematic Alien Verification for Entitlements (SAVE) system, administered by U.S. Citizenship and Immigration Services (USCIS). SAVE is used to obtain immigration status information to determine eligibility for public benefits based on noncitizen eligibility restrictions, which vary depending on which laws govern the program (e.g., Section 214 or PRWORA). The SAVE system does not determine eligibility for HUD programs, but rather provides information on the noncitizen's status so that the program's administrators can make an eligibility determination.

U.S. citizens are not required under federal law to provide proof of status beyond the signed declaration, although HUD's recent proposed rule (discussed later in this report) would create new documentation requirements for U.S. citizens participating in Section 214-covered programs.

**Non-Section 214 HUD Housing Assistance and Grant Programs**

Other housing programs administered by HUD include both programs that are substantially similar to those covered by Section 214 and programs that are substantially different. Some HUD rental assistance programs, including those for persons who are elderly or have disabilities (under the Section 202 and Section 811 programs),<sup>63</sup> are not covered by Section 214 even though they are structurally similar to rental assistance programs that *are* covered under it (such as Section 8 project-based rental assistance).<sup>64</sup> Other HUD programs are significantly different from the Section 214-covered programs in that they provide grants to states, localities, and nonprofits for

<sup>62</sup> 24 C.F.R. §5.520.

<sup>63</sup> For more information about these programs, see CRS Report RL33508, *Section 202 and Other HUD Rental Housing Programs for Low-Income Elderly Residents* and CRS Report RL34728, *Section 811 and Other HUD Housing Programs for Persons with Disabilities*.

<sup>64</sup> Some older Section 202 direct loan properties may have Section 8 project-based rental assistance (a Section 214-covered program) attached to some or all of their units. Tenants living in units with Section 8 project-based rental assistance are subject to that program's requirements.

various housing and related activities; these include, among others, the Community Development Block Grant (CDBG) program<sup>65</sup> and the HOME Investment Partnerships program.<sup>66</sup>

The extent to which PRWORA restrictions on noncitizen eligibility apply to HUD programs not covered by Section 214 is unclear. HUD has not issued guidance defining which types of assistance under these programs are federal public benefits and thus subject to PRWORA's noncitizen eligibility restrictions.<sup>67</sup>

If these programs provide federal public benefits triggering PRWORA restrictions, then nonqualified aliens (e.g., unauthorized aliens) would not be legally eligible for assistance.<sup>68</sup> However, as noted earlier in this report, nonprofit charitable organizations are not required to verify immigration status under PRWORA. Thus, even if PRWORA is determined to apply to benefits under these programs, beneficiaries' citizenship or immigration status is not required to be verified for assistance that is provided by charitable organizations.

### HUD Homeless Assistance Programs

Additional considerations apply to HUD homeless assistance programs, including the Emergency Solutions Grants (ESG) program, the Continuum of Care (CoC) program, and the Housing Opportunities for Persons with AIDS (HOPWA) program.<sup>69</sup> These programs fund various forms of housing assistance and related supports for persons who are homeless, including emergency shelter, transitional housing, short-term rental assistance, and permanent supportive housing.

As noted previously, PRWORA contains an exception allowing nonqualified aliens access to emergency programs. The exception applies if the benefit provided meets three requirements:

1. it is an in-kind benefit provided through public or private nonprofit organizations,
2. it is not conditioned on a client's income or resources, and
3. it is necessary for the protection of life and safety.

As is the case with the other housing assistance and grant programs, HUD has not issued regulations to clarify whether HUD homeless assistance programs are considered federal public benefits and therefore subject to PRWORA's noncitizen eligibility restrictions. However, in 2016 HUD, the Department of Justice, and the Department of Health and Human Services issued a joint letter regarding the PRWORA life and safety exception's applicability to homeless assistance.<sup>70</sup> This guidance clarifies that certain activities funded through ESG and CoC are covered under PRWORA's life and safety exception:

- Street Outreach Services,

<sup>65</sup> For more information, see CRS Report R43520, *Community Development Block Grants and Related Programs: A Primer*.

<sup>66</sup> For more information, see CRS Report R40118, *An Overview of the HOME Investment Partnerships Program*.

<sup>67</sup> The exception is the Lead Hazard Control program. The comments section of a Department of Justice Attorney General Final Order (66 *Federal Register* 3615) issued in 2001 notes that HUD had determined that benefits under the Lead Hazard Control Program were not federal public benefits within the meaning of PRWORA.

<sup>68</sup> Except for exempted activities, such as emergency shelter, as discussed earlier in this report.

<sup>69</sup> For more information, see CRS Report RL33764, *The HUD Homeless Assistance Grants: Programs Authorized by the HEARTH Act*; and CRS Report RL34318, *Housing for Persons Living with HIV/AIDS*.

<sup>70</sup> Letter from Loretta E. Lynch, Attorney General of the United States, Sylvia M. Burwell, Secretary of Health and Human Services, and Julian Castro, Secretary of Housing and Urban Development, to Recipients of Federal Financial Assistance, August 5, 2016, available at <https://files.hudexchange.info/resources/documents/HUD-HHS-DOJ-Letter-Regarding-Immigrant-Access-to-Housing-and-Services.pdf>. In addition to the letter, HUD issued a fact sheet, available at <https://files.hudexchange.info/resources/documents/PRWORA-Fact-Sheet.pdf>.

- Emergency Shelter,
- Safe Haven,
- Rapid Rehousing, and
- Transitional Housing (in some cases).

HUD has determined that transitional housing meets the exception only when the recipient (or subrecipient) of a HUD grant owns or leases the building used to provide the transitional housing. When a transitional housing program uses rental assistance payments on behalf of program participants, HUD has determined the assistance is based on tenant income and therefore does not qualify for exemption. However, the letter reminds recipients that PRWORA does not require nonprofit charitable organizations to verify the immigration status of recipients.

In 2017, HUD's Office of Inspector General issued a memorandum noting the lack of guidance regarding the applicability of PRWORA to HOPWA and other HUD programs. The memorandum recommended HUD issue clarification regarding whether its programs are considered federal public benefits and, if they are, whether they meet the criteria for exemption from PRWORA.<sup>71</sup> As of the cover date of this report, HUD has not done so.

### Non-Section 214 USDA Rural Rental Housing Programs

USDA's RHS administers several rental housing programs. Two of those programs—Rural Rental Assistance (Section 521) and the Rural Development Voucher Program (Section 542)—are covered by the noncitizen eligibility restrictions of Section 214 (and were discussed previously in this report). The other programs—Farm Labor Housing Loans and Grants (Section 514 and Section 516), Rural Rental Housing Loans (Section 515), and Multifamily Guaranteed Loans (Section 538)—each have different noncitizen restrictions.

**Farm Labor Housing (Section 514 and Section 516):** The Farm Labor Housing programs provide grants and loans for the development of rental housing for domestic farm laborers, either on or off farm property. In order to be eligible to reside in Farm Labor Housing, the head of household must be a *domestic farmworker*. The law that governs the program defines a *domestic farmworker* to include only those who are U.S. citizens, LPRs, or (since 2018) legally authorized to work in agriculture (i.e., H2A visa holders). However, if a Farm Labor Housing program subsidized unit is also receiving rental assistance under Section 521, then the occupant of the unit is also subject to Section 521 eligibility restrictions (discussed previously in the "Section 214-Covered Programs" section).

**Rural Rental Housing Loans (Section 515):** The Section 515 program provides direct federal loans to fund the construction or rehabilitation of below-market rental housing for low-income residents in rural areas. The program is not covered under Section 214 and USDA has not clarified whether the program is considered to provide a federal public benefit under PRWORA. In late 2004, USDA issued interim final regulations for most of its rental housing programs.<sup>72</sup> These reinvention regulations proposed, for the first time, to implement noncitizen restrictions in

<sup>71</sup> Christeen Thomas, Director, Joint Civil Fraud Division, HUD Needs to Clarify Whether Illegal-Undocumented Aliens Are Eligible for Assistance Under the Housing Opportunities for Persons With AIDS Program, HUD Office of Inspector General, Memorandum No: 2017-CF-0801, Kansas City, KS, August 21, 2017, <https://www.hudoig.gov/sites/default/files/documents/2017-CF-0801.pdf>.

<sup>72</sup> U.S. Department of Agriculture (USDA), "Reinvention of the Sections 514, 515, 516, and 521 Multi-Family Housing Programs," 69 *Federal Register* 69032, November 26, 2004, available at <https://www.federalregister.gov/documents/2004/11/26/04-25599/reinvention-of-the-sections-514-515-516-and-521-multi-family-housing-programs>.

the Section 515 program that were modeled after those applicable to Section 214-covered programs. The rule was scheduled to take effect in 2005, but USDA published a second interim notice indefinitely delaying the application of noncitizen restrictions to the Section 515 program before they took effect.<sup>73</sup> In that suspension notice, USDA noted that comments received “suggested that Agency procedures unnecessarily imposed more requirements” than those required under HUD programs and that the agency intended to “harmonize its procedures with HUD.”<sup>74</sup> As of the date of this report, no additional rulemaking has taken place. Thus, there are no current noncitizen restrictions on occupancy in Section 515 units. However, if a Section 515 unit is also receiving rental assistance under Section 521, the more restrictive Section 521 noncitizen eligibility criteria are in effect.<sup>75</sup>

**Multifamily Guaranteed Loan Program (Section 538).** The Section 538 program allows USDA to guarantee loans for certain multifamily housing properties in rural areas. Occupancy in Section 538 properties is restricted to *qualified aliens*, defined in USDA regulations as those eligible under Section 214.<sup>76</sup>

### Low Income Housing Tax Credits

The Low Income Housing Tax Credit (LIHTC) program, administered by the Internal Revenue Service (IRS), provides per capita federal tax credit allocations to states, which in turn allocate those credits to developers of affordable rental housing for lower-income individuals and families.<sup>77</sup> The law authorizing the program does not address noncitizen eligibility for tenancy in LIHTC-funded housing developments, nor do the program’s implementing regulations or guidance. Thus, there are no current federal noncitizen eligibility restrictions for LIHTC units.<sup>78</sup>

However, many LIHTC developments are financed or otherwise assisted by other federal housing programs. For example, LIHTCs may be used to help finance the redevelopment of public housing or properties with project-based rental assistance; HOME or CDBG grants may be part of a LIHTC development’s financing package; and/or Housing Choice Vouchers may be used in LIHTC units. Noncitizen restrictions applicable to any other assistance is applicable to LIHTC units receiving that assistance.

<sup>73</sup> U.S. Department of Agriculture (USDA), “Reinvention of the Sections 514, 515, 516 and 521 Multi-Family Housing Programs: Interim final rule; delay of effective date,” 70 *Federal Register* 8503, February 22, 2005, available at <https://www.govinfo.gov/content/pkg/FR-2005-02-22/pdf/05-3226.pdf>.

<sup>74</sup> *Ibid.* See “Summary.”

<sup>75</sup> Some older Section 515 properties may have Section 8 project-based rental assistance (a Section 214-covered program) attached to some or all of their units. Tenants living in units with Section 8 project-based rental assistance are subject to that program’s requirements.

<sup>76</sup> U.S. Department of Agriculture (USDA), “Guaranteed Rural Rental Housing Program: Interim Final Rule with Request for Comments,” 63 *Federal Register* 39452 et seq., July 22, 1998, <https://www.govinfo.gov/content/pkg/FR-1998-07-22/pdf/98-19558.pdf>.

<sup>77</sup> For more information, see CRS Report RS22389, *An Introduction to the Low-Income Housing Tax Credit*.

<sup>78</sup> While there are no federal restrictions related to noncitizen eligibility, individual LIHTC property owners and managers may elect to require that tenants provide proof of legal residency in the United States, as long as they do so uniformly and without violation of the Fair Housing Act. See “IRS Publication Guide for Completing Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition,” available at <https://www.irs.gov/pub/irs-utl/lihc-form8823guide.pdf>.

## Single-Family Mortgage Insurance Programs

The federal government supports a number of single-family mortgage insurance or guarantee programs. These programs allow the government to insure or guarantee single-family mortgage loans made by lenders to qualified borrowers. The guarantees protect the lender against possible future losses associated with a borrower's default. Each of the single-family guaranteed loan programs has different requirements for noncitizen eligibility.

**FHA loans.** The Federal Housing Administration (FHA) at HUD insures certain single-family mortgages offered through private lenders.<sup>79</sup> While no statute or regulations address noncitizen eligibility for FHA-insured single-family loans, guidance in FHA's Single-Family Housing Policy Handbook<sup>80</sup> states that only lawful permanent residents and non-permanent residents<sup>81</sup> that meet certain conditions are eligible to receive an FHA-insured loan. For many years, the Handbook also stated that "non-U.S. Citizens without lawful residency in the U.S. are not eligible."<sup>82</sup> Given this language, there was ongoing debate about the extent to which recipients of deferred action (DACA) were eligible for FHA-insured loans. After a period of ambiguity about the eligibility of DACA recipients, FHA issued guidance in 2019 stating that DACA recipients were not currently, and technically never were, eligible for FHA-insured loans.<sup>83</sup> In January 2021, FHA revised its policy, making DACA recipients eligible to apply for FHA loans.<sup>84</sup> FHA later amended the language in the Handbook to reflect this policy change.<sup>85</sup>

**RHS loans.** RHS offers a Rural Housing guaranteed single-family loan product (Section 502(h)) for eligible borrowers in rural areas. (It also offers the Section 502 Direct Loan program, which is covered under Section 214, as discussed earlier in this report.) USDA regulations require that a Section 502 guaranteed loan borrower be a U.S. citizen or qualified alien.<sup>86</sup> The regulations define *qualified alien* by referencing the definition under PRWORA. Beginning May 2, 2022, USDA implemented a temporary waiver expanding eligibility (for one year) for single family

<sup>79</sup> For the purposes of this report, references to FHA loans are limited to Title II single-family forward loans, the largest FHA program. For more information on Title II loans, see CRS Report RS20530, *FHA-Insured Home Loans: An Overview*.

<sup>80</sup> FHA Single-Family Housing Policy Handbook 4000.1, Section II.A.1.b.ii.(A)(9). Revised November 9, 2021. <https://www.hud.gov/sites/dfiles/OCHCO/documents/4000.1hsg-112021.pdf>.

<sup>81</sup> The term *non-permanent resident* is not explicitly defined in the Handbook but *non-permanent residents* may be eligible if they have a valid Social Security Number (or are employed by the World Bank, an embassy, or equivalent) and if they are eligible to work in the United States (including refugees and asylees). *Ibid*.

<sup>82</sup> For example, see FHA Single-Family Housing Policy Handbook 4000.1, Section II.A.1.b.ii.(A)(9), revised December 30, 2016. <https://www.hud.gov/sites/documents/40001HSGH.PDF>.

<sup>83</sup> See Letter from Len Wolfson, Assistant Secretary for Congressional and Intergovernmental Affairs, to Representative Aguilar, June 11, 2019, available at <https://www.ncsha.org/resource/hud-letter-on-daca-fha-mortgage-eligibility/>.

<sup>84</sup> FHA, "FHA to Permit DACA Status Recipients to Apply for FHA Insured Mortgages," FHA Info #21-04, January 20, 2021, [https://www.hud.gov/sites/dfiles/SFH/documents/SFH\\_FHA\\_INFO\\_21-04.pdf](https://www.hud.gov/sites/dfiles/SFH/documents/SFH_FHA_INFO_21-04.pdf). Waiver available at [https://www.hud.gov/sites/dfiles/SFH/documents/SFH\\_FHA\\_INFO\\_21-04.pdf](https://www.hud.gov/sites/dfiles/SFH/documents/SFH_FHA_INFO_21-04.pdf).

<sup>85</sup> FHA Mortgagee Letter 2021-12, <https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-12hsgml.pdf>; FHA Single-Family Housing Policy Handbook 4000.1, §II.A.1.b.ii(A)(9), revised November 9, 2021, <https://www.hud.gov/sites/dfiles/OCHCO/documents/4000.1hsg-112021.pdf>. Note that this Handbook revision also, for the first time, incorporated guidance on two smaller FHA single-family loan products: Title I property improvement and manufactured housing loans. The newly incorporated guidance for these programs includes the older "lawful residency" language that had been otherwise replaced for Title II loans in this revision, making the eligibility status of DACA recipients for Title I programs less clear.

<sup>86</sup> 7 C.F.R. §3555.151(b)

guaranteed loans to noncitizens with valid Social Security numbers and work authorization, which typically<sup>87</sup> includes DACA recipients.<sup>88</sup> USDA also stated that it would pursue a permanent change to the program regulations.<sup>89</sup>

**VA loans.** VA home loan programs do not include requirements directly related to immigration status. Instead, eligibility for VA loans is tied to veteran status, which is based on military service. Generally, only U.S. nationals, FAS citizens, and legal permanent residents are eligible to enlist in the U.S. military.<sup>90</sup>

**Table 2. Noncitizen Eligibility for Housing Programs**

| Programs   | Relevant Statute, Regulations, or Guidance   | Noncitizen Eligibility  |
|--|--|---|
| <b>Section 214-Covered Programs</b>                              |  |   |
| HUD:   | 42 U.S.C. §1437a   | Section 214-eligible noncitizens are eligible for assistance. Mixed-status families receive prorated/reduced benefits.  |
| • Public Housing   | 24 C.F.R. §5.500 Subpart E   |   |
| • Housing Choice Vouchers  |  |   |
| • Section 8 project-based rental assistance                      |  |   |
| USDA:  | 42 U.S.C. §1437a   | Section 214-eligible noncitizens are eligible for assistance. Eligibility is determined only for the head of household; no proration of benefits for mixed-status families. |
| • Rural Rental Assistance (Section 521)                          | 7 C.F.R. §§3560.254(c)(3) and 3560.11  |   |
| • Rural Development Voucher Program (Section 542)                | <i>Federal Register Notices</i> <sup>a</sup>   | Section 214-eligible noncitizens are eligible for assistance. Eligibility is determined only for the head of household; no proration of benefits for mixed-status families. |
| • Single Family 502 Direct Loans and 504 Direct Loans and Grants | 42 U.S.C. §1436a<br>7 C.F.R. §§3550.53 and 3550.10 (Section 502)<br>7 C.F.R. §§3550.103(d) and 3550.10 (Section 504) | Section 214-eligible noncitizens are eligible for assistance. Eligibility is determined only for the head of household; no proration of benefits for mixed-status families. |
| <b>Non-Section 214 HUD Grant and Housing Assistance Programs</b> |  |   |
| Section 202 and Section 811 Project Rental Assistance            | No provision <sup>b</sup>  | No regulatory restrictions on noncitizen eligibility; no federal requirement for verification of status.  |

<sup>87</sup> Individuals granted deferred action may receive work authorization if they can demonstrate an economic necessity for employment.

<sup>88</sup> USDA Rural Development, "Clarification of the Eligibility of Non-U.S. Citizens with Valid Social Security Numbers and Employment Authorization Documents," press release, April 29, 2022, <https://content.govdelivery.com/accounts/USDARD/bulletins/3159536>.

<sup>89</sup> *Ibid.*

<sup>90</sup> See 10 U.S.C. §504(b). The law allows for those who do not meet these requirements to enlist under certain circumstances, and those that do enlist are then offered a pathway to citizenship. However, this authority is not currently in use. For more information, see CRS In Focus IF10884, *Expedited Citizenship through Military Service*.

| Programs  | Relevant Statute, Regulations, or Guidance   | Noncitizen Eligibility  |
|---|--|---|
| HOME, Community Development Block Grants, other grant programs                      | No provision <sup>b</sup>  | No regulatory restrictions on noncitizen eligibility; no federal requirement for verification of status.  |
| Homeless Programs (Emergency Solutions Grants, Continuum of Care grants, and HOPWA) | No regulatory provision, <sup>b</sup> HUD joint letter and fact sheet <sup>c</sup>   | Specific activities identified as exempt from PRWORA restrictions. No federal requirement for verification of status.   |
| <b>Non-Section 214 USDA Rural Rental Housing Programs</b>                           |  |   |
| Farm Labor Housing (Section 514 and 516)  | 42 U.S.C. §1484 and 42 U.S.C. §1486<br>7 C.F.R. §3560.624; 7 C.F.R. §3560.576; 7 C.F.R. §3560.11; and USDA guidance <sup>c</sup> | LPRs and persons legally authorized for work in agriculture (i.e., H2A visa holders) are eligible for assistance. Eligibility only determined for head of household; no proration of benefits for mixed-status families. If a unit is receiving Section 521 assistance (a Section 214-covered program), Section 521 eligibility requirements apply. |
| Rural Rental Housing Loans (Section 515)  | 7 C.F.R. §3560.152<br>Regulation indefinitely suspended <sup>d</sup>   | No current regulatory restriction on noncitizen eligibility and no federal requirement for verification of status. If a unit is receiving Section 521 or Section 8 project-based rental assistance (Section 214-covered programs), that program's eligibility requirements apply.   |
| Multi-Family Housing Loan Guarantees (Section 538)                                  | 7 C.F.R. §§3565.202(b) and 3565.3  | Tenant must be a <i>qualified alien</i> , defined using Section 214 eligibility.  |
| <b>Other</b>  |  |   |
| Low Income Housing Tax Credit Program (LIHTC)                                       | No provision   | No federal noncitizen restrictions for LIHTC properties. Units receiving other assistance are subject to those programs' noncitizen restrictions.   |
| <b>Single-Family Mortgage Insurance Programs</b>                                    |  |   |
| HUD FHA Single-Family Loans   | FHA Single Family Housing Policy Handbook 4000.1   | LPRs and <i>non-permanent residents</i> (including FAS migrants, refugees, and asylees) are eligible borrowers. <sup>e</sup> DACA recipients are considered eligible.   |
| USDA RHS 502(h) Guaranteed Loans  | 7 C.F.R. §§3555.151(b) and 3555.10   | Applicant must be a <i>qualified alien</i> , defined using PRWORA definition.<br>Under a temporary one-year waiver beginning May 2, 2022, noncitizens with valid Social Security numbers and work authorization are eligible. <sup>f</sup>  |
| VA Home Loans   | No provision   | Eligibility based on veteran status, which is based on military service. Generally, only U.S. nationals, LPRs, and FAS citizens are eligible to enlist. <sup>g</sup>  |

**Source:** Prepared by CRS.

- a. U.S. Department of Agriculture (USDA), "Rural Development Voucher Program: Notice," 82 *Federal Register* 21972 et seq., May 11, 2017.
- b. Except as otherwise noted, HUD has not identified which of its programs provide federal public benefits and are thus subject to PRWORA. HUD has not issued regulations to implement PRWORA's noncitizen restrictions for any of these programs.
- c. Letter from Loretta E. Lynch, Attorney General of the United States, Sylvia M. Burwell, Secretary of Health and Human Services, and Julian Castro, Secretary of Housing and Urban Development, to Recipients of Federal Financial Assistance, August 5, 2016, available at [https://files.hudexchange.info/resources/documents/ HUD-HHS-DOJ-Letter-Regarding-Immigrant-Access-to-Housing-and-Services.pdf](https://files.hudexchange.info/resources/documents/HUD-HHS-DOJ-Letter-Regarding-Immigrant-Access-to-Housing-and-Services.pdf). USDA Rural Development internal guidance, "Implementation of the Revised Definition of Domestic Farm Laborers for Farm Labor Housing," July 5, 2018, available at <https://www.rd.usda.gov/files/RDUL-domestic.pdf>.
- d. U.S. Department of Agriculture (USDA), "Reinvention of the Sections 514, 515, 516 and 521 Multi-Family Housing Programs: Interim final rule; delay of effective date," 70 *Federal Register* 8503, February 22, 2005, available at <https://www.govinfo.gov/content/pkg/FR-2005-02-22/pdf/05-3226.pdf>.
- e. See footnote 81.
- f. See footnote 88.
- g. See footnote 90.

## Recent Administrative Actions

### Public Charge

Under the Immigration and Nationality Act (INA), an alien may be denied admission into the United States or LPR status if he or she is "likely at any time to become a public charge" (8 U.S.C. §1182(a)(4)).<sup>91</sup> The INA does not define the term *public charge*.<sup>92</sup> Thus, the determination of whether an alien is inadmissible<sup>93</sup> on public charge grounds turns largely on standards set forth in agency guidance materials.<sup>94</sup>

From 1999 to 2019, agency<sup>95</sup> guidance defined *public charge* to mean a person who is or is likely to become primarily dependent on public cash assistance or government-funded institutionalization for long-term care.<sup>96</sup> This definition was changed on August 15, 2019, when DHS published a final rule that defined *public charge* as someone "more likely than not at any time in the future to receive one or more public benefits ... for more than 12 months within any 36-month period."<sup>97</sup> This rule also expanded the list of public benefits considered in public charge

<sup>91</sup> An admitted alien may also be subject to removal from the United States based on a separate public charge ground of deportability, but this is rarely employed.

<sup>92</sup> For more information on the 2019 public charge rule, see the archived report CRS In Focus IF11467, *Immigration: Public Charge*.

<sup>93</sup> "Aliens who are inadmissible ... are ineligible to receive visas and ineligible to be admitted to the United States" (8 U.S.C. §1182). A noncitizen can be deemed inadmissible for health, security, public charge, and criminal-related grounds, among others.

<sup>94</sup> The Department of Homeland Security and the Department of State have primary responsibility for implementing the public charge ground of inadmissibility.

<sup>95</sup> Formerly the Department of Justice's Immigration and Naturalization Service, now the Department of Homeland Security (DHS). DHS, established in 2002, includes the agencies that are currently responsible for most federal immigration functions.

<sup>96</sup> DOJ, Immigration and Naturalization Service, "Field Guidance on Deportability and Inadmissibility on Public Charge Grounds," 64 *Federal Register* 28689, March 26, 1999, at <https://www.govinfo.gov/content/pkg/FR-1999-05-26/pdf/99-13202.pdf>.

<sup>97</sup> Benefits received by certain groups, such as members of the U.S. Armed Forces and their spouses and children, do

determinations to include nine programs, including three housing programs: (1) Section 8 project-based rental assistance, (2) the Housing Choice Vouchers, and (3) Public Housing.<sup>98</sup> There were multiple lawsuits challenging the Public Charge Final Rule, and DHS decided not to defend the rule on appeal.<sup>99</sup> Thus, on March 9, 2021, the agency reverted back to the 1999 definition.<sup>100</sup> In September 2022, DHS published a new final rule codifying a definition of the phrase *likely at any time to become a public charge* based on a standard similar to the 1999 guidance.<sup>101</sup>

## Proposed Revisions to Section 214 Regulations

On May 10, 2019, HUD released a proposed rule to revise its interpretation of Section 214 and end eligibility for mixed-status families in Section 214-covered programs.<sup>102</sup> Additionally, the rule would have established new documentation requirements for citizens. In the preamble to the proposed rule, HUD contended that this policy change was consistent with various executive orders issued by President Trump.<sup>103</sup> The Trump Administration included, in the Office of Management and Budget's Spring 2019 Unified Agenda and Regulatory Plan,<sup>104</sup> a statement of USDA's intent to publish regulatory revisions to the treatment of mixed-status families for rural housing programs.<sup>105</sup>

Following the transition from the Trump Administration to the Biden Administration, HUD in spring 2021 formally withdrew the mixed-status family proposed rule<sup>106</sup> and USDA announced its long-term intent to harmonize its requirements with those of HUD.<sup>107</sup>

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not count as public benefits under the regulations. Additionally, DHS is to consider only benefits directly received by the alien for the alien's own benefit; it is not to consider benefits received by a legal guardian on behalf of another (e.g., a U.S. citizen child).

<sup>98</sup> The other six programs are Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), state general assistance, benefits provided for institutionalized long-term care, the Supplemental Nutrition Assistance Program (SNAP), and Medicaid (with exceptions).

<sup>99</sup> For more information, see DHS, USCIS, "Inadmissibility on Public Charge Grounds Final Rule: Litigation," at <https://www.uscis.gov/green-card/green-card-processes-and-procedures/public-charge/inadmissibility-on-public-charge-grounds-final-rule-litigation>.

<sup>100</sup> For more information, see CRS Congressional Distribution Memorandum, *Trump Administration Actions on the Treatment of Noncitizens Related to Federal Housing Assistance*, available to congressional clients from the authors upon request.

<sup>101</sup> DHS, USCIS, "Public Charge Ground of Inadmissibility," 87 *Federal Register* 55472, September 9, 2022, at <https://www.govinfo.gov/content/pkg/FR-2022-09-09/pdf/2022-18867.pdf>. For more information, see CRS Insight IN11217, *Immigration: Public Charge 2022 Final Rule*.

<sup>102</sup> HUD, "Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980," 84 *Federal Register* 20589, May 10, 2019.

<sup>103</sup> *Ibid*.

<sup>104</sup> See Office of Management and Budget, Office of Information and Regulatory Affairs, "Implementation of the Multi-Family Housing U.S. Citizenship Requirements," at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201904&RIN=0575-AC86>.

<sup>105</sup> For more information, see CRS Congressional Distribution Memorandum, *Trump Administration Actions on the Treatment of Noncitizens Related to Federal Housing Assistance*, available to congressional clients from the authors upon request.

<sup>106</sup> HUD, Housing and Community Development Act of 1980: Verification of Eligible Status; Withdrawal; Regulatory Review, 86 *Federal Register* 17346-17347, April 2, 2021.

<sup>107</sup> Office of Management and Budget, Office of Information and Regulatory Affairs, "Implementation of the Multi-Family Housing U.S. Citizenship Requirements," at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202104&RIN=0575-AC86>.

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Opinion

# Liberals exploited public housing. That must stop.

At HUD, we're seeking changes to make sure federally funded housing goes to its intended recipients.

February 18, 2026 at 6:58 p.m. EST

By Scott Turner

*Scott Turner is the secretary of housing and urban development.*

Mixed-status households. Ineligible noncitizens. Public housing. These three phrases were never intended to coexist under one federally subsidized roof. And yet, under current loopholes, they do. Proof of citizenship is not required.

Eligibility for public housing should not be negotiable. That's why the Department of Housing and Urban Development is proposing a new rule to finally enforce Section 214 of the Housing and Community Development Act of 1980. The proposed rule demands eligibility documentation for every individual living in HUD-funded housing, ending the era of illegal aliens and other ineligible noncitizens exploiting public housing resources.

Previous administrations turned a blind eye to enforcing Section 214. The law is clear: Housing assistance must only go to eligible individuals. This requirement exists to protect the families and taxpayers who fund the nation's welfare system. It draws a hard line.

Liberal officials at both the federal and state level purposefully blurred and weakened the law by allowing some applicants for HUD assistance to simply sign a declaration of citizenship without requiring any documentation or proof. The law was further eroded when liberals allowed ineligibles to get away with living in HUD-subsidized housing

as part of a mixed-status household. That means ineligible individuals, including illegal aliens, could benefit from HUD assistance if just one member of their family in the household was eligible or signed a declaration of citizenship with no proof.

The consequences are measurable. A recent HUD and Department of Homeland Security audit of all assisted households identified nearly 200,000 tenants with incomplete or unknown eligibility verification. Furthermore, HUD estimates that roughly 24,000 ineligible individuals are exploiting the mixed-status household loophole and currently residing in HUD-subsidized housing. These individuals were permitted to live in HUD-assisted housing without providing any verification of their eligibility. The result of liberal regulatory policies was an erosion of Section 214 itself.

These were not isolated clerical oversights, they were manufactured by administrations that systematically neglected American families. Neglecting the law had terrible consequences. The pain wasn't felt by politicians and bureaucrats on Pennsylvania Avenue. It was felt by the millions of Americans on housing wait lists across the country. The mother working overtime to keep her children housed, the veteran fighting to rebuild civilian life and the senior counting every dollar at the kitchen table. As is true on our border, when the law is not enforced, the results are predictable. This is not about politics; it is about stewardship.

HUD will restore accountability and ensure that American citizens are the priority.

According to preliminary HUD data, enforcing Section 214 as written could redirect an estimated \$218 million to American families who qualify and have patiently waited for years for a safe and affordable place to live.

The Trump administration has made historic progress to restore law and order at every level of government. The integrity of our border and the integrity of our public housing programs both depend on upholding the law.

HUD's proposed rule enforcing Section 214 is part of our broader campaign to crack down on illegal and ineligible aliens siphoning public assistance from the American people. We terminated access to FHA-insured mortgages for individuals who do not meet lawful residency requirements. We announced a crime hotline for residents in HUD-funded housing to report illegal aliens and other criminals. And we have strengthened law-enforcement coordination with DHS to stop the flow of funds to illegals.

President Donald Trump promised welfare reform to restore common sense, and that is exactly what HUD is doing.

# HUD Moves to Close “Mixed Status Households” Roommate Loophole Illegals, Ineligibles, and Fraudsters: Pack Your Bags



**WASHINGTON** – Housing and Urban Development (HUD) Secretary Scott Turner announced a new **proposed rule** to require proof of U.S. citizenship or eligible status for every resident in HUD-funded housing, including “mixed status households.” With this proposed rule, HUD will ensure that taxpayer-funded housing benefits only go to American citizens and eligible individuals for the first time in history.

“Under President Trump’s leadership, the days of illegal aliens, ineligibles, and fraudsters gaming the system and riding the coattails of American taxpayers are over,” said **Secretary Turner**. “HUD’s proposed rule will guarantee that all residents in HUD-funded housing are eligible tenants. We have zero tolerance for pushing aside hardworking U.S. citizens while enabling others to exploit decades-old loopholes.”

HUD’s proposed rule will close loopholes and prohibit HUD funding from benefitting illegal aliens and ineligible noncitizens who reside in taxpayer-funded housing. These individuals will no longer be able to take advantage of taxpayer-funded benefits intended for American citizens or people with eligible status.

HUD housing assistance is intended for U.S. citizens and certain eligible noncitizens, yet HUD resources serve only a quarter of eligible households in need. Meanwhile, a recent HUD and DHS audit of all assisted households identified nearly 200,000 tenants with incomplete or unknown eligibility verification. Furthermore, HUD estimates approximately 24,000 illegal aliens, ineligibles, and fraudsters in 20,000 “mixed status households” benefit from HUD assistance.

This action builds on HUD’s work to protect federal housing benefits for vulnerable American citizens and execute on President Trump’s Executive Order “**Ending Taxpayer Subsidization of Open Borders**.” This year, Secretary Turner:

- **Signed** the “American Housing Programs for American Citizens” MOU with DHS Secretary Kristi Noem to end the wasteful misappropriation of taxpayer dollars to benefit illegal aliens.
- **Audited** all tenants across HUD-funded housing nationwide, giving Public Housing Authorities and owners 30 days to take corrective action.
- **Guaranteed** that HUD-backed loans only go to American citizens through revised FHA residency requirements.
- **Demanded** eligible immigration and citizenship status for all residents of HUD-funded housing.
- **Launched** the Report Crime Hotline so Americans can report illegal aliens and criminal activity in HUD-funded housing (1-800-347-3735).

**CBP HOME:** Assistance to Voluntary Self-Deport

*Follow @SecretaryTurner on X, FB, and Instagram.*

*Follow @HUDgov on X, FB, and Instagram.*

*HUD.gov*

December 12, 2025 | By Erik Gartland and Sonya Acosta

## Administration Plan Targeting Immigrants Would Take Away Rental Assistance, Create New Barriers

Everyone in this country should have a stable, affordable place to call home. That includes people who immigrated here, who are part of our communities and families. For decades, the nation's major rental assistance programs have helped so-called "mixed status" households – those with at least one member who isn't eligible for assistance because of their immigration status – afford housing. These households receive assistance at amounts prorated based on eligible members. But in a major shift, the Trump Administration will reportedly<sup>1</sup> propose a rule that would bar families from receiving most forms of rental assistance<sup>2</sup> from the Department of Housing and Urban Development (HUD) if just one person in the household isn't eligible for assistance because of their immigration status.<sup>3</sup> These families would face an agonizing choice: give up the rental assistance they need to stay in their home, or split up their family.

Nearly 80,000 people could lose assistance due to the eligibility changes, we estimate. Children would be among the hardest hit. In addition to those losing assistance because their households become ineligible, others will lose assistance if they can't meet the new policy's additional red tape requirements, under which all U.S. citizens currently receiving or applying for these rental assistance programs must document their citizenship status.

Currently, U.S. citizens applying for assistance must submit a signed declaration, under penalty of perjury, attesting to their citizenship. Housing agencies and private landlords that administer rental assistance programs locally may, at their discretion, adopt a policy requiring applicants to submit verifying documents such as a birth certificate or passport.<sup>4</sup> But if implemented, this new rule would require all housing agencies and participating private landlords to require every applicant to submit documentation, which could jeopardize rental assistance for hundreds of thousands of citizens caught up in the new red tape.

Research shows that people with low incomes or who have experienced homelessness can have difficulty providing the needed documentation quickly.<sup>5</sup> The new documentation requirement would disproportionately affect people of color, who are less likely to have up-to-date proof of citizenship.<sup>6</sup> Even if households later submitted documents verifying their eligibility, those who lose their assistance would struggle to regain it, given the long waiting lists caused by the assistance programs' chronic underfunding.<sup>7</sup>

The tables below provide national demographic data on who would be subject to the draft proposal's new documentation requirements, those barred from rental assistance by a prohibition on mixed-status households, and the number of households and individuals, by state, who would be subject to the proposed changes..

President Trump promised to improve affordability, but this proposal, like many others from this Administration, will have the opposite impact. The new policy will make it harder for citizens and eligible immigrants to afford housing because their households include someone without an eligible immigration status, ending the current practice of prorating benefits so that those ineligible were not receiving aid. The people made ineligible by this harsh proposal are important members of our communities, work essential jobs, contribute to our economy, and often have deep roots in our country. But no one –regardless of occupation or tenure – should be forced to choose between their housing and their families.

People without a documented immigration status have never been eligible for rental assistance – the proration policy ensures that they are excluded – and refusing to provide any help to the rest of the household rather than retaining the proration rule puts more U.S. citizens, eligible immigrants, and their families at risk of eviction and potentially homelessness. At a time when more people than ever are paying more than half their income on rent, federal policymakers should be cutting red tape and expanding rental assistance instead of making it harder for people to keep a roof over their heads.

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At a time when more people than ever are paying more than half their income on rent, federal policymakers should be cutting red tape and expanding rental assistance instead of making it harder for people to keep a roof over their heads.

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## **Tens of Thousands of Eligible People in Mixed-Status Families at Risk of Losing Assistance**

The proposed rule would take rental assistance away from U.S. citizens and eligible immigrants if they live in a mixed-status family, meaning at least one member of the family is ineligible due to their immigration status. Under long-standing policy, when a household includes someone whose immigration status doesn't qualify the individual for assistance, the rental assistance is prorated to only cover eligible family members. For example, if one parent in a family of four is ineligible because of their immigration status, the family receives three-quarters of the full amount of assistance for which they would otherwise be eligible. This means that a mixed-status family pays more in rent than a similar family in which everyone is eligible. The current policy aligns with how other benefits, such as the Supplemental Nutrition Assistance Program (SNAP), are administered to ensure those who are eligible receive the help they need.

This proposal would end the decades-long proration policy and force these families to choose between two harsh options: splitting up their families or losing the assistance that helps them keep a roof over their heads. Family separation and homelessness can have lasting effects, particularly for children,

including mental health challenges and harm to their well-being and development. CBPP’s analysis finds that nearly 37,000 children could face these consequences, nearly all of whom are themselves U.S. citizens.

TABLE 1

**People in "Mixed-Status"\* HUD-Assisted Households Who Would Have to Separate or Lose Their Rental Assistance Under Proposed Rule**

|   | Total  | Citizens | Eligible non-citizens | Ineligible non-citizens |
|---|--------|----------|-----------------------|-------------------------|
| <b>Total People</b>                     | 79,600 | 52,600   | 2,600                 | 24,300                  |
| <b>Women and girls</b>                  | 44,700 | 26,300   | 1,400                 | 16,900                  |
| <b>Older adults (age 62+)</b>           | 2,900  | 900      | 600                   | 1,300                   |
| <b>Adults (age 18-61)</b>               | 39,800 | 16,200   | 1,700                 | 21,900                  |
| <b>Children (age 0-17)</b>              | 36,900 | 35,400   | 300                   | 1,100                   |
| <b>With a disability (all ages)</b>     | 5,400  | 4,300    | 400                   | 700                     |
| <b>Race/Ethnicity</b>                   |        |          |                       |                         |
| <b>American Indian/Alaska Native</b>    | 100    | 100      | Under 50              | Under 50                |
| <b>Asian</b>                            | 900    | 400      | 100                   | 300                     |
| <b>Black</b>                            | 6,200  | 4,000    | 400                   | 1,800                   |
| <b>Latine</b>                           | 68,500 | 45,300   | 1,900                 | 21,200                  |
| <b>Multiple Races</b>                   | 200    | 100      | Under 50              | 100                     |
| <b>Native Hawaiian/Pacific Islander</b> | 300    | 200      | Under 50              | 100                     |
| <b>Some other race</b>                  | 100    | Under 50 | Under 50              | Under 50                |
| <b>White</b>                            | 2,500  | 1,700    | 100                   | 600                     |
| <b>Missing</b>                          | 900    | 700      | Under 50              | 200                     |

\*"Mixed-status" = a family that shares a home with an immigrant relative who is ineligible for rental assistance due to their immigration status

Note: This table covers people receiving federal rental assistance from Public Housing, Section 8 Project-Based Rental Assistance, Section 8 Moderate Rehabilitation, or the Housing Choice Voucher Program. All numbers have been rounded. Values less than 50 are suppressed. Citizen and non-citizen columns may not sum to the total column due to rounding or missing citizenship data.

Source: CBPP analysis of 2024 HUD administrative data

The rule would disproportionately harm families with children and Latine people, who make up about 86 percent of people living in mixed-status families in the three largest rental assistance programs: Housing Choice Vouchers, Public Housing, and Section 8 Project-Based Rental Assistance. (See Table 1.) Among the nearly 80,000 people in over 20,000 households that would be affected by the rule:

- 96 percent are people of color, including 86 percent who are Latine;
- 56 percent are women or girls; and
- 46 percent are children.<sup>8</sup>

The typical mixed-status household whom the new policy would take assistance from – or force to separate – is a family of four with two children and two adults. Among such families, typically three of the four family members are U.S. citizens eligible for rental assistance and the household is currently receiving three-quarters of the rental assistance they would receive if all individuals were eligible. Nearly three-quarters of mixed-status families live in three states: California, Texas, and New York (see Table 3 below).

## **Unnecessary Documentation Requirements Would Make Receiving Assistance More Difficult for U.S. Citizens**

The proposed rule imposes new documentation requirements on all U.S. citizens who receive or seek assistance from one of the three largest HUD rental assistance programs – Housing Choice Vouchers, Public Housing, and Section 8 Project-Based Rental Assistance. However, most people receiving federal rental assistance fall into groups that are less likely than others to have proof of citizenship readily available or to have other identification that states often require in order to issue a new birth certificate (or copy).

Obtaining documents such as a birth certificate can be costly, complicated, and time consuming. Applicants who have experienced homelessness are less likely to have a government-issued photo ID. Some people may need to contact another state to get a birth certificate and navigate those varied processes and timelines. Obtaining a copy of a birth certificate costs between \$30 and \$80, which can be prohibitive for someone already struggling to meet their basic needs.<sup>9</sup>

An estimated 3.8 million adult U.S. citizens lack any form of documentation proving citizenship, and another 17.5 million cannot readily access such documents. People of color are disproportionately likely to lack access to citizenship documentation compared to white citizens.<sup>10</sup> Adults with low incomes are more likely than those with higher incomes to lack identification: about 40 percent of those with incomes below \$30,000 lack a driver's license with a current name and address, which is often needed to obtain a birth certificate or other citizenship documentation.<sup>11</sup> Because the majority of women who marry men take their spouse's name,<sup>12</sup> these women can lack documents with their updated names, but overall, men are more likely than women to lack documents proving citizenship.<sup>13</sup> In addition to name changes, transgender citizens face additional barriers to having documents with their correct name and gender identity.

Many people who have experienced homelessness also lack proof of citizenship or photo ID due to the difficulty of maintaining important documents while unhoused.<sup>14</sup> When officials clear homeless encampments, people's personal property is destroyed and documents are often lost.<sup>15</sup> Moreover, people often cannot obtain important identification documents without proof of a residential address, and enactment of REAL ID<sup>16</sup> has generally exacerbated those barriers. While resources exist to help unhoused people overcome these barriers, the Trump Administration has proposed cutting many of those programs.<sup>17</sup>

Table 2 details who would be at most risk of losing assistance under the new documentation proposal. Among the 8.5 million citizens currently receiving HUD rental assistance who would fall under the proposed rule:

- 72 percent are people of color;
- 62 percent are women and girls;
- 36 percent are children;
- 24 percent have a disability; and
- 21 percent are older adults (age 62 and over).

The box below summarizes the differences between current law and the Administration’s proposed documentation requirements for families applying for any of the three largest rental assistance programs – Housing Choice Vouchers, Public Housing, or Section 8 Project-Based Rental Assistance.

| <b>Proposed Rule Would Make It More Difficult to Apply for Rental Assistance</b>   |   |
|--|---|
| <b>Current Law</b>   | <b>Proposed Requirements</b><br>(additions in <b>bold</b> )   |
| <ul style="list-style-type: none"> <li>• Citizens and non-citizens must submit a signed declaration, under penalty of perjury, attesting their citizenship or eligible immigration status.</li> </ul>  | <ul style="list-style-type: none"> <li>• Citizens and non-citizens must submit a signed declaration, under penalty of perjury, attesting their citizenship or eligible immigration status.</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Non-citizens aged 62 and older must submit documents verifying their age.</li> </ul>  | <ul style="list-style-type: none"> <li>• Non-citizens aged 62 and older must submit documents verifying their age.</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Non-citizens younger than 62 must submit a document proving immigration status as well as a form consenting that the document be reviewed and shared with HUD and Department of Homeland Security (DHS).</li> </ul> | <ul style="list-style-type: none"> <li>• Non-citizens younger than 62 must submit a document proving immigration status as well as a form consenting that the document to be reviewed and shared with HUD and DHS.</li> </ul>                         |
| <ul style="list-style-type: none"> <li>• State and local housing agencies and landlords that rent units to assisted families may request additional documents verifying citizenship.</li> </ul>  | <ul style="list-style-type: none"> <li>• <b>Citizens must submit a birth certificate, passport, or other document verifying their citizenship, as well as a form consenting that the document be reviewed and shared with HUD and DHS.</b></li> </ul> |

Although people served by HUD rental assistance are more likely than other households to face significant barriers in securing the documents needed to timely prove their citizenship, it is unclear exactly how many would need to produce additional documents under this proposal. Currently, housing authorities administering Public Housing or the Housing Choice Voucher program and local landlords renting to families assisted through Section 8 Project-Based Rental Assistance may request additional documents to verify eligibility for housing assistance (for instance to verify a person's age or familial relationship). Certain documents submitted for this purpose, such as a birth certificate, would also satisfy the proposed citizenship verification requirement.

Given the differences in program administration and requirements across the thousands of housing agencies and private owners that administer rental assistance in local communities, tens or even hundreds of thousands of currently assisted people could need to provide additional paperwork to verify their citizenship. Housing agencies and owners would also need to review those documents, forcing their staff to shift their already limited capacity to paperwork compliance instead of serving families through activities such as responding to maintenance needs or helping voucher holders find an apartment to rent.

Under current rules, as a part of submitting documentation to verify citizenship or eligible immigration status, applicants (other than non-citizens aged 62 years and up) must also sign a form consenting to a review of the documents. Under current law, this is already a requirement for non-citizens under 62. However, new language in the draft proposal states that housing agencies must report any individual who does not have a documented immigration status to the local U.S. Citizenship and Immigration Services office. This provision builds off of an agreement to share data that HUD and the Department of Homeland Security (DHS) signed in March 2025;<sup>18</sup> social media posts from the HUD Secretary calling for housing agencies to share personal data about people receiving rental assistance;<sup>19</sup> and changes to grant agreements imposing stricter eligibility requirements based on immigration status.<sup>20</sup> In other words, the Administration is now attempting to force housing agencies to help it deport people who are seeking support to keep their families together and housed.

## **Proposed Rule Part of Administration's Broader Policy Agenda Targeting Immigrants and Worsening Hardship**

This proposal is only one of many ways that the Administration's policies take away assistance from people who are coping with limited resources. President Trump promised to make people's basic needs more affordable. Yet in housing, the Trump Administration is proposing to take away assistance based on arbitrary time limits and work requirements;<sup>21</sup> proposing that rental assistance funding be cut nearly in half;<sup>22</sup> upending resources for people experiencing homelessness;<sup>23</sup> and failing to enforce laws that protect people from discrimination.<sup>24</sup>

These actions come at a time when the harmful Republican megabill's cuts to food assistance and health coverage will force more families with low incomes to make impossible decisions, like whether to pay rent or buy groceries or whether to keep the lights on or fill a prescription.<sup>25</sup> These policy actions will put

people at greater risk of eviction and homelessness. For many families, the harms will build on one another, creating even greater hardship over time.

TABLE 2

### People in HUD-Assisted Households Subject to Proposed Documentation Requirements

|   | Total     | Citizens  | Eligible non-citizens | Ineligible non-citizens |
|---|-----------|-----------|-----------------------|-------------------------|
| <b>Total People</b>                     | 8,819,500 | 8,479,600 | 315,600               | 24,300                  |
| <b>Female</b>                           | 5,472,100 | 5,253,400 | 201,700               | 16,900                  |
| <b>Older adults (age 62+)</b>           | 1,937,700 | 1,801,900 | 134,400               | 1,300                   |
| <b>Adults (age 18-61)</b>               | 3,772,200 | 3,604,900 | 145,500               | 21,900                  |
| <b>Children (age 0-17)</b>              | 3,109,600 | 3,072,800 | 35,700                | 1,100                   |
| <b>With a disability (all ages)</b>     | 2,116,200 | 2,056,000 | 59,500                | 700                     |
| <b>Race/Ethnicity</b>                   |           |           |                       |                         |
| <b>American Indian/Alaska Native</b>    | 61,900    | 61,000    | 900                   | Under 50                |
| <b>Asian</b>                            | 246,300   | 189,200   | 56,800                | 300                     |
| <b>Black</b>                            | 4,107,200 | 4,038,700 | 66,700                | 1,800                   |
| <b>Latine</b>                           | 1,845,400 | 1,700,400 | 123,800               | 21,200                  |
| <b>Multiple Races</b>                   | 18,700    | 18,400    | 300                   | Under 50                |
| <b>Native Hawaiian/Pacific Islander</b> | 64,600    | 55,500    | 9,100                 | 100                     |
| <b>Some other race</b>                  | 24,800    | 20,800    | 4,000                 | Under 50                |
| <b>White</b>                            | 2,320,700 | 2,270,500 | 49,600                | 700                     |
| <b>Missing</b>                          | 129,800   | 125,100   | 4,500                 | 200                     |

Note: This table covers people receiving federal rental assistance from Public Housing, Section 8 Project-Based Rental Assistance, Section 8 Moderate Rehabilitation, or the Housing Choice Voucher Program. All numbers have been rounded. Values less than 50 are suppressed. Total column excludes a small number of individuals with missing citizenship data, individuals for whom eligibility status is pending verification, and individuals who are not counted as members of the family (e.g., live-in aides, foster children and adults).

Source: CBPP analysis of 2024 HUD administrative data

The draft housing rule is also part of this Administration’s broader policy agenda that targets people who are immigrants. For example, the megabill provides more than \$170 billion in additional funding for immigration detention and border enforcement<sup>26</sup> while taking away eligibility for federal food assistance and health coverage from people with most categories of lawful immigration statuses, including many people whom the federal government has granted humanitarian protection, such as refugees, asylees, and victims of sex and labor trafficking.<sup>27</sup> The Administration has also made efforts to share personal data collected on benefit applications and tax forms with the Department of Homeland Security for

immigration enforcement purposes,<sup>28</sup> and to take away vital services like Head Start, which for decades both Republican and Democratic administrations have kept available to children regardless of immigration status.<sup>29</sup>

TABLE 3

### Trump Proposal Would Jeopardize Rental Assistance for Families in Every State

| State or Territory   | Households                            |  |  | Individuals                            |  |  |
|----------------------|---------------------------------------|--|--|--|--|--|
|                      | Total households receiving assistance | With a citizen subject to new documentation requirements | "Mixed-status,"** prohibited from receiving assistance | Total individuals receiving assistance | Citizens subject to new documentation requirements | Non-citizens already subject to documentation requirements |
| Alabama              | 78,650                                | 78,460   | *  | 173,020                                | 172,110  | 260  |
| Alaska               | 6,970                                 | 6,780  | 20   | 13,660                                 | 12,960   | 670  |
| Arizona              | 37,480                                | 35,710   | 420  | 82,900                                 | 77,180   | 5,340  |
| Arkansas             | 41,520                                | 41,360   | 40   | 80,390                                 | 79,430   | 530  |
| California           | 453,960                               | 430,070  | 7,190  | 898,550                                | 821,500  | 71,890   |
| Colorado             | 57,030                                | 55,470   | 340  | 111,220                                | 105,780  | 5,070  |
| Connecticut          | 75,620                                | 73,550   | 180  | 146,610                                | 141,110  | 5,220  |
| Delaware             | 10,640                                | 10,520   | *  | 21,970                                 | 21,540   | 360  |
| District of Columbia | 25,630                                | 25,000   | *  | 49,520                                 | 48,150   | 1,230  |
| Florida              | 182,710                               | 175,740  | 260  | 395,710                                | 378,860  | 14,560   |
| Georgia              | 114,760                               | 114,170  | 60   | 255,590                                | 253,350  | 1,380  |
| Hawaii'i             | 19,210                                | 18,220   | *  | 46,430                                 | 41,030   | 5,310  |
| Idaho                | 11,280                                | 10,940   | 30   | 20,290                                 | 19,070   | 1,090  |
| Illinois             | 198,660                               | 195,190  | 300  | 383,340                                | 375,480  | 7,000  |
| Indiana              | 71,080                                | 70,730   | 200  | 134,290                                | 133,030  | 1,070  |
| Iowa                 | 34,520                                | 34,000   | 30   | 59,020                                 | 56,720   | 2,130  |
| Kansas               | 28,720                                | 28,370   | 40   | 48,440                                 | 47,060   | 1,120  |
| Kentucky             | 75,140                                | 74,460   | 30   | 147,220                                | 144,610  | 2,030  |
| Louisiana            | 79,880                                | 79,590   | *  | 175,470                                | 174,230  | 760  |
| Maine                | 23,500                                | 22,850   | 30   | 40,320                                 | 37,850   | 2,300  |
| Maryland             | 88,640                                | 87,180   | 40   | 182,410                                | 178,550  | 3,280  |
| Massachusetts        | 182,810                               | 171,140  | 910  | 340,640                                | 309,320  | 30,210   |
| Michigan             | 127,320                               | 125,540  | 20   | 237,690                                | 233,070  | 3,830  |

TABLE 3

## Trump Proposal Would Jeopardize Rental Assistance for Families in Every State

| State or Territory | Households                            |  |  | Individuals                            |  |  |
|--------------------|---------------------------------------|--|--|--|--|--|
|                    | Total households receiving assistance | With a citizen subject to new documentation requirements | "Mixed-status,"** prohibited from receiving assistance | Total individuals receiving assistance | Citizens subject to new documentation requirements | Non-citizens already subject to documentation requirements |
| Minnesota          | 82,360                                | 78,940   | 80   | 162,100                                | 149,910  | 11,800   |
| Mississippi        | 48,720                                | 48,620   | *  | 113,580                                | 112,680  | 280  |
| Missouri           | 74,020                                | 73,220   | 90   | 143,080                                | 140,290  | 2,080  |
| Montana            | 11,310                                | 11,270   | *  | 19,500                                 | 19,350   | 110  |
| Nebraska           | 23,220                                | 22,720   | 70   | 43,530                                 | 41,030   | 2,330  |
| Nevada             | 22,460                                | 21,990   | 150  | 49,940                                 | 48,340   | 1,140  |
| New Hampshire      | 19,340                                | 19,000   | 20   | 32,250                                 | 31,170   | 1,000  |
| New Jersey         | 149,710                               | 143,980  | 160  | 282,420                                | 269,420  | 12,390   |
| New Mexico         | 20,130                                | 19,570   | 230  | 39,630                                 | 37,980   | 1,580  |
| New York           | 498,440                               | 475,360  | 2,540  | 978,750                                | 914,060  | 63,520   |
| North Carolina     | 102,430                               | 101,870  | 220  | 218,200                                | 215,800  | 1,680  |
| North Dakota       | 11,360                                | 11,210   | *  | 19,180                                 | 18,640   | 500  |
| Ohio               | 195,560                               | 194,080  | 20   | 382,940                                | 378,540  | 3,520  |
| Oklahoma           | 45,360                                | 45,150   | 130  | 90,030                                 | 89,080   | 820  |
| Oregon             | 49,320                                | 48,120   | 580  | 91,670                                 | 87,040   | 4,390  |
| Pennsylvania       | 190,490                               | 187,700  | 80   | 357,830                                | 349,930  | 7,440  |
| Rhode Island       | 33,860                                | 32,080   | 100  | 56,480                                 | 52,250   | 3,970  |
| South Carolina     | 53,960                                | 53,820   | *  | 118,930                                | 118,400  | 330  |
| South Dakota       | 11,210                                | 11,150   | *  | 19,620                                 | 19,400   | 190  |
| Tennessee          | 91,560                                | 90,880   | 40   | 189,090                                | 186,650  | 1,450  |
| Texas              | 254,450                               | 246,720  | 4,500  | 586,110                                | 560,190  | 24,290   |
| Utah               | 17,070                                | 16,520   | 110  | 32,070                                 | 29,790   | 2,240  |
| Vermont            | 11,960                                | 11,690   | *  | 20,750                                 | 19,530   | 1,190  |

TABLE 3

## Trump Proposal Would Jeopardize Rental Assistance for Families in Every State

| State or Territory | Households                            |  |  | Individuals                            |  |  |
|--------------------|---------------------------------------|--|--|--|--|--|
|                    | Total households receiving assistance | With a citizen subject to new documentation requirements | "Mixed-status,"** prohibited from receiving assistance | Total individuals receiving assistance | Citizens subject to new documentation requirements | Non-citizens already subject to documentation requirements |
| Virginia           | 90,200                                | 88,170   | 120  | 191,210                                | 184,580  | 6,090  |
| Washington         | 86,210                                | 82,320   | 600  | 166,930                                | 153,020  | 13,200   |
| West Virginia      | 30,010                                | 29,940   | *  | 52,040                                 | 51,850   | 150  |
| Wisconsin          | 67,790                                | 67,190   | 30   | 115,650                                | 113,900  | 1,410  |
| Wyoming            | 5,190                                 | 5,180  | *  | 8,500                                  | 8,450  | 30   |
| Guam               | 3,340                                 | 3,160  | 0  | 13,480                                 | 10,900   | 2,580  |
| Mariana Islands    | 580                                   | 570  | 10   | 2,450                                  | 2,190  | 250  |
| Puerto Rico        | 95,560                                | 95,270   | 30   | 194,900                                | 193,970  | 810  |
| Virgin Islands     | 4,330                                 | 4,090  | 30   | 9,830                                  | 9,250  | 580  |
| <b>Total</b>       | <b>4,427,200</b>                      | <b>4,306,570</b>   | <b>20,170</b>  | <b>8,847,350</b>                       | <b>8,479,570</b>                                   | <b>339,980</b>   |

\*\* "Mixed-status" = a family that shares a home with an immigrant relative who is ineligible for rental assistance due to their immigration status.

\* Values less than 11 or values that could be used to derive a value less than 11 are suppressed to meet HUD's privacy guidelines.

Note: This table covers people receiving federal rental assistance from Public Housing, Section 8 Project-Based Rental Assistance, Section 8 Moderate Rehabilitation, or the Housing Choice Voucher Program. All numbers have been rounded. Citizen and non-citizen columns may not sum to the total column due to rounding or missing citizenship data.

Source: CBPP analysis of 2024 HUD administrative data

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- <sup>1</sup> Jesse Coburn, "Millions Could Lose Housing Aid Under Trump Plan," ProPublica, September 29, 2025, <https://www.propublica.org/article/trump-housing-reforms-aid-hud-immigration-homelessness>.
- <sup>2</sup> Nearly 90 percent of all households receiving HUD rental assistance would be subject to this proposal. The proposal covers the three largest HUD programs: Housing Choice Vouchers, Public Housing, and Section 8 Project-Based Rental Assistance. It also covers several smaller programs administered by HUD: Section 8 Moderate Rehabilitation, Section 236 housing, Section 235 Homeownership housing, Section 23 Leased Housing Assistance Program, and Housing Development Grants.
- <sup>3</sup> Section 214 of the Housing and Community Development Act of 1980 governs eligibility restrictions based on immigration status for the majority of federal rental assistance programs. Ineligible immigration categories include people with Deferred Action for Childhood Arrivals (DACA), Temporary Protected Status (TPS), non-immigrant visas (for example tourists, students, temporary workers), and those who lack documentation. For more, see Abigail F. Kolker and Maggie McCarty, "Noncitizen Eligibility for Federal Housing Programs," Congressional Research Service, January 23, 2023, <https://www.congress.gov/crs-product/R46462>.
- <sup>4</sup> It is unclear how many families are currently subject to these policies.
- <sup>5</sup> Jillian Andres Rothschild, Samuel B. Novey, and Michael J. Hanmer, "Who Lacks ID in America Today? An Exploration of Voter ID Access, Barriers, and Knowledge," Center for Democracy and Civic Engagement, June 2024, <https://cdce.umd.edu/sites/cdce.umd.edu/files/pubs/Voter%20ID%20survey%20Key%20Results%20June%202024.pdf>; Government Accountability Office, "Homelessness: Barriers to Obtaining ID and Assistance Provided to Help Gain Access," February 2024, <https://www.gao.gov/assets/d24105435.pdf>; Movement Advancement Project, "The ID Divide: How Barriers to ID Impact Different Communities and Affect Us All," November 2022, <https://www.mapresearch.org/file/MAP-Identity-Documents-report-2022.pdf>.
- <sup>6</sup> Rothschild, Novey, and Hanmer.
- <sup>7</sup> Sonya Acosta and Erik Gartland, "Families Wait Years for Housing Vouchers Due to Inadequate Funding," CBPP, July 22, 2021, <https://www.cbpp.org/research/housing/families-wait-years-for-housing-vouchers-due-to-inadequate-funding>; Sonya Acosta and Brianna Guerrero, "Long Waitlists for Housing Vouchers Show Pressing Unmet Need for Assistance," CBPP, October 6, 2021, <https://www.cbpp.org/research/housing/long-waitlists-for-housing-vouchers-show-pressing-unmet-need-for-assistance>.
- <sup>8</sup> We present data based on the categories HUD uses when collecting demographic information from people receiving rental assistance. We recognize that in some instances, particularly when it comes to gender and race/ethnicity, the categories on standardized government forms may not reflect or adequately capture how individuals would identify themselves.
- <sup>9</sup> Movement Advancement Project.
- <sup>10</sup> Rothschild, Novey, and Hanmer.
- <sup>11</sup> Jillian Andres Rothschild, Samuel B. Novey, and Michael J. Hanmer, "Who Lacks Documentary Proof of Citizenship," Center for Democracy and Civic Engagement, March, 2025, <https://cdce.umd.edu/sites/cdce.umd.edu/files/Who%20Lacks%20Documentary%20Proof%20of%20Citizenship%20March%202025.pdf>.

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- <sup>12</sup> Luona Lin, "About 8 in 10 women in opposite-sex marriages say they took their husband's last name," Pew Research Center, September 7, 2025, <https://www.pewresearch.org/short-reads/2023/09/07/about-eight-in-ten-women-in-opposite-sex-marriages-say-they-took-their-husbands-last-name/>.
- <sup>13</sup> Rothschild, Novey, and Hanmer, "Who Lacks Documentary Proof of Citizenship."
- <sup>14</sup> Movement Advancement Project.
- <sup>15</sup> Government Accountability Office.
- <sup>16</sup> Transportation Security Administration, "REAL ID Frequently Asked Questions," <https://www.tsa.gov/real-id/real-id-faqs>.
- <sup>17</sup> Government Accountability Office; Joy Moses and Daniel Soucy, "Visualizing the Impacts of the President's FY2026 Budget: Returns to Homelessness and Major Setbacks Could Be Ahead," National Alliance to End Homelessness, <https://endhomelessness.org/resources/research-and-analysis/visualizing-the-impacts-of-the-presidents-fy2026-budget-returns-to-homelessness-and-major-setbacks-could-be-ahead>.
- <sup>18</sup> HUD, "HUD Secretary Scott Turner, DHS Secretary Kristi Noem Establish Partnership to End Illegal Alien Exploitation of Housing Programs," March 24, 2025, <https://www.hud.gov/news/hud-no-25-046>.
- <sup>19</sup> HUD Secretary Scott Turner, August 29, 2025, 8:03 pm, [https://x.com/secretaryturner/status/1961580383084200070?s=46&t=b-BqxKOatB\\_Zsbl5clCwkQ](https://x.com/secretaryturner/status/1961580383084200070?s=46&t=b-BqxKOatB_Zsbl5clCwkQ).
- <sup>20</sup> Revising Residency Requirements for the Section 184 Indian Housing Loan Guarantee Program, 90 Fed. Reg. 42704 (2025).
- <sup>21</sup> Will Fischer and Erik Gartland, "Rental Assistance Time Limits Would Place More Than 3 Million People – Half of Them Children – at Risk of Eviction and Homelessness," CBPP, July 18, 2025, <https://www.cbpp.org/research/housing/rental-assistance-time-limits-would-place-more-than-3-million-people-half-of-them>.
- <sup>22</sup> Mark Treskon and Diane K. Levy, "The Trump Administration Has Proposed \$27 Billion in Cuts by Block Granting Housing Assistance. That Could Worsen the Housing Affordability Crisis." Urban Institute, May 28, 2025, <https://www.urban.org/urban-wire/trump-administration-has-proposed-27-billion-cuts-block-granting-housing-assistance>.
- <sup>23</sup> Jason DeParle, "Trump Administration Proposes a Drastic Cut in Housing Grants," New York Times, November 12, 2025, <https://www.nytimes.com/2025/11/12/us/politics/trump-homeless-funding.html>.
- <sup>24</sup> Sonya Acosta, "Administration's Recent Actions Severely Weaken Protections and Eliminate Resources for People Facing Housing Discrimination," CBPP, July 2, 2025, <https://www.cbpp.org/blog/administrations-recent-actions-severely-weaken-protections-and-eliminate-resources-for-people>.
- <sup>25</sup> "The Republican Megabill's Many Harms and Misdirected Priorities, in Charts," CBPP, September 25, 2025, <https://www.cbpp.org/blog/the-republican-megabills-many-harms-and-misdirected-priorities-in-charts>.
- <sup>26</sup> American Immigration Council, "What's in the Big Beautiful Bill? Immigration and Border Security Unpacked," July 14, 2025, <https://www.americanimmigrationcouncil.org/fact-sheet/big-beautiful-bill-immigration-border-security/>.
- <sup>27</sup> Margot Dankner *et al.*, "Harmful Republican Megabill Takes Away Health Coverage, Food Assistance, Tax Credits From Millions of Immigrants and Their Families," CBPP, December 11, 2025, <https://www.cbpp.org/research/immigration/harmful-republican-megabill-takes-away-health-coverage-food-assistance-tax>; Heidi Altman, Tanya Broder, and Ben D'Avanzo, "The Anti-Immigrant Policies in Trump's Final 'Big

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Beautiful Bill,' Explained," National Immigration Law Center, August 20, 2025, <https://www.nilc.org/resources/the-anti-immigrant-policies-in-trumps-final-big-beautiful-bill-explained/#restrictions-on-immigrants-health-and-nutrition>.

<sup>28</sup> Kris Cox, "IRS-ICE Agreement Poses Risks for All Taxpayers," Executive Action Watch, CBPP, April 7, 2025, <https://www.cbpp.org/research/federal-budget/executive-action-watch?item=29822>.

<sup>29</sup> Margot Dankner, "Trump Administration Seeks to Take Away Head Start, Medical Care, and Other Vital Services From Lawfully Present Immigrants," Executive Action Watch, CBPP, July 16, 2025, <https://www.cbpp.org/research/federal-budget/executive-action-watch?item=30181>.

From: National Housing Law Project  
To: Housing Justice Network  
Date: February 24, 2026  
Re: Analysis of HUD's Proposed Rule on Mixed Status Families

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On February 20, 2026, the U.S. Department of Housing and Urban Development's (HUD) published its proposed rule, Housing and Community Development Act of 1980: Verification of Eligible Status, HUD Docket No. FR-6524-P-01, RIN 2501-AE16,<sup>1</sup> otherwise known as HUD's mixed status families rule ("Proposed Rule"). If finalized, the Proposed Rule will separate families with mixed immigration statuses and evict them from their homes, while worsening the affordable housing crisis by reducing the supply of HUD-assisted housing for everyone.<sup>2</sup>

This memorandum analyzes the Proposed Rule. It starts with a discussion of the current law, followed by a summary of the Proposed Rule's major provisions. The legal analysis proceeds in two parts: proposed changes that target mixed status families specifically, and proposed changes regarding verification of citizenship and immigration status that impact HUD residents and applicants generally. The memorandum ends with frequently asked questions.

## I. Current Law

Until HUD completes the rulemaking process, the current rules will not change. It is critical to communicate this message – that the law has not changed – to mixed status families to counter misinformation about their rights.

### A. Mixed Status Families and Their Rights

Section 214 of the Housing and Community Development Act of 1980 ("Section 214")<sup>3</sup> governs immigrant eligibility for specific HUD housing programs, including public housing, the Housing Choice Voucher program, and project-based rental assistance.<sup>4</sup> Section 214 allows certain noncitizens to receive HUD assistance,<sup>5</sup> while allowing families with mixed immigration status to

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<sup>1</sup> Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed.Reg. 8151 (Feb. 20, 2026), <https://www.govinfo.gov/content/pkg/FR-2026-02-20/pdf/2026-03405.pdf>.

<sup>2</sup> HUD, Regulatory Impact Analysis: Housing and Community Development Act of 1980: Verification of Eligible Status 17 (Sept. 30, 2025), <https://www.regulations.gov/document/HUD-2026-0199-0006>.

<sup>3</sup> 42 U.S.C. §1436a. The other federal law that limits immigrant eligibility for certain federal housing programs is title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). This memorandum does not discuss the immigrant eligibility restrictions under PRWORA. For a full discussion, see National Housing Law Project, Immigration Requirements: Assistance Programs for Housing and Homelessness, Energy, Disaster, and Water (ESG, CoC, CDBG, HOME, FEMA, RUSH, LIHEAP) (Dec. 12, 2025).

<sup>4</sup> The following is a full list of HUD housing programs covered by Section 214: Public Housing; all Section 8 housing assistance (including Vouchers and Project-based Section 8); Section 236 Housing, with or without Supplements (low-income units only); Rent Supplement Housing; Section 235 Homeownership Housing; Housing Development Grants (HoDAG) (low-income units only); Section 23 Leased Housing Assistance Program. 42 U.S.C. §1436a(b)(1); 24 CFR 5.500(a). Section 214 also governs immigrant eligibility for certain USDA housing, which is outside the scope of this memo.

<sup>5</sup> 42 U.S.C. §1436a(a).

live together in HUD housing.<sup>6</sup> The Proposed Rule proposes to change HUD regulations that implement these provisions of Section 214.

Under the current regulations, families can live in HUD-assisted housing as long as at least one family member is a U.S. citizen, a U.S. national, or a noncitizen with eligible immigration status.<sup>7</sup> The typical mixed status family is a two-parent, two-child household. Of the four family members, three are U.S. citizens.<sup>8</sup> The remaining family members have the right not to contend eligibility.<sup>9</sup> In other words, they do not say that they are eligible or ineligible; rather, they exercise a third option of not claiming that they are eligible.

Mixed status families receive prorated rental assistance that covers only eligible family members.<sup>10</sup> Family members who “do not contend” eligibility do not receive housing assistance.<sup>11</sup> To cover the family members who “do not contend,” the family pays the rest of the rent themselves. These funds help pay for housing assistance and repairs for other HUD-assisted families.

### **B. Verification of Citizenship and Immigration Status**

To receive housing assistance, U.S. citizens, U.S. nationals, and noncitizens with eligible immigration statuses must verify their citizenship and immigration status.<sup>12</sup> The current regulations require U.S. citizens and U.S. nationals to submit a signed declaration of their citizenship or nationality.<sup>13</sup> Public housing authorities have the discretion to request documents proving citizenship, but this policy must be formally included in the PHA Plan.<sup>14</sup>

For noncitizens, the verification requirement depends on the person’s age.

- If a noncitizen is 62 or older, they must submit a signed declaration of their immigration status and a document proving their age.<sup>15</sup> They are not required to submit a document proving their immigration status.
- If a noncitizen is younger than 62, they must submit: (1) a signed declaration of their immigration status, (2) a document proving their immigration status, and (3) a signed verification consent form.<sup>16</sup>

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<sup>6</sup> 42 U.S.C. § 1436a(b)(2).

<sup>7</sup> 42 U.S.C. §1436a(b)(2); 24 CFR § 5.508(e). The categories of noncitizens are: lawful permanent residents, asylees and refugees, persons granted withholding of removal; public interest and humanitarian parolees; and individuals lawfully residing under compacts between the U.S. and Marshall Islands/Micronesia and Palau. 42 U.S.C. §1436a(a). Certain additional groups have the same rights as refugees including human trafficking survivors and self-petitioners under the Violence Against Women Act (VAWA).

<sup>8</sup> Erik Gartland & Sonya Acosta, Administration Plan Targeting Immigrants Would Take Away Rental Assistance, Create New Barriers (Dec. 12, 2025), <https://www.cbpp.org/sites/default/files/12-12-25hou.pdf>.

<sup>9</sup> 42 U.S.C. §1436a(b)(2); 24 CFR § 5.508(a) (“If one or more family members do not have citizenship or eligible immigration status, the family members may exercise the election not to contend to have eligible immigration status”).

<sup>10</sup> 42 U.S.C. §1436a(b)(2); 24 CFR § 5.520(a) (“An eligible mixed family who requests prorated assistance must be provided prorated assistance.”).

<sup>11</sup> 24 CFR § 5.508(e).

<sup>12</sup> See 24 CFR § 5.508.

<sup>13</sup> 24 C.F.R. § 5.508(b)(1).

<sup>14</sup> *Id.*

<sup>15</sup> 24 CFR § 5.508 (b)(2).

<sup>16</sup> 24 CFR § 5.508(g)(5).

- If a noncitizen does not contend eligibility and is a member of a mixed status family, they are not required to provide any information about their immigration status, regardless of their age.<sup>17</sup>

## II. Summary of HUD's Proposed Rule

### A. Proposed Changes Impacting Mixed Status Families

If finalized, the Proposed Rule will enact changes that will separate mixed status families and evict them from their homes, even though federal law gives these families the right to live together in HUD-subsidized housing.<sup>18</sup> The Proposed Rule would require each household member to be a U.S. citizen, a U.S. national, or a noncitizen with immigration status.<sup>19</sup> As a result, mixed status families would lose their right to live together in HUD-assisted housing. Specifically, the Proposed Rule would take away:

1. The right of mixed status family members not to contend eligibility;<sup>20</sup> and
2. The right of mixed status families to receive ongoing prorated rental assistance that covers eligible family members.<sup>21</sup>

In addition, the Proposed Rule would impose an expedited timeline for submitting evidence of citizenship and immigration status that would explicitly single out mixed status families. While other HUD residents could wait until the next annual recertification to submit this evidence,<sup>22</sup> members of mixed status families would only have 90 days from the final rule's effective date.<sup>23</sup>

### B. Proposed Changes Impacting Verification Requirements

The Proposed Rule would impose new verification requirements for millions of HUD tenants.

U.S. citizens and U.S. nationals: The Proposed Rule would overhaul the process for verifying citizenship in the covered HUD housing programs. PHAs and owners would no longer rely on signed declarations of citizenship. Instead, HUD is proposing to require PHAs and owners to verify citizenship status through Systematic Alien Verification for Entitlement (SAVE).<sup>24</sup> Located at U.S. Citizenship and Immigration Services (USCIS) at the Department of Homeland Security (DHS), SAVE is the automated system for verifying immigrant eligibility for public benefits. Expanding SAVE as a tool for citizenship verification is subject to public and legal scrutiny.<sup>25</sup>

With this new use of SAVE, HUD proposes a new verification process that would take part in two stages: (1) primary verification, and (2) secondary verification.<sup>26</sup> For primary verification, U.S. citizens and nationals would have to submit both a signed declaration of citizenship and a signed verification consent form, and their PHA or owner would run SAVE to obtain an

<sup>17</sup> 24 CFR § 5.508(e).

<sup>18</sup> 42 U.S.C. §1436a(a).

<sup>19</sup> 91 Fed.Reg. at 8154, 8165 (proposed 24 CFR § 5.506(b)(1)).

<sup>20</sup> *Id.* at 8155-56 (discussing the proposed removal of existing 24 CFR § 5.508(e)).

<sup>21</sup> *Id.* at 8161, 8169 (removing existing 24 CFR 5.516(b)).

<sup>22</sup> *Id.* at 8156-57, 8166 (proposed 24 CFR 5.508(f)(2)(ii)).

<sup>23</sup> *Id.* at 8156-57, 8166 (proposed 24 CFR 5.508(f)(2)(i)). Neither the 2019 Proposed Rule nor the 2025 Leaked Draft included this deadline specific to mixed status families.

<sup>24</sup> *Id.* at 8157-58, 8167-68 (proposed 24 CFR 5.512).

<sup>25</sup> Jen Fifield & Zach Despart, "Not Ready for Prime Time." *A Federal Tool to Check Voter Citizenship Keeps Making Mistakes*, ProPublica (Feb. 13, 2026), <https://www.propublica.org/article/save-voter-citizenship-tool-mistakes-confusion>.

<sup>26</sup> 91 Fed.Reg. at 8157-58, 8167-68 (proposed 24 CFR 5.512).

automated response.<sup>27</sup> If primary verification fails to confirm citizenship, then secondary verification is necessary.<sup>28</sup> The individual would have to submit documents proving their citizenship, and either the PHA/owner or SAVE would manually review, depending on the type of document submitted.<sup>29</sup>

**Noncitizens:** The Proposed Rule would require all noncitizens, regardless of age, to submit: (1) a signed declaration of eligible immigration status, (2) a document proving their immigration status, and (3) a signed verification consent form.<sup>30</sup> Noncitizens age 62 and older would no longer be exempt.<sup>31</sup>

|   | Current Law   | 2026 Proposed Rule   |
|---|---|--|
| <i>Mixed Status Families</i>                              | Families can live together in HUD-assisted housing as long as at least one family member is a U.S. citizen or national, or a noncitizen with eligible immigration status.   | Families can live together in HUD-assisted housing <i>only if</i> every family member is a U.S. citizen, U.S. national, or a noncitizen with eligible immigration status.  |
|   | Other family members have the right not to contend eligibility; these family members do not receive HUD assistance.   | Family members will not have the right not to contend eligibility.   |
|   | Mixed status families can receive prorated rental assistance that covers only eligible family members. These families pay the rest of the rent themselves.  | Ongoing prorated rental assistance would no longer be available.   |
| <i>Verification of Citizenship and Immigration Status</i> | To verify citizenship and nationality, the PHA or owner must obtain a signed declaration of citizenship or nationality from the individual.<br><br>Public housing authorities have the discretion to request documents proving citizenship.   | To verify citizenship and nationality, the PHA or owner must use the Systematic Alien Verification for Entitlements (SAVE) system at DHS.<br><br>In addition to a signed declaration, the PHA or owner must obtain a signed verification consent form from the individual to access SAVE.<br><br>If SAVE's automated response does not confirm citizenship or nationality, then the PHA or owner must obtain documents to prove citizenship from the individual. |
|   | To verify eligible immigration status, noncitizens must submit: (i) a signed declaration of their status; (ii) documentary proof of their status; and (iii) a signed verification consent form.<br><br>Older noncitizens (62+) only have to submit: (i) a signed declaration of their status and (ii) documentary proof of age. | To verify eligible immigration status, all noncitizens, including older noncitizens, must submit: (i) a signed declaration of their status; (ii) documentary proof of their status; and (iii) a signed verification consent form.<br><br>Older noncitizens would no longer be exempt.  |

<sup>27</sup> *Id.* at 8155, 8169 (proposed 24 CFR § 5.508(b)(1)).

<sup>28</sup> *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)).

<sup>29</sup> *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(ii)-(iii)).

<sup>30</sup> *Id.* at 8153.

<sup>31</sup> *Id.*

### III. Analysis of HUD's Proposed Rule

#### A. Proposed Changes Impacting Mixed Status Families

If finalized, the Proposed Rule will enact changes that will separate mixed status families and evict them from their homes, even though federal law gives these families the right to live together in HUD-subsidized housing.<sup>32</sup> Contrary to HUD's claims that its proposed changes "would bring HUD's Section 214 implementation regulations into greater alignment with the wording and purpose of Section 214," the Proposed Rule is inconsistent with the purpose and text of Section 214.

The Proposed Rule would require every household member to be a U.S. citizen, a U.S. national, or a noncitizen with eligible immigration status.<sup>33</sup> As a result, mixed status families would lose their right to live together in HUD-assisted housing.

##### 1. The Proposed Rule would take away the right of mixed status family members not to contend eligibility.

Members of mixed status families would lose the right not to contend eligibility,<sup>34</sup> which is the way families in which some members are eligible for housing assistance and others are not can live together with prorated financial assistance under Section 214. 42 U.S.C. § 1436a(b)(2) specifically states:

*"If the eligibility for financial assistance of at least one family member has been affirmatively established ... and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the applicable Secretary shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established ... as compared to the total number of individuals who are members of the family."*<sup>35</sup>

Taking away the right not to contend eligibility would therefore force these families either to break up, or move out of their housing in order to remain together. Similarly, although 42 U.S.C. § 1436a(d)(6) requires termination of assistance for individuals who knowingly allow ineligible individuals to live in their unit, it includes a statutory exception for mixed status families:

*"This provision does not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family."*

When Congress added these provisions to Section 214, it had two purposes: to limit scarce housing assistance to eligible immigrants and citizens, and to prevent the breakup of mixed status families.<sup>36</sup> Both the text and the legislative history make clear Section 214's purpose: to allow mixed status families to stay together in HUD-assisted housing.

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<sup>32</sup> 42 U.S.C. §1436a(a).

<sup>33</sup> 91 Fed.Reg. at 8154, 8165 (proposed 24 CFR 5.506(b)(1)).

<sup>34</sup> As noted in 91 Fed.Reg 8151, 8155-56, the Proposed Rule would remove 24 C.F.R. § 5.508(e), which provides:  
If one or more members of a family elect not to contend that they have eligible immigration status, and other members of the family establish their citizenship or eligible immigration status, the family may be eligible for assistance under §§ 5.516 and 5.518, or § 5.520, despite the fact that no declaration or documentation of eligible status is submitted for one or more members of the family.

<sup>35</sup> 42 U.S.C. § 1436a(b)(2) (emphasis added).

<sup>36</sup> Restrictions on Assistance to Noncitizens, 59 Fed.Reg (page unknown) (Aug. 25, 1994) (HUD explaining that "[t]he general Congressional intent of section 214(c)(1) was to protect ``the sanctity of the family''") (citing remarks of Sen.

**2. The Proposed Rule would take away ongoing prorated rental assistance from mixed status families.**

Under the Proposed Rule, mixed status families would no longer receive ongoing prorated rental assistance to cover eligible family members.<sup>37</sup> The Proposed Rule limits the availability of prorated rental assistance to two narrow circumstances: (1) while final verification of citizenship or immigration status is pending,<sup>38</sup> and (2) for a small number of mixed status families who were receiving assistance in June 19, 1995 and who qualify for continued assistance.<sup>39</sup> These proposed changes conflict with 42 U.S.C. § 1436a(b)(2), which provides that assistance to mixed status families “shall be prorated.”<sup>40</sup>

This provision will reduce the amount of HUD housing assistance available for everyone. According to HUD’s regulatory impact analysis, if the Proposed Rule is finalized, then HUD would take away housing assistance from 55,100 U.S. citizens and eligible immigrants who are currently members of mixed status families. HUD acknowledges that it would not be able to replace that assistance on a one-for-one basis. Instead, the number of U.S. citizens and eligible immigrants who would receive HUD assistance would drop to 24,100 – cutting available HUD housing assistance by more than half.<sup>41</sup>

**3. The Proposed Rule makes procedural changes that target mixed status families.**

In addition to taking away the substantive rights of mixed status families to live together in HUD-assisted housing, the Proposed Rule proposed changes to notice requirements and the timeline for verifying citizenship and immigration status in what appears to be an attempt to facilitate the prompt removal of mixed status families from the HUD housing programs.

**a) Notice of Section 214 Requirements**

Under the current law, PHAs and owners must give tenants notice of the Section 214 requirements (“Section 214 Notice”) concurrently with notice of the family’s annual recertification.<sup>42</sup> Under the Proposed Rule, PHAs and owners must give the Section 214 notice within 30 days of the final rule’s effective date to any tenants who have not yet submitted evidence of citizenship or immigration status.<sup>43</sup>

The Proposed Rule also adds problematic language to the Section 214 notice:

[T]he PHA or owner, as applicable, must inform DHS immediately whenever personnel determine that any member of a household is present in the U.S. in violation of the Immigration and Nationality Act. The PHA or owner may meet the reporting requirement

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William Armstrong, 133 Cong. Rec. S18615, December 21, 1987.), <https://www.govinfo.gov/content/pkg/FR-1994-08-25/html/94-20710.htm>.

<sup>37</sup> 91 Fed.Reg. at 8161, 8169 (removing existing 24 CFR 5.516(b)).

<sup>38</sup> *Id.* at 8154, 8165 (proposed 24 CFR 5.506(b)(3)); *Id.* at 8161, 8170 (proposed 24 CFR 5.520(a)(1)).

<sup>39</sup> *Id.* at 8161, 8169-70 (proposed 24 CFR 5.518(a)).

<sup>40</sup> See text accompanying footnote 35.

<sup>41</sup> HUD, Regulatory Impact Analysis: Housing and Community Development Act of 1980: Verification of Eligible Status 17 (Sept. 30, 2025), <https://www.regulations.gov/document/HUD-2026-0199-0006>.

<sup>42</sup> 24 CFR 5.508(f)(1)(ii).

<sup>43</sup> 91 Fed.Reg. at 8156, 8166 (proposed 24 CFR § 5.508(e)(1)(ii))

by conforming with applicable *Federal Register* notices, including Interagency Notices, providing guidance for compliance with PRWORA section 404.<sup>44</sup>

The proposed language misrepresents the scope of the reporting requirement imposed by PRWORA, *i.e.*, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. First, PRWORA's reporting requirement only applies to HUD and PHAs, not owners.<sup>45</sup> There is no statutory basis for HUD to include owners in this provision. Second, PRWORA does not require PHAs to inform DHS "immediately whenever personnel determine that any member of a household is present in the U.S. in violation of the Immigration and Nationality Act."<sup>46</sup> PRWORA's reporting requirement is narrower than HUD's proposed language suggests. It appears that the intended impact of this misleading language is to deter mixed status families from exercising the limited rights they may have and to push them toward self-eviction.<sup>47</sup>

**b) 90-Day Deadline for Mixed Status Family Members to Submit Evidence of Citizenship or Immigration Status**

The Proposed Rule would require members of mixed status families to submit evidence of citizenship or eligible immigration status within 90 days of the final rule's effective date.<sup>48</sup> With this expedited timeline, the Proposed Rule explicitly singles out mixed status families. As for other tenants who have not submitted evidence of citizenship or eligible immigration status as of the final rule's effective date, the Proposed Rule does not require them to do so until the next annual recertification following the final rule's effective date.<sup>49</sup> Tenants can ask for an extension of time for a maximum of 30 additional days.<sup>50</sup>

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<sup>44</sup> 91 Fed.Reg. at 8156, 8166 (proposed 24 CFR § 5.508(e)(2)(vi))

<sup>45</sup> 42 U.S.C. § 1437y.

<sup>46</sup> Section 404 of PRWORA requires HUD to provide information of any individual that the HUD Secretary "knows" is not lawfully present in the United States at least four times annually. 42 U.S.C. § 1437y. The HUD Secretary must also "ensure that each contract for assistance entered into under Section 1437d or 1437f of this title with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency *knows* is not lawfully present in the United States. *Id.* (emphasis added). Because PRWORA does not define "knows," multiple federal agencies, including HUD, issued a joint agency notice defining "knows" for purposes of this reporting requirement. Responsibility of Certain Entities to Notify the Immigration and Naturalization Service of Any Alien Who the Entity "Knows" Is Not Lawfully Present in the United States, 65 Fed.Reg. 58301 (Sept. 28, 2000).

<sup>47</sup> For example, even if the Proposed Rule eliminates ongoing prorated assistance, approximately 130 mixed status families could qualify to receive prorated "continued assistance." Section 214 only makes "continued assistance" available to existing families who were receiving assistance on June 19, 1995. HUD acknowledges this right but at the same time suggests that the reporting provision will keep families from exercising this right: "HUD notes that while this limited set of mixed families may continue to receive prorated assistance under the existing preservation assistance provision, under other elements of this proposed rule family members who cannot provide documentation of any eligible status may be subject to reporting by PHAs, in compliance with PRWORA, and owners ..."

<sup>48</sup> 91 Fed.Reg. at 8156-57, 8166 (proposed 24 CFR 5.508(f)(2)(i)). Neither the 2019 Proposed Rule nor the 2025 Leaked Draft included this deadline specific to mixed status families.

<sup>49</sup> 91 Fed.Reg. at 8156-57, 8166 (proposed 24 CFR 5.508(f)(2)(ii)).

<sup>50</sup> 91 Fed.Reg. at 8157, 8166-67 (proposed 24 CFR 5.508(g)).

Here is a summary of the timeline described in this subsection:

| Deadline   | Action Due  |
|--|---|
| Within 30 days of the final rule's effective date                        | PHA or owner sends a Section 214 notice to all tenants who have not submitted evidence of citizenship and immigration status as of the final rule's effective date.   |
| Within 90 days of the final rule's effective date                        | Members of mixed status families who have not yet submitted evidence of citizenship and immigration status must submit this evidence to their PHA or owner. They may request an extension of time for a maximum of 30 days. |
| By the next annual recertification after the final rule's effective date | All other tenants who have not yet submitted evidence of citizenship and immigration status must submit this evidence to their PHA or owner.  |

## B. Proposed Changes Impacting Verification Requirements

In addition to changes impacting mixed status families, the Proposed Rule would impose new verification requirements for millions of HUD tenants.

### 1. The Proposed Rule would overhaul the process for verifying citizenship for U.S. citizens.

Currently, to establish eligibility for Section 214 housing assistance, U.S. citizens and U.S. nationals only need to provide a signed declaration of their citizenship or nationality status.<sup>51</sup> Public housing authorities have the discretion to request documents proving citizenship, but this policy must be formally included in the PHA Plan.<sup>52</sup>

The Proposed Rule would overhaul the process for verifying citizenship in the covered HUD housing programs. PHAs and owners would no longer rely on signed declarations of citizenship. Instead, HUD is proposing to require PHAs and owners to verify citizenship status through the Systematic Alien Verification for Entitlement (SAVE) system.<sup>53</sup>

Located at the U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security (DHS), SAVE is the automated system that federal benefits agencies have historically used to verify immigrant eligibility. Before 2025, SAVE could not verify citizenship status. Last year, the administration overhauled SAVE to add this function,<sup>54</sup> which is relatively

<sup>51</sup> 24 C.F.R. § 5.508(b)(1).

<sup>52</sup> *Id.*

<sup>53</sup> 91 Fed.Reg. at 8157-58, 8167 (proposed 24 CFR 5.512).

<sup>54</sup> The Brennan Center has published a useful brief that explains the history of SAVE and the risks of using SAVE to verify citizenship for voting purposes, which parallel the concerns about its use in the HUD housing context. Jasleen Singh, Homeland Security's "SAVE" Program Exacerbates Risks to Voters (July 21, 2025), <https://www.brennancenter.org/our-work/research-reports/homeland-securitys-save-program-exacerbates-risks-voters>.

new, carries a high risk of error, and is currently the subject of litigation.<sup>55</sup> HUD itself acknowledges SAVE's limited capacity in the preamble."<sup>56</sup>

With this new use of SAVE, HUD proposes a new verification process that proceeds in two stages: (1) primary verification, and (2) secondary verification.<sup>57</sup> The process is complicated by SAVE's limited capability to review documents verifying citizenship. These complications will likely burden HUD applicants and tenants as well as PHAs and owners. Indeed, PHAs and HUD residents are experiencing in real time the burdens that come from relying on SAVE to verify citizenship under HUD's recent verification directive to PHAs.<sup>58</sup> Furthermore, it is questionable whether any benefits outweigh these burdens in light of HUD's assumption "that there are relatively few noncitizens who falsely declare citizenship under its current rules because individuals who are not eligible citizens or noncitizens have the opportunity to elect 'do not contend.'"<sup>59</sup>

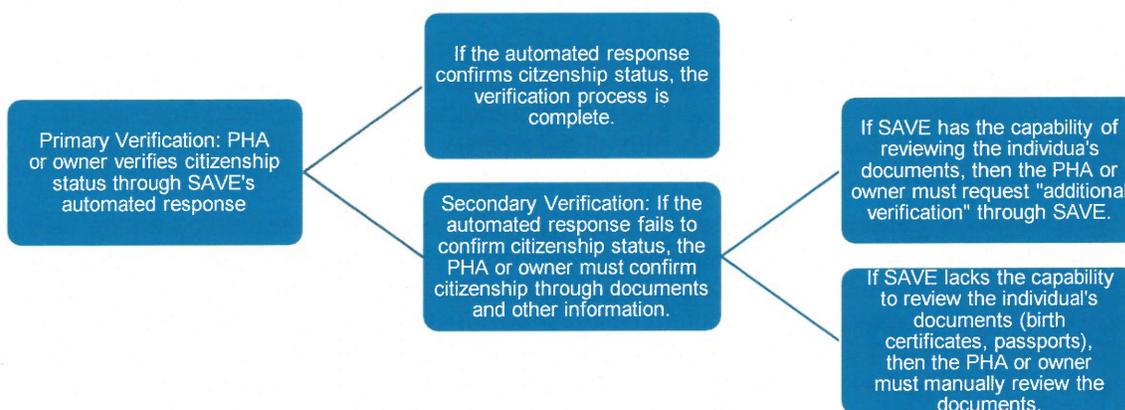


Figure 1. Primary & Secondary Verification of Citizenship Status under the Proposed Rule

**Primary Verification:** With the introduction of SAVE to verify status, U.S. citizens and U.S. nationals would be required to submit a signed verification consent form in addition to their

<sup>55</sup> According to USCIS, the overhaul of SAVE to allow agencies to verify citizenship status through Social Security numbers presented the "risk that [it] may share inaccurate information [about citizenship] with registered agencies [such as HUD], which could in turn impact [the] agency's eligibility determination for an individual." First Amended Supplemental Complaint, *League of Women Voters v. U.S. Dep't. of Homeland Security*, Case No. 25-cv-3501-SLS, 33 ¶ 112 (Jan. 21, 2026) [https://www.citizensforethics.org/wp-content/uploads/2026/01/LWW-v.-DHS-Amended-Complaint-ECF-61\\_R.pdf](https://www.citizensforethics.org/wp-content/uploads/2026/01/LWW-v.-DHS-Amended-Complaint-ECF-61_R.pdf).

<sup>56</sup> See, e.g., 91 Fed.Reg. at 8159 (noting that "[c]urrently, SAVE has limitations on the types of documents and information it can review"); see *id.* (recognizing "the limitations with the SAVE program and the potential need for manual record searches, which may take significant time").

<sup>57</sup> *Id.* at 8158-59, 8167 (proposed 24 CFR 5.512).

<sup>58</sup> See Memorandum from National Housing Law Project to Housing Justice Network, HUD Directive to Public Housing Authorities to Re-Verify Citizenship and Immigration Status (Feb. 3, 2026), <https://www.nhlp.org/wp-content/uploads/HUD-PHA-Directive-Immigration-Re-Verification.pdf>; Letter from National Association of Housing and Redevelopment Officials to Ben Hobbs, Asst. Secretary, Office of Public and Indian Housing, U.S. Dep't of Hous. & Urban Dev. (Feb. 13, 2026), <https://www.nahro.org/wp-content/uploads/2026/02/EIV-SAVE-Letter-to-HUD-2-13-2026-final.pdf>.

<sup>59</sup> 91 Fed.Reg. at 8152 fn. 14.

signed declaration of citizenship.<sup>60</sup> After inputting the individual's information into SAVE, the PHA or owner should receive an automated response. If the SAVE automated response confirms the individual's status, then the verification process is complete.<sup>61</sup>

For instances where primary verification does not confirm an individual's citizenship, the Proposed Rule would require a new notice from the PHA or owner to the individual. The written notice must:<sup>62</sup>

- Describe the results of the primary verification and the need for secondary verification;<sup>63</sup>
- Identify acceptable documentation and/or additional information that the PHA or owner needs to conduct the secondary verification and explain why the documentation or information is needed;<sup>64</sup> and
- Notify the individual that they can pursue a records correction with any agency that issued or maintained the records relevant to verification,<sup>65</sup> rather than with HUD directly.

Secondary Verification: If the SAVE automated response fails to confirm an individual's citizenship status, the PHA or owner would be required to perform a secondary verification.<sup>66</sup> Secondary verification calls for a manual review of documents, so the Proposed Rule would require U.S. citizens and U.S. nationals to submit acceptable documentation and any needed additional information not in document form to the PHA and owner.<sup>67</sup>

The PHA or owner's responsibilities under secondary verification differs depending on the type of document that the individual submits. If the individual submits documents that SAVE cannot review or process, such as birth certificates or passports, the PHA or owner is responsible for manually reviewing the document to confirm citizenship.<sup>68</sup> If the individual submits documents that SAVE can review and process, such as naturalization and citizenship certificates, then the PHA or owner would request "additional verification" through SAVE.<sup>69</sup> To account for the fact that "SAVE is an evolving program with an evolving system which may be able to utilize certain information or documents in the future," HUD is leaving the details about when and in what instances PHAs and owners must request "additional verification" through SAVE to future guidance that HUD may release at some unspecified time.<sup>70</sup>

If the secondary verification fails to confirm U.S. citizenship, then the PHA or owner would have to notify the individual that:

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<sup>60</sup> *Id.* at 8155, 8169 (proposed 24 CFR § 5.508(b)(1)).

<sup>61</sup> *Id.* at 8158.

<sup>62</sup> *Id.* at 8158, 8167 (proposed 24 CFR § 5.512(d)(1)).

<sup>63</sup> *Id.* at 8158, 8167 (proposed 24 CFR § 5.512(d)(1)(ii)).

<sup>64</sup> *Id.* at 8158, 8167 (proposed 24 CFR § 5.512(d)(1)(iii)).

<sup>65</sup> *Id.* at 8158, 8167 (proposed 24 CFR § 5.512(d)(1)(iv)).

<sup>66</sup> *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)).

<sup>67</sup> *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(i)).

<sup>68</sup> *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(ii)).

<sup>69</sup> *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(iii)). HUD explains that "'additional verification' describes a SAVE-specific process that utilizes various approaches such as manual process, manual records searches, and electronic processes, including resubmission of new information and documents." *Id.* at 8159.

<sup>70</sup> *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(iii)); *see also id.* at 8519 ("This guidance *may* provide information on how to proceed depending on the documentation and information received by responsible entities from individuals declaring U.S. citizenship or U.S. nationality, when to request additional verification through the SAVE program, and what responsible entities should do where secondary verification fails.") (emphasis added).

- The individual can pursue a records correction with any agency that issued or maintained the records relevant to verification, rather than with HUD directly; and
- The individual has a right to request an informal hearing with the PHA or owner.<sup>71</sup>

## **2. The Proposed Rule would impose new verification requirements for noncitizens who are 62 and older.**

Under the current rules, the verification requirement for noncitizens depends on the person's age. Older noncitizens (62+) submit a signed declaration of their immigration status and a document proving their age.<sup>72</sup> Noncitizens submit (1) a signed declaration of their immigration status, (2) a document proving their immigration status, and (3) a signed verification consent form.<sup>73</sup> If a family member does not contend eligibility, there is no verification requirement, regardless of their age, because they are not receiving HUD assistance.<sup>74</sup>

The Proposed Rule would remove the exemption for older noncitizens and instead require all noncitizens, regardless of age, to provide the three documents listed above.<sup>75</sup>

Unlike the overhaul of the citizenship verification process, the Proposed Rule only makes one change specific to the process for verifying immigration status, specifically with respect to secondary verification. Under the current rules, if primary verification fails to confirm an individual's immigration status, then the PHA or owner must initiate secondary verification within 10 days.<sup>76</sup> The Proposed Rule removes this provision and instead requires PHAs and owners to request additional verification in the SAVE program within 30 days of receiving the results of primary verification.<sup>77</sup>

Note that although SAVE has historically been used to verify immigration status for the covered HUD housing programs, there is a high risk of human error because PHA and owner staff generally lack expertise in the dozens of immigration statuses available.<sup>78</sup> In a recent letter, HUD also noted that SAVE responses may not be enough on its own and recommend that PHAs also consider Class of Admissions codes to determine immigration status for eligibility purposes.<sup>79</sup>

## **3. The Proposed Rule would remove a provision regarding appeals to the INS.**

The Proposed Rule would remove an existing provision that gives an individual 30 days to appeal to the INS when secondary verification does not confirm their immigration status.<sup>80</sup> The Proposed Rule does not include a corresponding provision to allow appeals to SAVE because

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<sup>71</sup> *Id.* at 8159-60, 8167.

<sup>72</sup> 24 CFR § 5.508 (b)(2).

<sup>73</sup> 24 CFR § 5.508(g)(5).

<sup>74</sup> 24 CFR § 5.508(e).

<sup>75</sup> 91 Fed.Reg. at 8153.

<sup>76</sup> 24 CFR § 5.512(d)(1).

<sup>77</sup> 91 Fed.Reg. at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(3)).

<sup>78</sup> See Letter from Benjamin R. Hobbs, Principal Deputy Assistant Secretary, Office of Public and Indian Housing, U.S. Dep't of Housing & Urban Dev. to Executive Directors of Public Housing Authorities 7 app. A "Crosswalk of SAVE System Responses and Section 214 Eligibility for HUD Assistance" (undated), <https://www.hud.gov/sites/dfiles/PIH/documents/PHA-Letter-on-Citizenship-and-Immigration-Status-Verification.pdf>

<sup>79</sup> *Id.* at 7 fn. 2.

<sup>80</sup> 91 Fed.Reg. at 8160-61, 8168 (proposed 24 CFR § 5.514(e)).

“SAVE does not offer an appeal process, and the SAVE program does not issue or maintain immigration documents and records.”<sup>81</sup>

Note that whereas current law pauses PHA proceedings pending the outcome of the DHS appeal,<sup>82</sup> any termination or eviction process would not be stayed pending the outcome of any process that individuals will have to undertake to correct their records through SAVE, thus raising potential due process issues.

#### IV. Frequently Asked Questions

##### **How does the Proposed Rule differ from the 2019 proposed rule?**

The Proposed Rule is similar to the 2019 proposed rule. Both rules would take away the ability of mixed status families to live together in HUD-assisted housing as well as change the requirements for verifying citizenship and immigration status.

The Proposed Rule differs from the 2019 proposed rule in two significant ways:

1. Whereas the 2019 proposed rule required U.S. citizens to prove their citizenship status through documentary proof (e.g., birth certificate), the 2026 Proposed Rule introduces a two-stage verification process that first relies on automated responses from the Systematic Alien Verification for Entitlements (SAVE) system and then, if necessary, on a manual review of documentary proof by SAVE or the PHA/owner.
2. The 2026 Proposed Rule adds language to the Notice of Section 214 Requirements about reporting requirements by PHAs and owners. The 2019 proposed rule did not refer to these requirements.

##### **How does the Proposed Rule differ from the 2025 leaked draft of the proposed rule?**

The Proposed Rule is similar to the draft rule that ProPublica leaked in September 2025.

The Proposed Rule differs from the draft rule in two significant ways:

1. Whereas the 2025 draft rule required U.S. citizens to prove their citizenship status through documentary proof (e.g., birth certificate), the 2026 Proposed Rule introduces a two-stage verification process that first relies on automated responses from the Systematic Alien Verification for Entitlements (SAVE) system and then, if necessary, on a manual review of documentary proof by SAVE or the PHA/owner.
2. Although both rules included language about reporting requirements by PHAs and owners, the 2025 leaked draft rule proposed to include this language in the verification consent form, while the 2026 Proposed Rule includes this language in the notice of Section 214 requirements.

##### **How does the Proposed Rule relate to HUD’s recent directive to public housing authorities to re-verify citizenship and immigration status?**

Weeks before publishing the Proposed Rule, on January 22, 2026, HUD’s Office of Public and Indian Housing sent an undated letter to public housing authorities (PHAs), instructing them to

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<sup>81</sup> *Id.* at 8160.

<sup>82</sup> 24 CFR 5.514(c)(ii)(B).

re-verify the citizenship and immigration status of a subset of HUD residents within 30 days.<sup>83</sup> This directive raises several issues, which NHLP discusses in a separate memorandum.<sup>84</sup> Notably, one such concern is that this directive wrongly assumed that HUD and PHAs have broad authority to ask for documentary proof of citizenship and immigration status from U.S. citizens and older noncitizens (62+) and to run SAVE inquiries on these individuals without their consent. Indeed, through the Proposed Rule, HUD seeks to change the regulations to give HUD and PHAs the authority that it currently lacks.

In addition, implementation of the directive has raised a lot of unanswered questions about implementation for PHAs<sup>85</sup> and caused panic among immigrant families. Residents and PHAs who are experiencing challenges due to the HUD directive should consider discussing these challenges in their comments about HUD's mixed status rule.

### **I work with mixed status families. What should I communicate to these families?**

To mitigate against the chilling effect of the Proposed Rule on mixed status families, it is important to communicate that the laws have not yet changed and that tenants and advocates are fighting to prevent HUD from making these changes.

HUD has not changed which immigrants are eligible for HUD housing,<sup>86</sup> and mixed status families continue to have the same rights.

- **Mixed status families have the right to stay in HUD-assisted housing** as long as one family member is a U.S. citizen or has eligible immigration status.<sup>87</sup> These families will continue to receive prorated rental assistance that covers only eligible family members.<sup>88</sup>
- **Other family members have the right not to contend eligibility.**<sup>89</sup> These family members should not share their immigration status with their HUD housing provider, and they have no legal obligation to do so. For more information, see NHLP's [know-your-rights resource for tenants about sharing immigration status in HUD housing, available in English and Spanish.](#)

Some families may want to know the process that leads to the law change and how they can fight back. Here is some potential language that we have modified from our know-your-rights materials that you are welcome to use:

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<sup>83</sup> Letter from Benjamin R. Hobbs, Principal Deputy Assistant Secretary, Office of Public and Indian Housing, U.S. Dep't of Housing & Urban Development, to Executive Directors of Public Housing Authorities, 1 (undated), <https://www.hud.gov/sites/default/files/PIH/documents/PHA-Letter-on-EIV-Report.pdf>.

<sup>84</sup> See Memorandum from National Housing Law Project to Housing Justice Network, HUD Directive to Public Housing Authorities to Re-Verify Citizenship and Immigration Status (Feb. 3, 2026), <https://www.nhlp.org/wp-content/uploads/HUD-PHA-Directive-Immigration-Re-Verification.pdf>.

<sup>85</sup> Letter from National Association of Housing and Redevelopment Officials to Ben Hobbs, Asst. Secretary, Office of Public and Indian Housing, U.S. Dep't of Hous. & Urban Dev. (Feb. 13, 2026), <https://www.nahro.org/wp-content/uploads/2026/02/EIV-SAVE-Letter-to-HUD-2-13-2026-final.pdf>.

<sup>86</sup> For a discussion on immigrant eligibility requirements under Section 214 of the Housing and Community Development Act of 1980, see NHLP, Immigration Requirements: Assistance Programs for Housing and Homelessness, Energy, Disaster, and Water 4 (ESG, CoC, CDBG, HOME, FEMA, RUSH, LIHEAP), [https://www.nhlp.org/wp-content/uploads/Immigration-Restrictions\\_Other-Programs.pdf](https://www.nhlp.org/wp-content/uploads/Immigration-Restrictions_Other-Programs.pdf).

<sup>87</sup> 42 U.S.C. §1436a(b)(2); 24 CFR § 5.508(a).

<sup>88</sup> 42 U.S.C. §1436a(b)(2); 24 CFR § 5.520(a).

<sup>89</sup> 42 U.S.C. §1436a(b)(2); 24 CFR § 5.508(a).

HUD cannot change the rule until it completes the rulemaking process. This process takes time and will not happen overnight. On February 20, 2026, HUD published its proposal and give the public 60 days to submit comments and objections. You can submit comments through [www.keep-families-together.org](http://www.keep-families-together.org). The deadline for submitting comments is Tuesday, April 21, 2026. After the 60-day period, HUD will review the comments, which could take weeks, possibly months. After reviewing these comments and objections, HUD may publish a final rule, but it usually does not take effect until 30 days later. During those 30 days, a court may stop the rule if it finds that HUD did not properly consider the comments and objections.



## California Association of Housing Authorities

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March 5, 2026

*Submitted via Regulations.gov and U.S. Mail*

Office of the General Counsel  
Rules Docket Clerk  
U.S. Department of Housing and Urban Development  
451 7th Street, SW, Room 10276  
Washington, DC 20410-0500

RE: DOCKET NO. FR-6524-P-01; RIN 2501-AE16  
Housing and Community Development Act of 1980: Verification of Eligible Status

To Whom It May Concern:

The California Association of Housing Authorities (CAHA), representing 91 public housing authorities in California that collectively administer more than 360,000 Housing Choice Vouchers and over 32,000 public housing units, submits these comments in strong opposition to HUD's proposed rule titled Housing and Community Development Act of 1980: Verification of Eligible Status, published February 20, 2026.

CAHA opposed a nearly identical proposal advanced in 2019, which was never finalized. The current proposal revives and expands that effort. While characterized as a technical alignment with statutory language, the rule represents a significant policy shift that would destabilize tens of thousands of lawfully assisted households, disproportionately harm U.S. citizen children and seniors, and divert public housing agencies from their core mission of providing housing stability.

HUD's own Regulatory Impact Analysis (RIA) acknowledges that the proposed rule would impact nearly 79,600 individuals in more than 20,000 mixed-status households nationwide if prorated assistance is eliminated. Of those individuals, approximately 52,600 are U.S. citizens, and nearly 37,000 are children — almost all of whom are U.S. citizens themselves. These are not theoretical impacts — these are children attending public schools, seniors living on fixed incomes, and extremely low-income working families who are lawfully participating in federal housing programs under regulations that have been in place for decades.

California would bear a disproportionate share of this impact. Current data indicate that approximately 7,190 mixed-status households in California receive HUD-assisted housing, representing roughly 36 percent of all such households nationwide. In a state already facing the highest homelessness levels in the country and among the most unaffordable housing markets in the nation, destabilizing thousands of households will not expand housing opportunity — it will intensify displacement pressure in an already strained system.

### Current Law Already Works — and Works as Intended

Section 214 of the Housing and Community Development Act of 1980 is clear: federal housing assistance may not be provided on behalf of ineligible noncitizens. HUD's long-standing regulations faithfully implement this statutory mandate through prorated assistance. In mixed-status households, subsidy is calculated solely on the basis of eligible family members. Ineligible individuals receive no federal housing assistance.

The proposed rule does not close a loophole. It eliminates a lawful safeguard Congress deliberately preserved to avoid unnecessary family separation and homelessness — particularly for children who are U.S. citizens and fully eligible for assistance.

### The Proposed Rule Causes Harm Without Advancing Statutory Compliance

HUD acknowledges that the rule will adversely affect mixed-status families, yet proceeds on the theory that terminating assistance to mixed-status households is justified if it reallocates scarce resources elsewhere. That premise is flawed.

Mixed-status households constitute a very small fraction of total assisted households. Eliminating their assistance does not create new housing. It does not increase appropriations. It does not meaningfully reduce waitlists. What it does is force families into untenable choices: separation, eviction, or homelessness.

The suggestion that funds will be “redirected” assumes a frictionless housing system that does not exist. Housing assistance is not interchangeable inventory. Evicting a household does not instantly house another — particularly in tight rental markets like California, where vacancy rates are historically low, rents are among the highest in the nation and HUD subsidies have struggled to keep up with those rents. As of November 2025, the HUD HCV Dashboard shows that California (CA) housing authorities are utilizing 104.2% of their budget authority, yet this amount only “buys” vouchers to house 88.7% of the families that CA housing authorities are authorized to assist. Because mixed-status families receive a reduced housing subsidy, they cost less to house than the average for all voucher families. Thus, forcing mixed-status households from our programs will further widen this gap between the cost to house families at market rent and the number of families we can help given current federal funding. Three in four eligible households nationwide already go unassisted due to chronic underfunding. This rule does not address that underlying scarcity. It simply reshuffles limited resources while increasing instability and reducing the overall number of families we serve.

### Disproportionate Impact on Children and Seniors

Nearly half of the individuals in mixed-status households are children. Research consistently demonstrates that housing instability during childhood leads to long-term negative consequences, including lower educational attainment, poorer health outcomes, and diminished economic mobility.

The rule also removes long-standing documentation flexibilities for seniors — many of whom were never required to produce citizenship documentation and may be unable to do so now due to lost records, cost barriers, or physical limitations. For seniors living on fixed incomes, the loss of housing assistance is not a temporary inconvenience; it is a direct pathway to housing insecurity,

homelessness and for those with no remaining family members, even death in some cases given their age and lack of viable housing support options.

In California's high-cost rental markets, the loss of rental assistance almost certainly results in displacement into homelessness. Affordable alternatives simply do not exist at sufficient scale.

### PHAs Are Housing Providers — Not Immigration Enforcement Agencies

The proposed rule would require PHAs to collect, verify, and potentially transmit sensitive immigration-related information, fundamentally altering the relationship between housing providers and residents. This shift undermines trust, chills participation by eligible families, and entangles PHAs in enforcement functions that Congress did not assign to them.

At a time when federal housing programs are chronically underfunded, the rule also imposes significant new administrative burdens. HUD's own prior estimates have placed compliance costs at thousands of dollars per affected household, without any corresponding increase in administrative funding. Redirecting scarce agency resources toward enforcement restructuring detracts from the mission of housing stability.

### Impact on Landlords and Program Reputation

In addition to destabilizing households, the proposed rule would also have a significant impact on landlords participating in the HCV program, many of whom are individuals and couples who own one or two rental units as their retirement fund, or small business owners who rely on consistent rental income to sustain their business while supporting the program's success by providing voucher holders with housing choice. Sudden termination or proration of assistance for mixed-status households would create financial uncertainty for these property owners, undermining their ability to maintain and operate affordable rental units. This disruption not only threatens landlords' livelihoods but also risks eroding confidence in the HCV program, potentially straining relationships with current and prospective property owners and diminishing the program's effectiveness as a reliable housing solution.

### If HUD Proceeds, Changes Must Be Prospective Only

CAHA strongly urges HUD to withdraw the proposed rule in its entirety. However, should HUD elect to proceed, the Department should first extend the public comment period and conduct public hearings to ensure full consideration of the significant impacts identified in its own Regulatory Impact Analysis. The magnitude of potential displacement, administrative burden, and community-level consequences warrants additional opportunity for stakeholders, housing providers, local governments, and affected families to be heard.

Should HUD ultimately finalize a rule, any regulatory modifications must apply prospectively only, to future applicants, and not to current tenants and participants who relied in good faith on long-standing regulations. HUD's own RIA acknowledges regulatory alternatives, including prospective-only application, that would accomplish the Department's stated objectives while minimizing harm.

Retroactively destabilizing existing households is neither required by statute nor consistent with principles of fairness, reliance, and housing stability. Congress expressly preserved protections to prevent family division and displacement. HUD should not eliminate those protections by regulation.

## Conclusion

The proposed rule does not advance HUD's mission to create strong, sustainable, inclusive communities. It does not meaningfully improve statutory compliance. It does not expand housing supply or increase appropriations. Instead, it risks sacrificing housing stability for eligible Americans, particularly children and seniors, during an ongoing affordable housing crisis.

California stands to be affected more than any other state. In housing markets already under extraordinary strain, this rule would compound instability rather than strengthen opportunity.

For these reasons, CAHA respectfully urges HUD to withdraw this proposed rule. Federal housing policy should focus on expanding housing supply, increasing assistance, and preserving stability for eligible households, not revising long-settled regulations in ways that inflict avoidable harm.

Sincerely,

CALIFORNIA ASSOCIATION OF HOUSING AUTHORITIES



JIM KRUSE  
President



## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 5

[Docket No. FR-6524-P-01]

RIN 2501-AE16

#### **Housing and Community Development Act of 1980: Verification of Eligible Status**

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Section 214 of the Housing and Community Development Act of 1980, as amended (“Section 214”), prohibits the Secretary of HUD from making financial assistance available to persons other than United States citizens or certain categories of eligible noncitizens in HUD’s public and specified assisted housing programs. This proposed rule would revise HUD’s Section 214 implementing regulations to require the verification of U.S. citizenship or the eligible immigration status of all applicants and recipients of assistance under a covered program regardless of age. The proposed rule would also make prorated assistance a temporary condition pending verification of eligible status of all family members, where permitted by statute, as opposed to under HUD’s current regulations where prorated assistance could continue indefinitely. These amendments would bring HUD’s regulations into greater alignment with the wording and purpose of Section 214 and align with the current Administration’s priorities and regulatory reform efforts.

**DATES:** *Comments are due by:* [**Insert date 60 days from date of publication in the *Federal Register***].

**ADDRESSES:** There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

**1. Electronic Submission of Comments.** Comments may be submitted electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly encourages

commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through [www.regulations.gov](http://www.regulations.gov) can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that website to submit comments electronically.

**2. Submission of Comments by Mail.** Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500.

**Note:** To receive consideration as a public comment, comments must be submitted through one of the two methods specified above.

**Public Inspection of Public Comments.** HUD will make all properly submitted comments and communications available for public inspection and copying during regular business hours at the above address. Due to security measures at the HUD Headquarters building, you must schedule an appointment in advance to review the public comments by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:**

*Multifamily Housing programs:* Jennifer Larson, Director, Office of Multifamily Asset Management and Portfolio Oversight, Office of Multifamily Housing Programs, Department of Housing and Urban Development, 451 7th Street, SW, Room 6162, Washington, DC 20410; telephone number (202) 402-7769 (this is not a toll-free number).

*Public Housing and Voucher programs:* Todd Thomas, Acting Deputy Assistant Secretary, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 4204, Washington, DC 20410; telephone number (202) 731-1442 (this is not a toll-free number).

HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

## **SUPPLEMENTARY INFORMATION:**

### **I. Section 214 of the Housing and Community Development Act of 1980**

Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) (“Section 214”) prohibits HUD from making certain financial assistance available to persons other than United States citizens or specified categories of eligible aliens. The Section 214 requirements apply to financial assistance provided under the following HUD programs (collectively referred to in this preamble as “Section 214 covered programs” or “covered programs”):

1. Section 235 of the National Housing Act (12 U.S.C. 1715z) (the Section 235 Program);
2. Section 236 of the National Housing Act (12 U.S.C. 1715z-1) (tenants paying below market rent only) (the Section 236 Program);
3. Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) (the Rent Supplement Program); and

4. The United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*) which covers: HUD’s Public Housing programs, the Section 8 rental assistance programs, and the Housing Development Grant programs (with respect to low-income units only).<sup>1</sup>

Section 214(d)(2) states that the “Secretary [of HUD] may not provide ... assistance for the benefit of ... [an] individual before documentation [of eligible immigration status] is presented and verified.”<sup>2</sup> This is consistent with the statute’s goal of ensuring that HUD’s limited financial resources be used to aid families lawfully present in the United States, encompassing U.S. citizens and nationals, as well as noncitizens with eligible immigration status as set forth in Section 214(a). However, Section 214 also contains several provisions to mitigate the potential impacts on the elderly and families. The Housing and Community Development Act of 1987<sup>3</sup> (“1987 HCD Act”) amended Section 214 to apply certain status verification requirements to individuals younger than 62 years of age.<sup>4</sup> The 1987 HCD Act also amended Section 214 to authorize “preservation assistance” to prevent the separation of families already receiving assistance on “the date of enactment of the” 1987 HCD Act (i.e., February 5, 1988). Specifically, Section 214(c)(1)(A) authorizes the continuation of assistance to such a family if “necessary to avoid the division of the family” and the head of household or spouse has eligible immigration status.<sup>5</sup> Assistance to such families, however, “may be provided only on a prorated basis, under which the amount of financial assistance is based on the percentage of the total number of [eligible] members.”<sup>6</sup> Section 214(c)(1)(B) also authorized the temporary deferral of termination of assistance for families receiving assistance on February 5, 1988, but who were ineligible for

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<sup>1</sup> Section 214(b). Additional limitations on noncitizen eligibility are also found in the Personal Responsibility and Work Opportunity Act of 1996, 8 U.S.C. 1611(b)(1)(E).

<sup>2</sup> Section 214(i)(2) and HUD’s regulations at 24 CFR 5.512(b) provide that a PHA may provide assistance before affirmatively verifying eligibility. This discretion is not permanent and PHAs are obligated to complete verification of all members of the family except citizens and persons with eligible immigration status who are 62 years of age or older.

<sup>3</sup> Public Law 100-242, enacted February 5, 1988, <https://www.congress.gov/100/statute/STATUTE-101/STATUTE-101-Pg1815.pdf>.

<sup>4</sup> Section 214(d)(2).

<sup>5</sup> Section 214(c)(1)(A).

<sup>6</sup> *Id.*

continued assistance on a prorated basis “to permit the orderly transition of the individual and any family members involved to other affordable housing.”<sup>7</sup>

## II. HUD’s Regulations Implementing Section 214

HUD’s original regulations implementing Section 214 were promulgated by final rule published on March 20, 1995, with an effective date of June 19, 1995 (“the 1995 final rule”).<sup>8</sup> The 1995 final rule created virtually identical noncitizens regulations for the various HUD programs covered by Section 214. On March 27, 1996,<sup>9</sup> HUD published a final rule that streamlined these regulations by consolidating requirements in a new subpart E to 24 CFR part 5 (titled “Restrictions on Assistance to Noncitizens”), which is still codified and in effect. HUD has amended 24 CFR part 5, subpart E, several times through rulemaking to incorporate and implement statutory changes<sup>10</sup> and to make conforming amendments as part of cross-cutting rulemakings that revised regulations for Section 214 covered programs, among other regulations.<sup>11</sup>

The preamble to the 1995 final rule stated that, for purposes of eligibility for preservation assistance, HUD considered the effective date of the final rule as the pivotal date rather than the date of enactment of the statute. As noted above, the amendments to Section 214 made by the 1987 HCD Act condition a family’s eligibility for preservation assistance on the family’s receipt of assistance on the date of the statute’s enactment. HUD explained in the preamble to the 1995 final rule that it had determined the provisions of Section 214 too “complex to be determined self-implementing as of the date of enactment of the 1987 HCD Act (February 5, 1988).” Thus, HUD’s regulations use the effective date of the final rule (June 19, 1995) as the relevant date for determining eligibility for preservation assistance.

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<sup>7</sup> Section 214(c)(1)(B)(i).

<sup>8</sup> 60 FR 14816.

<sup>9</sup> 61 FR 13614.

<sup>10</sup> 61 FR 60535, Nov. 29, 1996; 64 FR 25726, May 12, 1999; 67 FR 65272, Oct. 23, 2002.

<sup>11</sup> 63 FR 23826, April 30, 1998; 81 FR 12354, Mar. 8, 2016; 88 FR 9600, Feb. 14, 2023; 89 FR 38224, May 7, 2024.

HUD's current regulations require that each family member applying for assistance under a Section 214 covered program either: (1) submit a declaration declaring that he or she is a U.S. citizen, as defined in 24 CFR 5.504(b), or a noncitizen with eligible immigration status;<sup>12</sup> or (2) elect not to contend eligible immigration status and, therefore, not submit documentation for verification.<sup>13</sup> Notably, HUD's current regulations do not require verification of citizenship for persons declaring to be U.S. citizens, whereas persons declaring eligible immigration status must submit evidence, including documentation, for verification purposes.<sup>14</sup> Family members who declare themselves eligible noncitizens must provide the original of a document designated by the Department of Homeland Security ("DHS")<sup>15</sup> as acceptable evidence of immigration status<sup>16</sup> and consent to transmittal of a copy of the document and the information contained on the document to DHS to verify whether the individual has eligible immigration status.<sup>17</sup> Verification of the immigration status of the individual can be completed by utilizing Systematic Alien Verification for Entitlements ("SAVE"). SAVE is an online service administered by U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security (DHS), that allows registered federal, state, and local government agencies to verify immigration status and U.S. citizenship of applicants seeking benefits, licenses, and for other authorized purposes.<sup>18</sup>

Section 214 directly speaks to proration of assistance in two circumstances: (1) When at least one family member has verified eligibility, the eligibility for other family members has not

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<sup>12</sup> 24 CFR 5.508(c).

<sup>13</sup> 24 CFR 5.508(e).

<sup>14</sup> However, HUD assumes that, for the purposes of the preamble discussion as well as the Regulatory Impact Analysis, there are relatively few noncitizens who falsely declare citizenship under its current rules because individuals who are not eligible citizens or noncitizens have the opportunity to elect "do not contend."

<sup>15</sup> HUD's regulations refer to the Immigration and Naturalization Service (INS), a predecessor agency to DHS; INS was disbanded on March 1, 2003, and its "constituent parts contributed to 3 new federal agencies serving under the newly-formed Department of Homeland Security," Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS). OVERVIEW OF INS HISTORY, USCIS HISTORY OFFICE AND LIBRARY, 11 (2012), <https://www.uscis.gov/sites/default/files/document/factsheets/INSHistory.pdf>.

<sup>16</sup> 24 CFR 5.510.

<sup>17</sup> 24 CFR 5.508(d)(2).

<sup>18</sup> <https://www.uscis.gov/save>.

been affirmatively established, and no family member has been established as ineligible; and (2) as prorated continued assistance, which is a form of preservation assistance and is explained in more detail later in this preamble.<sup>19</sup> Both types of prorated assistance, as implemented in HUD's existing regulations, follow the applicable calculation methods laid out in 24 CFR 5.520.

For the first type of prorated assistance: HUD's current regulations require that financial assistance made available to a "mixed family" be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established.<sup>20</sup> Under HUD's current regulations, "mixed family" means a family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status. 24 CFR 5.504(b). Under existing § 5.516(a)(1)(iii), this type of prorated assistance must be provided to mixed families if they so request.

The second type of prorated assistance applies in limited circumstances. Section 214(c)(1)(A) provides for proration of preservation assistance for families that were receiving assistance under a Section 214 covered program on February 5, 1988; with a head of household or spouse who is a citizen or national of the United States or in eligible immigration status; and without any family member who does not have eligible immigration status other than the head of household, the head of household's spouse, the parents of either the head of household or spouse, and any children of the head of household or spouse. Existing § 5.518(a)(1) implements these statutory requirements for prorated continued assistance.<sup>21</sup> Prorated continued assistance is one of two options for preservation assistance under Section 214; the other is temporary deferral of termination of assistance.<sup>22</sup>

### **III. This Proposed Rule**

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<sup>19</sup> 42 U.S.C. 1436a(b)(2) and (c)(1)(A).

<sup>20</sup> 24 CFR 5.516(a)(1)(iii).

<sup>21</sup> 42 U.S.C. 1436a(c)(1)(A); 24 CFR 5.518(a)(1).

<sup>22</sup> 42 U.S.C. 1436a(c)(1)(B); 24 CFR 5.518(b).

Several factors have prompted HUD to reconsider its noncitizen regulations. This proposed rule would bring HUD’s Section 214 implementing regulations into greater alignment with the wording and purpose of Section 214 by revising HUD’s regulations to require the verification of U.S. citizenship or the eligible immigration status of all applicants and recipients of assistance under a covered program regardless of age, and to make prorated assistance a temporary condition pending verification of eligible status of all family members, where permitted by statute. These amendments would also align with the current Administration’s priorities and regulatory reform efforts. Further, on February 19, 2025, the President issued Executive Order 14218, “*Ending Taxpayer Subsidization of Open Borders*” (“EO 14218”).<sup>23</sup> Among other provisions, section 2(a) of EO 14218 directs the head of each Department or agency, including HUD, to enhance eligibility verification systems, to the maximum extent possible, to ensure that taxpayer-funded benefits exclude any ineligible alien.

Additionally, consistent with the current Administration’s regulatory reform efforts,<sup>24</sup> HUD has undertaken a comprehensive review of its regulations to reduce unnecessary regulatory burdens, enhance the effectiveness of those regulations that are necessary, and promote principles underlying the rule of law, including ensuring the conformity of regulations with statutory mandates. HUD believes the proposed regulatory amendments are consistent with the principles of EO 14218 and the current Administration’s regulatory reform efforts.<sup>25</sup> The policy changes will bring HUD’s regulations into greater alignment with the requirements of Section 214 and make the administrative process for verification more uniform for citizens and eligible noncitizens.

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<sup>23</sup> Executive Order 14218 was published in the *Federal Register* at 90 FR 10581 on February 25, 2025.

<sup>24</sup> See, e.g., Executive Order 14192 of January 31, 2025 (“*Unleashing Prosperity Through Deregulation*”), published in the *Federal Register* at 90 FR 9065 on February 6, 2025; and Executive Order 14219 of February 19, 2025 (“*Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative*”), published in the *Federal Register* at 90 FR 10583 on February 25, 2025.

<sup>25</sup> Section 2(a)(i) of Executive Order 14218 provides, “(a) . . . [T]o ensure, to the maximum extent permitted by law, that no taxpayer-funded benefits go to unqualified aliens, the head of each executive department or agency (agency) shall: (i) identify all federally funded programs administered by the agency that currently permit illegal aliens to obtain any cash or non-cash public benefit, and, consistent with applicable law, take all appropriate actions to align such programs with the purposes of this order and the requirements of applicable Federal law . . . .”

HUD acknowledges that this rulemaking would adversely affect some tenants and applicants for Section 214 covered programs, especially mixed families and ineligible aliens, as well as responsible entities. The most significant effect of this rulemaking would be to transfer assistance from mixed status families to fully eligible households. However, HUD believes that this cost is adequately offset by the reallocation of HUD funds to the intended recipients. Additionally, as explained in the Regulatory Flexibility Act and Paperwork Reduction Act sections of this preamble, HUD believes that the impact on responsible entities would be low. Therefore, HUD has determined that this proposed rule balances the interests of affected parties and responsible entities while improving compliance with statutory obligations and aligning with policy goals.

This rule is proposing the following changes to HUD's regulations in 24 CFR 5.216 and 24 CFR part 5, subpart E:

*§ 5.216 Disclosure and Verification of Social Security and Employer Identification Numbers.*

HUD's existing regulations at 24 CFR 5.216 require all applicants and participants to disclose their Social Security Numbers (SSNs) or Employer Identification Numbers except for those who do not contend eligible immigration status. As explained earlier in this preamble, this proposed rule would remove the "do not contend" provision in existing § 5.518(e). HUD is therefore proposing to remove the phrase "except that this section is inapplicable to individuals who do not contend eligible immigration status under subpart E of this part (see § 5.508)" in § 5.216(a) because this qualifying language would no longer be necessary.

HUD's existing regulations at 24 CFR 5.216(e) also exclude participants in HUD housing programs age 62 or older as of January 31, 2010, from submitting certain information including SSNs. Through this proposed rule, HUD is proposing to revise the phrase "except those age 62 or older as of January 31, 2010," from 24 CFR 5.216(e)(1)(i) because this proposed rule would require all applicants and tenants in Section 214 covered programs to submit evidence of U.S. citizenship or eligible immigration status regardless of age. To further effectuate these proposed

changes, HUD is proposing to remove language referring to the January 31, 2010, date in § 5.216(e)(1)(i) and replace it with language providing that each participant whose initial determination of eligibility was begun before the effective date of a future final rule for this rulemaking must submit the information described in the next paragraph, (e)(1)(ii), including a SSN. This applies if the participant meets one of the conditions in existing paragraphs (e)(1)(i)(A)-(C): the participant has not previously disclosed an SSN, has previously disclosed a SSN that HUD or the Social Security Administration found invalid, or has been issued a new SSN.

Together, the result of these changes would affect all participants 62 years of age or older as of January 31, 2010, and all participants who had previously elected to not contend eligible immigration status, who have not yet provided a valid SSN. Following the effective date of the final rule for this rulemaking, these individuals must provide a valid SSN for U.S. citizenship or, as applicable, eligible immigration status verification. These changes would also effectuate other proposed changes in § 5.512(c) of this rulemaking that would require use of a SSN, and/or other information, to conduct verification through SAVE.

*§ 5.504(b): Definitions.*

To replace outdated terminology, HUD is proposing to remove the definition of “INS” in § 5.504(b) and add a definition of “DHS,” which would mean the Department of Homeland Security.

Because HUD is proposing changes through this rulemaking throughout 24 CFR part 5, subpart E, to remove references to the outdated or nonexistent programs under Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) (the Rent Supplement Program) and Section 235 of the National Housing Act (12 U.S.C. 1715z) (the Section 235 Program), HUD is proposing to remove the definition of “Housing covered programs” and simply replace instances of this term throughout 24 CFR part 5, subpart E, with “the Section 236 Program.”

Section 214(c) uses the phrase “preservation of families” when describing two specific types of assistance that are available to eligible families in limited circumstances.<sup>26</sup> Section 214(c) provides that a responsible entity<sup>27</sup> or applicable Secretary shall take one of two actions if, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on February 5, 1988, is to be terminated. The first statutory option is the continued provision of financial assistance as prorated assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an individual with eligible immigration status. HUD’s regulations describe this as “continued assistance.” See 24 CFR 5.516(a)(1)(i) and 5.518(a). The second statutory option is to defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing. In accordance with statutory requirements, HUD’s regulations describe this as “temporary deferral of termination of assistance.” See 24 CFR 5.516(a)(1)(ii) and 5.518(b). HUD’s current regulations use the term “preservation assistance” as an umbrella term that includes these types of assistance. See 24 CFR 5.516 and 5.518. Therefore, HUD is proposing a new definition for “preservation assistance,” which would be defined to mean types of assistance under Section 214, including prorated continued assistance and temporary deferral of termination of assistance, available to eligible families pursuant to the requirements in §§ 5.516 and 5.518, which implement statutory requirements for these specific types of assistance. HUD is proposing to remove the third type of preservation assistance in HUD’s existing regulations, “prorated assistance,” see 24 CFR 5.516(a)(1)(iii), through this proposed rule. For more information, see the sections later in this preamble discussing §§ 5.516, 5.518, and 5.520.

HUD is also proposing changes to the definition of “responsible entity” to remove outdated references to the Section 235 Program under the National Housing Act and to add

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<sup>26</sup> 42 U.S.C. 1436a(c).

<sup>27</sup> The phrase “responsible entity” as used in this preamble refers to a PHA or owner, depending on the Section 214 covered program, see existing and proposed 24 CFR 5.504(b).

language clarifying that the responsible entities for the Section 236 Program are mortgagors or project (or housing) owners (if uninsured) and, for the project-based Section 8 Program, are project or housing owners. Related to this change, HUD is proposing to remove the second sentence from the definition of “tenant,”<sup>28</sup> which pertains to the Section 235 Program.

Finally, throughout HUD’s regulations there is language referring to the required evidence of eligible status under § 5.508, such as “evidence of eligible immigration status” or “evidence of citizenship or eligible immigration status,” but existing § 5.504(b) defines the term “evidence of citizenship or eligible status” without the word “immigration.” HUD is proposing technical edits throughout 24 CFR part 5, subpart E, to standardize language so it reflects the defined phrase in HUD’s existing regulations, “evidence of citizenship or eligible status.”

*§ 5.506(b): Family eligibility for assistance.*

HUD is proposing changes to regulatory requirements regarding which families may receive which types of assistance to better implement statutory requirements and add clarifying details. At proposed 24 CFR 5.506(b)(1), this rule would provide that, to be eligible for assistance, every family member residing in the unit must have eligible status as described in paragraph (a), unless the family meets the conditions in paragraphs (b)(2) or (3) of that section, which aligns with statutory requirements and exceptions.

HUD would like to clarify that as used in proposed § 5.506(b)(1) of this rule, “every member of the family” does not include live-in aides and foster adults or foster children, consistent with HUD’s rulemaking implementing sections 102, 103, and 104 of the Housing Opportunity and Modernization Act of 2016 (HOTMA 2016 final rule). See 88 FR 9600.

Existing 24 CFR 5.506(b)(2) provides that a mixed family may be eligible for one of the types of preservation assistance provided in 24 CFR 5.516 and 5.518 (which discuss types of preservation assistance such as prorated continued assistance), and that a family without any

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<sup>28</sup> The sentence states, “For purposes of this subpart E, the term ‘tenant’ will also be used to include a homebuyer, where appropriate.”

eligible members and receiving assistance on June 19, 1995, may be eligible for temporary deferral of termination of assistance under §§ 5.516 and 5.518. Existing § 5.506(b)(2) captures the second type of prorated assistance and both forms of preservation assistance, discussed elsewhere in this preamble. HUD is proposing to revise this paragraph to restructure the sentence to more closely align with the statutory language of Section 214. Revised § 5.508(b)(2) would provide that despite the ineligibility of one or more family members, a family that was receiving assistance under a Section 214 covered program on June 19, 1995, may be eligible for continued assistance under §§ 5.516 and 5.518.<sup>29</sup> If the family does not qualify for continued assistance, then temporary deferral of termination of assistance under proposed §§ 5.516 and 5.518 may be an option for that family. (As explained in existing and proposed § 5.518(b), continued assistance under § 5.518 must be prorated in accordance with § 5.520.)

HUD is proposing a new § 5.506(b)(3) that would capture the type of prorated assistance discussed earlier in this preamble where at least one family member has verified citizenship or eligible immigration status and the remaining family members' verification is pending. Section 5.506(b)(3) would provide that a family with at least one family member of any age who has U.S. citizenship, U.S. nationality, or eligible immigration status is eligible for prorated assistance under § 5.520 pending final verification of the eligibility of other family members. This proposed change more closely aligns HUD's regulations with the statutory language of Section 214, which does not use the phrase "mixed families" but instead states that if "at least one member of a family" has affirmatively established eligibility under the program and Section 214, and the ineligibility of one or more family members has not been affirmatively established under Section 214, any financial assistance made available must be prorated based on the number of eligible family members. Prorated assistance under this proposed paragraph would be temporary while

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<sup>29</sup> HUD notes that while this limited set of mixed families may continue to receive prorated assistance under the existing preservation assistance provision, under other elements of this proposed rule family members who cannot provide documentation of any eligible status may be subject to reporting by PHAs, in compliance with PRWORA, and owners (depending on determinations made by the PHA or owner about whether a member of a household is ineligible for assistance because the individual is present in the U.S. in violation of the Immigration and Nationality Act).

verification of eligible status is ongoing for outstanding members of the family. At the time of enactment of Section 214, verification of eligible immigration status was a manual, paper-driven process that could take days or even weeks to complete. Prorated assistance struck a balance with timely permitting assistance but providing an incentive to cooperate in timely completion. Today, verification through SAVE is almost instantaneous in most instances.<sup>30</sup> Similarly, this proposed rule at § 5.512(c) would require responsible entities to verify citizenship and immigration status through SAVE or, in cases where secondary verification is needed, see proposed § 5.512(c)(2) and (d), through review of submitted documents and, as specified in HUD guidance, by instituting secondary verification in SAVE. Thus, prorated assistance should rarely be applicable and then of short duration.<sup>31</sup> However, this proposed rule would not prevent assistance from being provided, as applicable under HUD's regulations, before secondary verification or informal hearing proceedings have concluded, see 24 CFR 5.512 and 5.514.

*§ 5.508 Submission of evidence for verification of eligible immigration status.*

HUD is proposing several substantive changes to 24 CFR 5.508, as well as technical changes for consistency with changes discussed in other sections in this preamble.

*§ 5.508(b)(1): Evidence of citizenship.*

Under HUD's current regulations at 24 CFR 5.508(b)(1), U.S. citizens and U.S. nationals must submit a signed declaration of U.S. citizenship or U.S. nationality to the responsible entity and the responsible entity may—but is not required to—request additional documentation for these individuals. In this proposed rule, HUD is proposing revisions to § 5.508(b)(1) to require persons who declare themselves to have U.S. citizenship or U.S. nationality to provide a signed declaration, as is the case under HUD's existing regulation, and, newly, a verification consent form. HUD is proposing elsewhere in this rulemaking that responsible entities will verify U.S. citizenship and/or immigration status through submission of biographic information (first name,

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<sup>30</sup> <https://www.uscis.gov/save/about-save/save-verification-response-time>.

<sup>31</sup> This does not apply to prorated assistance provided to families eligible for continued assistance as preservation assistance. See 24 CFR 5.516 and 5.518.

last name, and date of birth) and an approved government-issued numeric identifier, including a Social Security number, to SAVE (see proposed § 5.512(c)).<sup>32</sup> Because of this change, HUD is proposing in § 5.508(b)(1) to require persons declaring U.S. citizenship or U.S. nationality to provide a verification consent form as described in proposed § 5.508(d) to consent to responsible entities' submission of information to SAVE<sup>33</sup> and, in instances of cases which may require secondary verification, to collect and review documentation.

HUD is proposing to remove the existing language in § 5.508(b)(1) permitting responsible entities to request documentation to verify a citizenship declaration during an individual's initial submission of evidence. Under this proposed rule, documentation for citizenship verification purposes would be required for purposes of secondary verification of U.S. citizenship, see proposed § 5.512(c)(2) and (d)(2).

*§ 5.508(b)(2) and (3): Evidence of eligible immigration status.*

HUD's regulations currently require that responsible entities verify the eligible immigration status of all noncitizen recipients of assistance under a Section 214 covered program who are under the age of 62 beginning with these recipients' submission of evidence pursuant to 24 CFR 5.508(b)(2) and (3). This rulemaking proposes to require all noncitizens, regardless of age, in Section 214 covered programs to submit evidence of citizenship or eligible status by removing existing paragraph (b)(2) and redesignation of existing paragraph (b)(3) as (b)(2) and revising it to state that all noncitizens must provide the evidence documents specified therein. These changes help effectuate the goal of this proposed rulemaking to ensure that only U.S. citizens or nationals and eligible noncitizens under Section 214 and other relevant legal authorities benefit from HUD federal financial assistance.

*§ 5.508(c) and (d): Declaration and verification consent form.*

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<sup>32</sup> For more information on U.S. citizenship and SAVE, see <https://www.uscis.gov/save/about-save/about-save>.

<sup>33</sup> User agencies must execute a Memorandum of Agreement with DHS/USCIS and register to use the SAVE program in order to receive point in time immigration status and U.S. citizenship information for benefit applicants. HUD as the User-Agency provides access to PHAs and owners to use SAVE.

HUD's existing regulations at § 5.508(c) require only individuals who contend to have eligible status to submit a declaration to the responsible entity. Similarly, § 5.508(d)(1) currently provides that each noncitizen who declares eligible immigration status, except certain noncitizens who are 62 years or older as described in paragraph (b)(1) of that section, must sign a verification consent form. Since HUD is proposing to remove the option for individuals to not contend that they have U.S. citizenship or eligible immigration status (see the next section in this preamble), HUD is proposing in § 5.508(c) that each family member, regardless of age, must submit a written declaration that the person is a U.S. citizen or a noncitizen with eligible immigration status as set forth in HUD's regulations.

HUD is further proposing, in § 5.508(d)(1), that each family member regardless of age, must sign a verification consent form.<sup>34</sup> Under proposed § 5.508(d)(2), this form must provide notice that responsible entities will collect and review evidence of citizenship or eligible status for verification purposes and that responsible entities may release this evidence to HUD, as required by HUD, and to DHS for purposes of verifying U.S. citizenship or eligible immigration status. Proposed § 5.508(d)(3) would provide similar notice, but about the possible release of evidence of U.S. citizenship and eligible immigration status by HUD to DHS only for verification purposes. The requirement to sign the verification consent form would include all noncitizens in Section 214 covered programs, regardless of age, in conformity with proposed changes to § 5.508(b)(2) that would require all noncitizens in Section 214 covered programs, regardless of age, to submit evidence documents for verification purposes. As explained earlier in this preamble, "each family member" would not include live-in aides and foster adults or foster children consistent with HUD's HOTMA 2016 final rule. See 88 FR 9600.

*Existing § 5.508(e): The "do not contend" provision.*

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<sup>34</sup> HUD notes that it does not propose to adopt a specific consent form for use by Responsible Entities. Owners and PHAs will remain responsible for creating the declaration and consent forms, consistent with current HUD procedures. The content of these consent forms must be consistent with 24 CFR 5.508(d)(2) and (3).

The language of Section 214 contemplates that HUD assistance under a covered program will generally be contingent on verification of eligible status of applicants and tenants. However, the “do not contend” provision in 24 CFR 5.508(e) does not align with the statute. Section 214 does not provide any option for a family member to not contend eligible status. Section 5.508(e) in HUD’s existing regulations excuses individuals from submitting documentation if they do not contend to have eligible immigration status. This results in no actual determination of immigration status being made. HUD is therefore proposing to remove the option in § 5.508(e) for persons to elect “do not contend” to have eligible status of any kind (citizenship, nationality, or immigration status). This proposed change will better conform HUD’s regulations to the statutory language of Section 214: the proposed change would ensure that the eligibility of all individuals in a Section 214 covered program has been verified with the support of SAVE.

Additionally, the “do not contend” provision in 24 CFR 5.508(e) facilitates the indefinite use of prorated assistance by a mixed family. Upon reconsideration of its implementing regulations for Section 214, HUD believes that Section 214 requires that no financial assistance be provided to, or on behalf of, an individual if his or her eligible status has not been verified, except for the time that it takes to verify that individual’s eligible status.<sup>35</sup> In this respect, Section 214 generally provides that “with respect to a family, the term ‘eligibility’ means the eligibility of each family member.” HUD believes that an individual without verified eligible status living in a mixed household receiving long-term prorated assistance is benefiting from HUD financial assistance in a way that is prohibited by Section 214. As explained earlier in this preamble, see the section discussing § 5.506(b), verification was previously a manual, paper-driven process that took considerable time, but contemporary verification through SAVE is almost instantaneous in most instances.<sup>36</sup> Thus, prorated assistance should rarely be applicable and then

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<sup>35</sup> This does not apply to prorated assistance provided to families eligible for continued assistance as preservation assistance. See 24 CFR 5.516 and 5.518.

<sup>36</sup> <https://www.uscis.gov/save/about-save/save-verification-response-time>.

of short duration,<sup>37</sup> unless, for example, secondary verification or an informal hearing process is ongoing. The “do not contend” provision is inconsistent with the statutory requirements insofar as it permits prorated assistance of unlimited duration. Because HUD is proposing to remove existing § 5.508(e) and not replace it with other text, HUD is also proposing to redesignate existing § 5.508(f)-(i) as paragraphs (e)-(h). § 5.508(e): Notification of requirements of Section 214.

Proposed § 5.508(e) (currently § 5.508(f)) concerns the notification that responsible entities must provide to applicants and tenants for Section 214 covered programs concerning requirements under Section 214 and HUD’s implementing regulations.

As stated earlier in this preamble, HUD’s regulations currently do not require individuals to submit evidence to verify a declaration of citizenship; a responsible entity may, at its discretion, request such evidence. However, HUD is proposing through this rulemaking to require applicants and tenants to submit evidence of U.S. citizenship to responsible entities with any declaration of U.S. citizenship. Additionally, as stated earlier in this preamble, because of the existing “do not contend” provision, some persons in HUD housing assisted by Section 214 covered programs have not submitted evidence of citizenship or eligible status; HUD is proposing to remove the “do not contend” provision, existing § 5.508(e).

Because of these proposed changes, proposed § 5.508(e)(1)(ii) would require responsible entities to provide notification of Section 214 requirements to certain tenants no later than 30 days after the effective date of HUD’s final rule for this rulemaking. This would apply to tenants that have not submitted evidence of citizenship or eligible status as of the effective date of HUD’s final rule for this rulemaking, including tenants who have previously elected they do not contend to have eligible status.

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<sup>37</sup> This does not apply to prorated assistance provided to families eligible for continued assistance as preservation assistance. See 24 CFR 5.516 and 5.518.

HUD is also proposing a new paragraph (e)(2)(iv) in § 5.508 that would require the notification provided by responsible entities to applicants and tenants to include a statement that assistance may be prorated based on the calculations provided in § 5.520 to a family with at least one family member of any age who has U.S. citizenship, U.S. nationality, or eligible status pending final verification of the status of other family members, or to families eligible for continued assistance pursuant to § 5.516 and § 5.518. This clarifies the two ways assistance may be prorated under Section 214 and HUD's implementing regulations for applicants and tenants receiving the required notification.

Public Housing Authorities (PHAs) have certain reporting requirements laid out in an Interagency Notice providing guidance for compliance with Personal Responsibility Work Opportunity Reconciliation Act of 1996 (PRWORA) section 404; this Interagency Notice was published on September 28, 2000. See 65 FR 58301 ("2000 Interagency Notice"). In the preamble to HUD's May 12, 1999, final rule 24 CFR part 5, subpart E, titled "Revised Restrictions on Assistance to Noncitizens," 64 FR 25726, HUD explicitly stated that the rule did not implement the provisions of PRWORA which concern immigration and that such required changes would be the subject of future rulemaking. Subsequent revisions to subpart E, however, did not codify PHAs' reporting requirement which was later clarified in the 2000 Interagency Notice. Additionally, HUD has determined that owners should align with PHAs on this PRWORA reporting requirement. Therefore, HUD is proposing, through this rulemaking, to add a new § 5.508(e)(2)(vi) providing that PHAs or owners, as applicable, may meet reporting requirements by conforming with applicable *Federal Register* Notices, including Interagency Notices (such as the 2000 Interagency Notice at 65 FR 58301), regarding compliance with section 404 of PRWORA. Proposed § 5.508(d)(4) would require the verification consent form to notify individuals that public housing agencies (PHAs) or owners, as applicable, must inform DHS immediately whenever personnel determine that any member of a household is present in the U.S. in violation of the Immigration and Nationality Act. The proposed revision in this rule

would affirm this longstanding reporting requirement under PRWORA, ensuring applicants and existing households have notice of PHAs' obligation to comply with section 404 of PRWORA, and provide individuals with notice of this obligation on PHAs. HUD is also proposing through this rulemaking to extend this requirement to owners to create more uniform program requirements.

Finally, HUD is proposing to reorganize what is currently paragraph (f)(2)(iii), and is paragraph (e)(2)(iii) in this proposed rule, by moving the last sentence—which requires the notification to include information for tenants on how to obtain assistance under §§ 5.516 and 5.518—to a new paragraph (e)(2)(v).

*§ 5.508(f): When evidence of citizenship or eligible status is required to be submitted.*

Proposed § 5.508(f) (currently § 5.508(g)) concerns when applicants and tenants must submit evidence of citizenship or eligible status. Because of changes described elsewhere in this preamble, HUD is proposing in § 5.508(f)(2)(i) that tenants in mixed families and in a Section 214 covered program who have not previously submitted evidence of citizenship or eligible status would be required to do so within 90 days of the effective date of HUD's final rule for this rulemaking, in accordance with program requirements. This change would further the goal of this proposed rulemaking to ensure that only U.S. citizens or nationals and eligible noncitizens under Section 214 and other relevant legal authorities benefit from HUD federal financial assistance.

Under proposed § 5.508(f)(2)(ii), all other tenants in a Section 214 covered program who have not previously submitted evidence of citizenship or eligible status would be required to do so at the next annual or interim reexamination of income and household composition after the effective date of a final rule for this rulemaking, in accordance with program requirements. This proposed rule would not change the timing of verification for new applicants to a Section 214 covered program, see proposed § 5.508(f)(1).

Existing § 5.508(g)(3), which corresponds to § 5.508(f)(3) in this proposed rule, speaks to when new occupants of assisted units must submit required evidence and requires submission at the first interim or regular reexamination following the person’s occupancy. Upon reconsideration, HUD has determined that the term “occupant” here means new family members: Only family members would come to reside in an assisted unit as contemplated by existing § 5.508(g)(3). Live-in aides and foster adults or children are not considered an “occupant” for purposes of existing § 5.503(g)(3), nor are live-in aides or foster adults or children considered family members for purposes of assistance, consistent with HUD’s rulemaking implementing sections 102, 103, and 104 of the Housing Opportunity and Modernization Act of 2016 (HOTMA 2016 final rule). See 24 CFR 5.603; 88 FR 9600. Therefore, HUD proposes to revise the language in proposed § 5.508(f)(3) to read “new family member” instead of “new occupant.” New family members are treated similar to new applicants, so HUD proposes further revisions that would require new family members to submit required evidence under § 5.508(b) at the same time that an applicant must under proposed § 5.508(f)(1) (existing § 5.508(g)(1)): not later than the date the responsible entity anticipates or has knowledge that verification of other aspects of eligibility for assistance will occur.

Finally, under proposed § 5.508(f)(5), HUD is proposing clarifying language that families must submit required evidence under § 5.508(b) for a family member only one time in accordance with § 5.508(f) during continuously assisted occupancy under any Section 214 program. HUD is also proposing new language to clarify that if a family member’s citizenship or immigration status changes during occupancy, the family is required to immediately notify and submit evidence of the new citizenship or eligible status to the responsible HUD affiliate, grantee, or entity.

*§ 5.508(g): Extensions of time to submit evidence of citizenship or eligible status.*

Proposed § 5.508(g) (currently § 5.508(h)) governs extensions of time periods under proposed § 5.508(f) (currently § 5.508(g)). HUD is proposing technical changes to paragraph (g)

to align it with changes discussed elsewhere in this preamble, and to add language clarifying that, regardless of how many individual family members may be granted an extension, the total extension of time granted to a family altogether is limited to 30 days. For mixed families, this would mean that under proposed § 5.508(f)(2)(i), which provides that tenants in mixed families must provide evidence required under § 5.508(b) within 90 days of the effective date of a future final rule for this rulemaking, and this proposed extension provision, individual family members must submit the required evidence under § 5.508(b) no later than 120 days after the effective date of a future final rule for this rulemaking if any extensions are granted.

*§ 5.510 Documents of citizenship and eligible immigration status.*

Existing § 5.510 requires responsible entities to request and review original or certified copies of documents evidencing citizenship and eligible immigration status in accordance with 24 CFR part 5, subpart E. It requires responsible entities to maintain photocopies of documents and return original or certified copies of documents to families, and describes what constitutes acceptable documentation for evidence of eligible immigration status.

Because this rulemaking would require persons declaring to be U.S. citizens or nationals to submit documentation for secondary verification purposes under proposed § 5.512(d), HUD is proposing to add a new paragraph (b) that describes acceptable documentation for evidence of U.S. citizenship and U.S. nationality. These would include a U.S. birth certificate, a naturalization certificate, a consular report of birth abroad (FS-240), a valid unexpired U.S. passport, a certificate of citizenship, or other appropriate documentation that HUD may specify in guidance. As stated elsewhere in this preamble, primary verification would be done by responsible entities through the SAVE program under proposed § 5.512(c)(1). Documentation described in § 5.510 would become relevant in situations where primary verification does not confirm U.S. citizenship, U.S. nationality, or immigration status and secondary verification is needed under proposed § 5.512(c)(2) and (d).

HUD is proposing to redesignate existing § 5.510(b) as proposed § 5.510(c), and to replace an extraneous cross reference in this paragraph to § 5.506(a) with a cross reference to Section 214. Existing § 5.510(b) refers to “categories mentioned in § 5.506(a),” but § 5.506(a) does not list categories of eligible immigration status; it provides a further cross reference to Section 214’s categories. Therefore, HUD is proposing in 5.510(c) to, as § 5.506(a) does, directly refer to “the categories [of eligible immigration status] set forth in Section 214 (42 U.S.C. 1436a(a)).”

HUD is also proposing to replace the phrase “acceptable evidence” with “acceptable documentation” in certain instances in proposed § 5.510. This clarifies that a document alone is not necessarily sufficient to provide evidence of U.S. citizenship, U.S. nationality, or eligible immigration status under HUD’s regulations. For example, under proposed § 5.508(b)(2), evidence for noncitizens also consists of a signed declaration and signed verification consent form in addition to documentation. Corresponding edits have been made throughout HUD’s proposed regulations.

*§ 5.512 Verification of citizenship and eligible immigration status.*

HUD is proposing substantive changes to 24 CFR 5.512 discussed in this section of the preamble, as well as technical changes for consistency with changes discussed in other sections in this preamble. HUD is proposing changes to § 5.512 to remove outdated procedures and information related to INS verification procedures and replace them with procedures where responsible entities (PHAs and owners) would primarily use the DHS/USCIS administered SAVE program.

HUD’s existing regulations use the terms “primary verification” and “secondary verification” to describe HUD verification procedures that rely on outdated INS processes. HUD is retaining the terms “primary verification” and “secondary verification” in this proposed rule but uses them to refer to HUD’s proposed verification procedures as outlined in this proposed rulemaking.

Finally, as explained in more detail below, some proposed HUD verification procedures apply for both categories of 1) U.S. citizenship, including U.S. nationality, and 2) eligible immigration status, and some verification procedures are specific to one of these categories depending on which of these categories an individual is declaring for eligible status.

*§ 5.512(c): Primary verification of U.S. citizenship, U.S. nationality, or eligible immigration status.*

Under this proposed rule, “primary verification” would be the first step in HUD’s verification procedure and would involve responsible entities’ use of the DHS/USCIS administered SAVE program. Following responsible entities’ receipt of evidence that individuals must submit under proposed § 5.508(b), proposed § 5.512(c)(1) would require responsible entities to submit biographic information (first name, last name, and date of birth) and approved government-issued identifiers, including a Social Security Number, to SAVE for verification of citizenship or immigration status.<sup>38</sup> The procedure under proposed § 5.512(c)(1) relies on SAVE’s automated response system and “verifies User Agency-provided information against DHS-accessed records, including immigration and U.S. citizenship records.”<sup>39</sup> Proposed § 5.512(c)(1) is applicable for both categories of U.S. citizenship, including U.S. nationality, and eligible immigration status. The automated response from SAVE would indicate whether the individual is a U.S. citizen or U.S. national or not, or the individual’s immigration status. The responsible entity would use this automated response to determine the results for HUD’s primary verification procedure (some eligible status regardless of category is confirmed, or no eligible status is confirmed). If eligible status is confirmed through this primary verification procedure, the verification process concludes and the individual’s status is verified as eligible for Section 214 eligibility purposes.

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<sup>38</sup> The USCIS SAVE User Reference Guide is at <https://www.uscis.gov/save/current-user-agencies/guidance/save-user-reference-guide>.

<sup>39</sup> <https://www.uscis.gov/save/current-user-agencies/guidance/save-user-reference-guide/8-case-creation>. HUD as the User-Agency provides access to PHAs and owners to use SAVE.

Section 214(d)(4)(A)(i) provides, among other things, that if required documentation is presented but not verified, the applicable Secretary must provide a reasonable opportunity not to exceed thirty days to submit further evidence indicating a satisfactory immigration status. HUD's existing regulations specify that if primary verification does not confirm eligible status of any kind, responsible entities must perform "secondary verification." HUD is proposing to maintain this two-step structure for HUD's verification procedure under this proposed rule. Proposed § 5.512(c)(2) states that if SAVE does not initially confirm U.S. citizenship, U.S. nationality, or eligible immigration status or confirms a status that is ineligible, the responsible entity must perform secondary verification pursuant to § 5.512(d).

*§ 5.512(d): Secondary verification.*

Proposed § 5.512(d) describes HUD's proposed secondary verification procedures. Under this proposed rule, whenever primary verification fails to confirm eligible status, secondary verification would be necessary as a second step in HUD's proposed verification procedure. This requirement would apply regardless of the category of status at issue.

*§ 5.512(d)(1): Notice following primary verification.*

Under this proposed rule, to begin secondary verification procedure, a responsible entity would need to provide notice of the results of primary verification and include other information in this notice. Proposed § 5.512(d)(1) describes HUD's proposed notice requirements and would apply regardless of the category of status at issue (citizenship, including nationality, versus eligible immigration status). Proposed § 5.512(d)(1) would require responsible entities to provide notice to individuals that must:

- Be in writing;
- Inform the person of the results of primary verification for their case and describe the need for secondary verification;

- Identify whether any acceptable documentation under § 5.510(b) and/or additional information is needed for secondary verification, and include notice of any requested deadlines; and
- Notify the person of the ability to pursue at any point in the verification process a records correction with any agency that issued or maintains records and original or certified copies of documents relevant to verification.

Applicants and tenants will not be inputting information into SAVE or reviewing SAVE's responses; responsible entities will be doing this instead. HUD has thus determined that providing notice to individuals between the primary and secondary verification steps would help ensure that responsible entities *and* individuals know what further documents and information are needed and why. Additionally, in circumstances involving verification of immigration status, the responsible entity must submit an additional verification request to SAVE within 30 days of the results of primary verification under proposed § 5.512(d)(3); therefore, the notice should note whether this circumstance applies and the date by which an individual should submit needed documents and information to the responsible entity.

Additionally, providing information on how to correct documents and records between HUD's primary and secondary verification processes helps ensure that secondary verification proceeds using the most accurate and updated documents and information. This would help prevent further delays or inaccurate results related to verification of citizenship or immigration status.

*§ 5.512(d)(2): Secondary verification of U.S. citizenship and U.S. nationality.*

Proposed § 5.512(d)(2) specifies procedures for secondary verification of U.S. citizenship, including U.S. nationality. As explained earlier in this rulemaking, an individual declaring U.S. citizenship or U.S. nationality would not need to provide documentation with the submission of evidence required under proposed § 5.508(b)(1); documentation is not necessarily needed to complete primary verification under this proposed rule, because responsible entities

would simply enter information into SAVE and receive an automated response. However, if the automated SAVE response does not confirm U.S. citizenship or produces a result that an individual disagrees with or is otherwise problematic, further information would be needed to continue review of a person's citizenship or nationality. Therefore, HUD is proposing in § 5.512(d)(2)(i) to require individuals contending U.S. citizenship or U.S. nationality to provide acceptable documentation as described in proposed § 5.510, and any needed additional information not in a document format, at the secondary verification step of HUD's verification procedure.

Currently, SAVE has limitations on the types of documents and information it can review,<sup>40</sup> and certain information and documentation that could be provided by individuals as evidence of U.S. citizenship or U.S. nationality are not currently usable in SAVE or by the SAVE program. For example, at the time of the writing of this proposed rule, SAVE cannot review or process birth certificates or U.S. passports, but can review or process naturalization and citizenship certificates. Therefore, two avenues are needed at the secondary verification step for cases involving U.S. citizenship or U.S. nationality: one that accounts for documents SAVE can review and process, and one that accounts for documents SAVE cannot review and process at this time. Additionally, SAVE is an evolving program with an evolving system which may be able to utilize certain information or documents in the future, so HUD is seeking to provide enough flexibility in its regulations to account for changes in SAVE's capabilities.

HUD is proposing in § 5.512(d)(2)(ii) to require responsible entities to review additional information and acceptable documentation provided by individuals. This review, in conjunction with guidance that HUD would issue, would assist the responsible entity with determining which avenue it must take depending on the acceptable documentation as defined by HUD in § 5.510(b) and other information an individual provides related to U.S. citizenship or U.S. nationality. In

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<sup>40</sup> *Id.*; see also <https://www.uscis.gov/save/current-user-agencies/guidance/save-user-reference-guide/9-case-response/92-additional-verification>.

cases where SAVE cannot review or process the documentation an individual provides, such as a birth certificate from a U.S. state or a valid unexpired U.S. passport, the responsible entity would review the document to confirm it is authentic and an original or a certified copy. The responsible entity would use the result of this review to complete HUD's verification procedure and make a Section 214 eligibility determination.

In cases where SAVE can review or process the document an individual provides, proposed § 5.512(d)(2)(iii) would be applicable. Proposed § 5.512(d)(2)(iii) states that the responsible entity must, if applicable as specified in HUD guidance, request additional verification through the SAVE program. "Additional verification" describes a SAVE-specific procedure that utilizes various approaches such as manual processes, manual record searches, and electronic processes, including resubmission with new information and documents.<sup>41</sup> The result of the SAVE-specific additional verification process would indicate whether the individual is a U.S. citizen or U.S. national or not. The responsible entity would use this result to conclude HUD's verification procedure and a Section 214 eligibility determination.

HUD intends the use of the phrase "as applicable as specified in HUD guidance" in proposed § 5.512(d)(2)(iii) to capture SAVE's evolving capabilities: If in the future SAVE becomes capable of processing certain citizenship and nationality documents that it currently cannot process, HUD would update its guidance for responsible entities accordingly. This guidance may provide information on how to proceed depending on the documentation and information received by responsible entities from individuals declaring U.S. citizenship or U.S. nationality, when to request additional verification through the SAVE program, and what responsible entities should do in situations where secondary verification fails.

Because of the limitations with the SAVE program and the potential need for manual record searches, which may take significant time, HUD is not proposing to require a time by

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<sup>41</sup> <https://www.uscis.gov/save/current-user-agencies/guidance/save-user-reference-guide/8-case-creation>; see also <https://www.uscis.gov/save/current-user-agencies/guidance/save-user-reference-guide/9-case-response/92-additional-verification>.

which a responsible entity must submit the request for additional verification of U.S. citizenship status through the SAVE program. This differs from HUD's proposed regulations for secondary verification of eligible immigration status, as explained in the next section of this preamble.

*§ 5.512(d)(3): Secondary verification of eligible immigration status.*

HUD's existing regulations at 24 CFR 5.512(d) speak to secondary verification of eligible immigration status and require a manual search of DHS records. The responsible entity must request secondary verification within 10 days of receiving the results of primary verification, and secondary verification is initiated when the responsible entity forwards photocopies of the original documents required for the immigration status declared by an individual. HUD is proposing to remove these outdated regulations and replace them with provisions that incorporate the DHS/USCIS-administered SAVE program. HUD's regulations would continue to use the term "secondary verification" to describe this step in HUD's proposed verification procedure, and proposed § 5.512(d)(3) would speak to secondary verification of eligible immigration status. SAVE's capabilities include review of immigration documents and information such as government-issued numeric identifiers. Therefore, for secondary verification of eligible immigration status, HUD is proposing that the responsible entity must request additional verification in the SAVE program within thirty (30) days of notification of the results of primary verification.

HUD is proposing to require a thirty-day deadline for responsible entities to request additional verification through SAVE because Section 214(d)(4)(A)(i) specifies that individuals have thirty (30) days to provide evidence indicating a satisfactory immigration status if initial submission and review of evidence does not verify eligible immigration status. HUD does not propose this same deadline for responsible entities' requests for additional verification of U.S. citizenship or U.S. nationality under proposed § 5.512(d)(2) for the reasons described earlier in this preamble.

Again, “additional verification” describes a SAVE-specific procedure that utilizes various approaches such as manual processes, manual record searches, and electronic processes, including resubmission with new information and documents.<sup>42</sup> The result of the SAVE-specific additional verification process would indicate the person’s immigration status. The responsible entity would use this to conclude HUD’s verification procedure and make a Section 214 eligibility determination.

*§ 5.512(e): Failure to confirm citizenship or eligible immigration status.*

As is the case under HUD’s existing 24 CFR 5.512(d)(3) for eligible immigration status, proposed § 5.512(e) states that if primary and secondary verification do not confirm U.S. citizenship or eligible immigration status or confirm an ineligible immigration status, the responsible entity must provide the notice of denial or termination of assistance under § 5.514(d). As explained later in this preamble, HUD is proposing to remove § 5.514(e) regarding appeals to the INS; therefore, HUD seeks to clarify in proposed § 5.512(e) that the notice of denial or termination must specify that individuals may seek a records correction with any agency that issued documents or maintains records relevant to the individual’s verification of eligible status. The notice must also specify that individuals would be able to contest failed verifications of citizenship to HUD under the informal hearing process under proposed § 5.514(e). Informal hearings are currently in HUD’s regulations at existing § 5.514(f) but are the subject of proposed changes in this rulemaking.

*§ 5.514 Delay, denial, reduction, or termination of assistance.*

HUD is proposing substantive changes to § 5.514 as explained in this section of the preamble, and technical changes throughout § 5.514 to update terminology and for consistency with changes discussed elsewhere in this preamble.

*§ 5.514(c): Events causing denial or termination of assistance.*

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<sup>42</sup> <https://www.uscis.gov/save/current-user-agencies/guidance/save-user-reference-guide/8-case-creation>; see also <https://www.uscis.gov/save/current-user-agencies/guidance/save-user-reference-guide/9-case-response/92-additional-verification>.

As discussed previously in this preamble, HUD is proposing to require persons who declare U.S. citizenship to submit, , a signed declaration and verification consent form, see proposed § 5.508(b); and, for secondary verification, to require these persons to submit documentation and to have responsible entities review those documents and, in some cases, institute secondary verification in SAVE. See proposed 24 CFR 5.512(d)(2). As discussed later in this preamble, HUD is proposing to remove the outdated INS appeal provision under § 5.514(e). Therefore, HUD is proposing to revise existing § 5.514(c)(1)(ii). Proposed paragraphs (c)(1)(ii) would permit denial or termination of assistance when evidence of U.S. citizenship or eligible immigration status is timely submitted, but HUD has determined that following primary and secondary verification the individual seeking benefits has not been able to have their status as a U.S. citizenship or eligible immigration status of a family member verified. In those situations, HUD may determine that denial or termination of assistance would be appropriate only if a family does not pursue informal hearing rights under proposed § 5.514(f), or the family pursues an informal hearing but the decision is against the family.

HUD is also proposing to remove the existing last sentence of § 5.514(c)(1)(iii) and replace it with new language. Paragraph (c)(1)(iii) provides that a responsible entity must deny or terminate an applicant or tenant's assistance if the responsible entity determines that a family member has knowingly permitted a person ineligible for assistance to permanently reside in the family member's assisted unit, and termination must be for at least 2 years. The last sentence of paragraph (c)(1)(iii) exempts application of this provision if the ineligible person was considered in calculating any prorated assistance for the family, which is possible under HUD's current "do not contend" provision in existing § 5.508(e). Because HUD is proposing through this rulemaking to remove the "do not contend" provision, the last sentence of § 5.514(c)(1)(iii) is not necessary. However, to account for families that were receiving assistance under a Section 214 covered program on February 5, 1988, who may be eligible for preservation assistance,

HUD is proposing to add a new last sentence to § 5.514(c)(1)(iii) stating, “This provision does not apply to families eligible for continued assistance pursuant to § 5.516 and § 5.518.”

*Existing § 5.514(e): Appeal to the INS.*

HUD’s existing regulations under 24 CFR 5.514(e) provide families with thirty (30) days to appeal to the INS when secondary verification fails to confirm eligible immigration status. This provision is outdated, reflects procedures that existed before the SAVE program was utilized by HUD, and does not account for U.S. citizenship verification. As stated previously in this preamble, at the time of enactment of Section 214, verification of eligible immigration status was a manual, paper-driven process that could take days or even weeks to complete. This is reflected in existing § 5.514(e), which requires, among other things, submission of paper copies of INS documents such as the form G-845S, which is no longer in use. SAVE’s results are often instantaneous and are driven by electronic and automated processes. SAVE does not offer an appeal process, and the SAVE program does not issue or maintain immigration documents and records, but secondary verification permits users to address issues with initial SAVE responses. Additionally, individuals may seek a records correction with any agency that issued or maintains a record or document relevant to a person’s verification at any time during SAVE’s processes (see proposed §§ 5.512(d)(1) and 5.514(d)(4)). To remove outdated procedures and align with how responsible entities would use the contemporary SAVE program, HUD is proposing to remove § 5.514(e) (and to redesignate existing paragraphs (f) through (i) as paragraphs (e) through (h)) and direct responsible entities to the secondary verification procedure as outlined in this rulemaking.

This proposed change would further streamline HUD’s verification process. Proposed §§ 5.512(d)(1) (regarding a new notice that responsible entities would provide to individuals after primary verification fails) and 5.514(d)(4), which would amend existing notice requirements for the notice of denial or termination of assistance, would require responsible entities to notify individuals that a person may correct, at any time during verification, a record

with any agency that issued or maintains records and/or documents relevant to a person's verification of U.S. citizenship or eligible immigration status. If persons do correct their documents after primary verification fails, secondary verification under proposed § 5.512(d)(2) or (3) would proceed using corrected or updated information and documentation. This would address record or document inaccuracies and other issues earlier in the verification process, compared to HUD's existing regulations which permit appeals to the INS only after secondary verification fails. If record corrections are needed but do not occur prior to secondary verification, an individual that receives a notice of denial of assistance may seek a records correction and then submit a new application for assistance with corrected records and documentation. This aligns with the goal of this rulemaking to ensure that assistance only goes to individuals in a verified status while permitting the flexibility needed to address errors with records and documents.

*§ 5.514(e): Informal hearing.*

Existing § 5.514(f) provides that a family may request that the responsible entity provide a hearing within 30 days of receiving the notice required under § 5.514(d). Again, HUD's existing regulations speak to outdated INS appeal procedures and only speak to verification of eligible immigration status. As explained earlier in this preamble, HUD is proposing through this rulemaking to require: persons declaring to be U.S. citizens to submit evidence under § 5.508(b)(1) for primary verification through the SAVE program; to require those persons to submit additional documentation for secondary verification purposes under § 5.512(d)(2); and for responsible entities to review that documentation for U.S. citizenship secondary verification purposes under § 5.512(d)(2). HUD is therefore proposing to update § 5.514(f)(1) to incorporate verification of U.S. citizenship. Proposed § 5.514(f)(1) provides that, for cases involving U.S. citizenship verification and cases involving eligible immigration status verification, a family may request that a responsible entity provide an informal hearing within 30 days of the family receiving notice under § 5.514(d) regarding denial or termination of assistance. Further, because

HUD is proposing to remove existing § 5.514(e) regarding INS appeals, HUD is proposing to remove the language in existing § 5.514(f)(1) permitting requests for an informal hearing to be made “in lieu of request of appeal to the INS.” The effect of these changes would be that a family may request an informal hearing upon receipt of the notice under § 5.514(d), which, under this proposed rule, a responsible entity would provide to a family only after the conclusion of all secondary verification procedures under § 5.512(d). The notice under § 5.514(d) would also remind individuals that they may seek records corrections with agencies that issued or maintain documents and records at this time; doing so would not preclude them from requesting a formal hearing. This would further streamline HUD’s verification process and provide for informal hearings after thorough use of administrative means to address inaccuracies or concerns that arise during primary and secondary verification.

Proposed § 5.514(g) (based on existing § 5.514(h)) contains minor changes to require responsible entities, as applicable, to retain photocopies of original, certified copies, and corrected U.S. citizenship and immigration status records and documents under the document retention requirements in existing § 5.514(h), and removes existing paragraphs (h)(6) and (7), which refer to INS appeals and the final INS determination resulting from that appeal.

*§ 5.516 Availability of preservation assistance to tenant families.*

HUD is proposing to remove paragraph (a)(1)(iii) in § 5.516, which provides for prorated assistance under § 5.520 as preservation assistance for mixed families who request prorated assistance, because proration of assistance at the end of the temporary deferral period would no longer be an option under this proposed rule. For consistency, HUD is proposing to remove language throughout 24 CFR part 5, subpart E, that referred to this type of prorated assistance as preservation assistance for mixed families.

HUD is also proposing to make technical changes throughout § 5.516 to update terminology and for consistency with changes discussed elsewhere in this preamble.

*§ 5.518 Types of preservation assistance available to tenant families.*

HUD is proposing changes to § 5.518 that would conform this section to changes made throughout the rest of this proposed rule. For example, proposed § 5.518(a) would provide that a mixed family may receive prorated continued assistance if all the conditions in paragraphs (a)(1)(i)-(iii) are met, and a mixed family assisted under the Section 236 program must be provided prorated continued assistance if the family meets specific conditions. Paragraph (a)(ii) already provides that one of the conditions is that the family's head of household or spouse has eligible immigration status as described in § 5.506. HUD is proposing to clarify this language by stating that the family's head of household or spouse must be "a U.S. citizen, a national of the United States, or [have] eligible immigration status as described in § 5.506," which aligns with the statutory language of Section 214.<sup>43</sup>

HUD is also proposing to remove the last sentence of § 5.518(b)(1), which defines the phrase "other affordable housing" as meaning housing that is not substandard, that is of appropriate size for the family, and that can be rented for an amount not exceeding the amount that the family pays for rent, including utilities, plus 25 percent. This meaning applies in the context of the transition of an ineligible family from a rent level that reflects HUD assistance to a rent level that is unassisted. This language is not in the statute and would effectively preclude families eligible for temporary deferral from finding other affordable housing as defined in existing § 5.518(b)(1), based on the average Total Tenant Payment for Section 8 project-based rental assistance residents for part of 2024.<sup>44</sup>

HUD is proposing to add a new paragraph (b)(6) to § 5.518 that would clarify that the assistance a family would receive while benefiting from temporary deferral of termination of

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<sup>43</sup> Section 11 of the RIA accompanying this rulemaking discusses the impacts of this rulemaking on mixed families, including families with eligible children, families with eligible parents, and households with ineligible adults who are not parents but eligible immediate family members. Section 11.1 of the RIA discusses the estimated availability and impact of preservation assistance for mixed families in more detail, and section 11.2 of the RIA discusses the potential range of effects of this rulemaking on mixed families depending on which family members are eligible for assistance (parents versus children, etc.) and the choices made by household members in response to the rulemaking's requirements.

<sup>44</sup> See *TTP Distribution % section here*:

[https://www.hud.gov/sites/default/files/Housing/documents/Tenant\\_Characteristics\\_Rpt12312024.pdf](https://www.hud.gov/sites/default/files/Housing/documents/Tenant_Characteristics_Rpt12312024.pdf). The majority (57.97%) of Section 8 PBRA families pay less than \$350 per month in rent.

assistance would be prorated in accordance with the methodology in § 5.520. HUD's current regulations specify that assistance shall be prorated for continued assistance but are silent as to the assistance a family receives during temporary deferral of termination of assistance. This proposed change addresses this inadvertent omission, is consistent with Section 214, and creates consistency between the forms of preservation assistance under this proposed rule.

HUD is also proposing to remove existing § 5.518(c) (and redesignate existing paragraph (d) as (c)), which provides mixed families with the option to request prorated assistance following the end of the temporary deferral period, because this type of prorated assistance would no longer be an option under this proposed rule.

*§ 5.520 Proration of assistance.*

HUD is proposing to revise § 5.520(a)(1) to provide that prorated assistance under § 5.520 applies to families with at least one family member who has U.S. citizenship, U.S. nationality, or eligible immigration status pending final verification, including any secondary verification or informal hearing procedures under §§ 5.512(d) and 5.514(e), of the status of other family members. This change more closely aligns HUD's regulations with the statute and conforms with other changes HUD is proposing. HUD is also proposing to revise § 5.520(a)(2). Under Section 214 as amended, continued assistance for eligible families must be prorated based on the percentage of the total number of members of the family that are eligible for that assistance under a covered housing program and Section 214.<sup>45</sup> The proposed language for § 5.520(a)(2) would clarify this requirement by stating that continued assistance under § 5.518 must be prorated.

HUD is further proposing technical changes throughout § 5.520 to update terminology and for consistency with changes discussed elsewhere in this preamble. Specifically, HUD is

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<sup>45</sup> As explained in an interim final rule published by HUD on November 29, 1996, 61 FR 60535, this requirement stems from amendments made to Section 214 by the Use of Assisted Housing by Aliens Act of 1996 (Title V, Subtitle E of the Illegal Immigration Reform and Responsibility Act of 1996, Pub. L. 104-208, 110 Stat. 3009, approved September 30, 1996).

proposing to revise paragraph (a) to specify that the proration methodology in § 5.520 applies to “preservation assistance,” meaning both continued assistance and temporary deferral of termination of assistance. This change would be consistent with changes made to § 5.518, discussed earlier in this preamble. HUD is also proposing to revise paragraph (b) to discuss only the method of proration for the Section 236 program, and to remove the outdated paragraphs related to other Housing programs that are no longer in effect. HUD is also proposing to add a parenthetical to proposed § 5.520(b)(2)(ii) to clarify that the housing assistance payment discussed in that paragraph is equal to the unit’s gross rent minus the family’s total tenant payment, pursuant to 24 CFR 5.628.

*§ 5.522 Prohibition of assistance to noncitizen students.*

Section 5.522(a) prohibits the application of continued assistance or temporary deferral of termination of assistance under §§ 5.516 and 5.518 to persons determined to be a noncitizen student under the statutory text of Section 214. HUD is proposing to remove the second sentence of existing § 5.522(a) and to remove § 5.522(b)(2), which provide, respectively, that a family of a noncitizen student may be eligible for prorated assistance under § 5.522(b), and that the prohibition in paragraph (a) does not extend to the citizen spouse of the noncitizen student and their children. HUD is proposing to retain the other language in paragraphs (a) and (b), which contains the prohibition and its extension to noncitizen spouses of the noncitizen student and children accompanying or following to join the student. These proposed changes more closely align HUD’s regulations with the statutory text of Section 214.

*Technical changes.*

HUD is proposing some technical changes to the regulations to further conform to Section 214 statutory requirements. For example, HUD is proposing to remove references to programs that are no longer in effect. There are no remaining Rent Supplement contracts under Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), so HUD is proposing to remove paragraph (a)(3) from 24 CFR 5.500, which applies HUD’s regulations that

restrict Federal financial assistance for noncitizens to the Rent Supplement Program, and to remove language throughout 24 CFR part 5, subpart E, that references rent supplements under this program. Section 401(d) of the 1987 HCD Act terminated HUD's authority to provide insurance or assistance payments to mortgagees under Section 235 of the National Housing Act (12 U.S.C. 1715z), so HUD is proposing to remove paragraph (a)(1) from 24 CFR 5.500 and to remove language throughout 24 CFR part 5, subpart E, that references the Section 235 Program. Any existing Section 235 Program mortgages will be governed by the requirements in place at the time HUD endorsed the contract for insurance or made the commitment to provide assistance payments.<sup>46</sup> Finally, HUD is also proposing to remove language throughout 24 CFR part 5, subpart E, that references rental assistance payments related to Section 236 projects as there are no longer any such payments under the Section 236 program.

Further, HUD is proposing to add "U.S. citizen" or "citizenship" throughout 24 CFR part 5, subpart E where HUD's regulations discuss submission of required "evidence for eligible status" or "eligible immigration status," because HUD is proposing through this rulemaking to require submission of a signed verification consent form—in addition to the already-required signed declaration—from individuals declaring to have U.S. citizenship or U.S. nationality under proposed § 5.508(b)(1); and to require submission of acceptable documentation evidence of U.S. citizenship or U.S. nationality as described in proposed § 5.510(b) for secondary verification under proposed § 5.512(d). For example, see proposed § 5.508(f)-(g), which describe requirements related to timing for when applicants and tenants must provide required evidence of citizenship or eligible immigration status.

Relatedly, this proposed rule permits persons undergoing citizenship verification processes to request an informal hearing under proposed § 5.514(e)(1); therefore, provisions

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<sup>46</sup> See 80 FR 18095 (Apr. 3, 2015) ("To the extent that any Section 235 mortgages remain in existence, or second mortgages for the recapture of subsidy payment pursuant to HUD's regulations governing the Section 235 Program (which was reserved by regulatory streamlining in 1995), the removal of these regulations does not affect the requirements for transactions entered into when Section 235 Program regulations were in effect.").

speaking to the informal hearing process through 24 CFR part 5, subpart E, are proposed to be updated to include reference to U.S. citizenship.

Finally, HUD is proposing to add clarifying language to its regulations providing that prorated assistance to an applicant or tenant under § 5.520 is only permissible “pending final verification, including any procedures under §§ 5.512(d) and 5.514(e),” on the eligibility of family members. This clarifies the statutory requirement that prorated assistance that is not continued assistance must only be provided when at least one family member’s U.S. citizenship or eligible immigration status has been verified and no other family member’s ineligibility has been affirmatively established.

#### **IV. Severability**

HUD seeks input from the public on whether and how the provisions of the proposed rule would operate independently of each other in the event that this rule or any portion of this rule is ultimately declared invalid or stayed by a court as to a particular program. After consideration of the comments, HUD intends at the final rule stage to articulate its opinion regarding the interoperability and severability of these provisions.

#### **V. Findings and Certifications**

##### *Regulatory Review – Executive Orders 12866 and 13563*

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

This rule was determined to be a “significant regulatory action” as defined in section 3(f) of Executive Order 12866 (although not an economically significant regulatory action under section 3(f)(1) of the Executive Order). HUD has prepared a cost benefit analysis that addresses the costs and benefits of the proposed rule. The cost analysis is part of the docket file for this rule.

#### *Executive Order 14192, Regulatory Costs*

Executive Order 14192, “Unleashing Prosperity Through Deregulation,” was issued on January 31, 2025. Section 3(c) of Executive Order 14192 requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. This rule is an immigration-related rule that is expressly exempt from the requirements of Executive Order 14192.

#### *Environmental Impact*

The proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The proposed regulatory amendments to HUD’s noncitizen requirements will have only a minimal impact on small housing project owners, small mortgagees, and small housing agencies. The majority of PHAs and project (housing) owners have few mixed families, if any. In 2024, the share of PHAs where 95 percent or more of their

assisted households are non-mixed is 92 percent. The share is even higher for housing owners—97 percent of owners have mixed families representing less than five percent of their assisted households. At this time, HUD is unable to provide an accurate estimate of small PBRA owners because we do not always know whether there is a corporate structure behind an individual owner.

Further, the proposed amendments would require primary verification of citizenship and eligible immigration status through the same process: Inputting information into SAVE for an automated response. A responsible entity's collection and review of appropriate documentation for U.S. citizenship or U.S. nationality would be limited to instances of secondary verification. As explained elsewhere in this preamble and in the Regulatory Impact Analysis for this proposed rule, the burden on existing tenants, families, future applicants, and responsible entities is estimated to be low, even where existing individuals have not submitted any documentation for verification purposes. Some of the proposed requirements could also be satisfied using existing procedures. For example, the proposed rule would require that the eligible immigration status of all noncitizens in Section 214 covered programs, regardless of age, be verified through responsible entities utilizing the DHS/USCIS SAVE program. The extension of this requirement to individuals 62 years of age and older can be fulfilled by utilizing existing verification procedures. Furthermore, although the proposed rule would revise eligibility for prorated assistance, current methods would be used to calculate the prorated assistance provided to an eligible family.

Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments nor preempt state law within the meaning of the Executive order.

#### *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This proposed rule does not impose a Federal mandate on any State, local, or tribal government, or on the private sector, within the meaning of UMRA.

#### *Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (“PRA”), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The information collection requirements contained in this proposed rule have been approved by OMB under the Paperwork Reduction Act and assigned OMB control number 2577-0295.

HUD’s current regulations do not require submission of any documentation for citizenship verification purposes, unlike eligible immigration status where HUD’s regulations require submission of documentation for eligible status verification. This proposed rule would change HUD’s regulations to require each family member in tenant families who have not yet submitted evidence of citizenship or eligible immigration status, and applicants who are declaring they have U.S. citizenship, to submit evidence in accordance with §§ 5.508 and 5.512 to responsible entities (mortgagors, project or housing owners, and PHAs). While this may

impose some burden on existing tenants in HUD housing who have previously elected the “do not contend” provision, have submitted no documentation to date, have documentation proving their eligibility, and wish to continue to receive HUD assistance, the number of these existing tenants is low and the related burdens are thus relatively low, for tenants, families, and responsible entities.<sup>47</sup> Nor does HUD anticipate this proposed requirement to impose significant burden for existing tenants and future applicants under Section 8 and Public Housing covered programs who have previously declared or declare either citizenship or eligible immigration status.<sup>48</sup> PHAs already typically receive a birth certificate, passport, or some other identity verification document for deductions, program eligibility, and other purposes. Under this proposed rule, responsible entities would also be required to collect and review citizenship evidence documents submitted by all applicants and tenants declaring to be U.S. citizens, and to review those documents to verify U.S. citizenship. Again, for Section 8 and Public Housing covered programs, responsible entities generally already receive and review this documentation for eligibility determinations and other purposes. As explained in the Regulatory Impact Analysis for this rulemaking, an estimated 99% of existing tenants who are U.S. citizens or U.S. nationals have been verified by PHAs (and owners). Finally, this proposed rule would require that notification of Section 214 requirements, verification consent forms, notification of any failures to confirm primary verification, and notification of any denials or terminations of assistance be provided to applicants and tenants declaring to be U.S. citizens and noncitizens, as applicable.

The burden of the information collections in this proposed rule is estimated as follows:

| <b>Tabulation of One-Time Reporting Burden for Existing Residents</b> |                               |                              |                                 |                           |                                 |                   |
|---|-------------------------------|------------------------------|---------------------------------|---------------------------|---------------------------------|-------------------|
| <b>Information collection</b>   | <b>Number of respondents*</b> | <b>Frequency of response</b> | <b>Burden hour per response</b> | <b>Total burden hours</b> | <b>Hourly cost per response</b> | <b>Total Cost</b> |
|   |                               |                              |                                 |                           |                                 |                   |

<sup>47</sup> The Regulatory Impact Analysis for this proposed rule estimates this number of affected tenants to be 730.

<sup>48</sup> The Regulatory Impact Analysis for this proposed rule estimates that 1.05 percent of existing tenants with eligible status have not provided documentation for another purpose which could be used to verify this status.

|  |               |          |             |               |             |                    |
|--|---------------|----------|-------------|---------------|-------------|--------------------|
| Section 8 Housing Choice Vouchers  | 11,990        | 1        | 1.25        | 14,988        | \$52        | \$779,350          |
| Public Housing   | 3,380         | 1        | 1.25        | 4,225         | \$52        | \$219,700          |
| Section 8 Project-Based Rental Assistance  | 4,230         | 1        | 1.25        | 5,228         | \$52        | \$294,950          |
| Section 236  | 7             | 1        | 1.25        | 9             | \$52        | \$455              |
| <b>Totals</b>  | <b>19,600</b> | <b>1</b> | <b>1.25</b> | <b>24,509</b> | <b>\$52</b> | <b>\$1,274,455</b> |
| <p>* We assume that 1.05% of the average 714,000 (three-year average, 2022-2024) annual newly admitted tenants would previously not have provided proof of citizenship, naturalization, or eligible immigration status for another purpose. New admissions include all members of non-mixed families and selected members from mixed families (members with eligible immigration status and members with pending verification status). 1.05% was computed as the average of HUD administrative data on the share of members of non-mixed families with pending verification status and findings from Rothschild, Novey, and Hanmer (2025) on the share of U.S. citizens without documentary proof of citizenship. See RIA for detailed discussion.</p> |               |          |             |               |             |                    |
| <p>Data is from HUD's Public &amp; Indian Housing Information Center (PIC) and the Tenant Rental Assistance Certification System (TRACS).</p>  |               |          |             |               |             |                    |

| <b>Tabulation of Annual Reporting Burden for New Admissions</b>  |                               |                                |                                 |                           |                                 |                   |
|--|-------------------------------|--------------------------------|---------------------------------|---------------------------|---------------------------------|-------------------|
| <b>Information collection</b>  | <b>Number of respondents*</b> | <b>Frequency of response**</b> | <b>Burden hour per response</b> | <b>Total burden hours</b> | <b>Hourly cost per response</b> | <b>Total Cost</b> |
| Section 8 Housing Choice Vouchers  | 4,245                         | 1                              | 1.25                            | 5,306                     | \$52                            | \$275,925         |
| Public Housing   | 1,230                         | 1                              | 1.25                            | 1,538                     | \$52                            | \$79,950          |
| Section 8 Project-Based Rental Assistance  | 2,000                         | 1                              | 1.25                            | 2,500                     | \$52                            | \$130,000         |
| Section 236  | 15                            | 1                              | 1.25                            | 19                        | \$52                            | \$975             |
| <b>Totals</b>  | <b>7,500</b>                  | <b>1</b>                       | <b>1.25</b>                     | <b>9,363</b>              | <b>\$52</b>                     | <b>\$486,850</b>  |
| <p>* We assume that 1.05% of the average 714,000 (three-year average, 2022-2024) annual newly admitted tenants would previously not have had to provide proof of citizenship, naturalization, or eligible immigration status for another purpose. New admissions include all members of non-mixed families and selected members from mixed families (members with eligible immigration status and members with pending verification status). 1.05% was computed as the average of HUD administrative data on the share of members of non-mixed families with pending verification status and findings from Rothschild, Novey, and Hanmer (2025) on the share of U.S. citizens without documentary proof of citizenship. See RIA for detailed discussion.</p> |                               |                                |                                 |                           |                                 |                   |
| <p>** New tenants that are citizens or have permanent eligible immigration status must submit this documentation only once.</p>  |                               |                                |                                 |                           |                                 |                   |
| <p>Data is from HUD's Public &amp; Indian Housing Information Center (PIC) and the Tenant Rental Assistance Certification System (TRACS).</p>  |                               |                                |                                 |                           |                                 |                   |

### List of Subjects in 24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Crime, Government contracts,  
Grant programs-housing and community development, Individuals with disabilities,

Intergovernmental relations, Loan programs-housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages

Accordingly, for the reasons stated in the preamble, HUD proposes to amend 24 CFR part 5, subpart E as follows:

**PART 5 – GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS**

1. The authority citation for 24 CFR part 5 continues to read as follows:

**Authority:** 12 U.S.C. 1701x; 42 U.S.C. 1437a, 1437c, 1437d, 1437f, 1437n, 3535(d); Sec. 327, Pub. L. 109-115, 119 Stat. 2936; Sec. 607, Pub. L. 109-162, 119 Stat. 3051 (42 U.S.C. 14043e *et seq.*); E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and E.O. 13559, 75 FR 71319, 3 CFR, 2010 Comp., p. 273.

**Subpart B—Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information**

2. The authority citation for subpart B continues to read as follows:

**Authority:** 42 U.S.C. 3535(d), 3543, 3544, and 11901 *et seq.*

3. Revise § 5.216(a) and the introductory text of paragraph (e)(1)(i) to read as follows:

**§ 5.216 Disclosure and verification of Social Security and Employer Identification Numbers.**

(a) *General.* The requirements of this section apply to applicants and participants as described in this section.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(i) Each participant whose initial determination of eligibility was begun before **[insert effective date of final rule]**, must submit the information described in paragraph (e)(1)(ii) of this section, if the participant has:

\* \* \* \* \*

#### **Subpart E—Restrictions on Assistance to Noncitizens**

4. The authority citation for subpart E continues to read as follows:

**Authority:** 42 U.S.C. 1436a and 3535(d).

5. Revise § 5.500(a) and (b)(2) to read as follows:

#### **§ 5.500 Applicability.**

(a) *Covered programs/assistance.* This subpart E implements Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 prohibits HUD from making financial assistance available to persons who are not in eligible status with respect to citizenship or noncitizen immigration status. This subpart E is applicable to financial assistance provided under:

(1) Section 236 of the National Housing Act (12 U.S.C. 1715z-1) (tenants paying below market rent only) (the Section 236 Program); and

(2) The United States Housing Act of 1937 (42 U.S. C. 1437 *et seq.*) which covers:

(i) HUD’s Public Housing Programs;

(ii) The Section 8 Housing Assistance Programs; and

(iii) The Housing Development Grant Programs (with respect to low income units only).

(b) \* \* \*

(2) The provisions of this subpart E apply to Public Housing Agencies (PHAs) and project (or housing) owners. The term “responsible entity” is used in this subpart E to refer collectively to these entities and is further defined in § 5.504.

6. Amend paragraph § 5.504(b) by

a. Adding the definition of “DHS” in alphabetical order;

- b. Removing the definitions of “Housing covered programs” and “INS”;
- c. Adding the definition of “Preservation assistance” in alphabetical order; and
- d. Revising the definitions of “Responsible entity” and “Tenant.”

The addition and revisions read as follows:

**§ 5.504 Definitions.**

\* \* \* \* \*

(b) \* \* \*

*DHS* means the Department of Homeland Security.

\* \* \* \* \*

*Preservation assistance* means types of assistance under Section 214, including prorated continued assistance and temporary deferral of termination of assistance, available to eligible families pursuant to the requirements in §§ 5.516 and 5.518.

\* \* \* \* \*

*Responsible entity* means the person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigrations status. The entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status under the various covered programs is as follows:

(1) For the Section 236 program, mortgagors or project (or housing) owners (if uninsured).

(2) For Public Housing, the Section 8 Rental Voucher, and the Section 8 Moderate Rehabilitation programs, the PHA administering the program under an ACC with HUD.

(3) For the Section 8 project based rental assistance program, project (or housing) owners.

\* \* \* \* \*

*Tenant* and *tenant family* mean an individual or a family renting or occupying an assisted dwelling unit.

7. Revise § 5.506(b) to read as follows:

**§ 5.506 General provisions.**

\* \* \* \* \*

*(b) Family eligibility for assistance.*

(1) A family is not eligible for assistance unless every member of the family residing in the unit is determined to have eligible status, as described in paragraph (a) of this section, or unless the family meets the conditions set forth in either paragraph (b)(2) or (3) of this section.

(2) Despite the ineligibility of one or more family members, a family that was receiving assistance under a Section 214 covered program on June 19, 1995, may be eligible for continued assistance as provided in §§ 5.516 and 5.518. If the family does not qualify for continued assistance, it may be eligible for temporary deferral of termination of assistance as provided in §§ 5.516 and 5.518.

(3) A family with at least one family member of any age who has U.S. citizenship, U.S. nationality, or eligible immigration status is eligible for prorated assistance under § 5.520 pending final verification, including any procedures under §§ 5.512(d) and 5.514(e), on the eligibility of other family members.

\* \* \* \* \*

8. Revise § 5.508 to read as follows:

**§ 5.508 Submission of evidence of citizenship or eligible immigration status.**

(a) *General.* Eligibility for assistance or continued assistance under a Section 214 covered program is contingent upon a family's submission, to the responsible entity, of the documents described in paragraphs (b), (c), and (d) of this section, as applicable, for each family member.

(b) *Evidence of citizenship or eligible immigration status.* Each family member, regardless of age, must submit the following evidence to the responsible entity:

(1) For U.S. citizens as defined in § 5.504(b) the evidence consists of a signed declaration as described in paragraph (c) of this section of U.S. citizenship or U.S. nationality, and a signed verification consent form as described in paragraph (d) of this section.

(2) For all noncitizens, regardless of age, the evidence consists of:

(i) A signed declaration of eligible immigration status as described in paragraph (c) of this section;

(ii) Acceptable documentation of eligible immigration status as described in § 5.510; and

(iii) A signed verification consent form as described in paragraph (d) of this section.

(c) *Declaration.* (1) Each family member, regardless of age, must submit to the responsible entity a written declaration, signed under penalty of perjury, by which the family member declares the family member is a U.S. citizen as defined in § 5.504(b) or a noncitizen with eligible immigration status set forth in § 5.506(a)(2).

(i) For each adult, the declaration must be signed by the adult.

(ii) For each child as defined in § 5.504(b), the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) The written declaration may be incorporated as part of the application for housing assistance or may constitute a separate document.

(d) *Verification consent form—(1) Who signs.* Each family member, regardless of age, must sign a verification consent form as follows:

(i) For each adult, the form must be signed by the adult.

(ii) For each child as defined in § 5.504(b), the form must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) *Notice of use and release of evidence by responsible entity.* The verification consent form must provide that:

(i) Evidence of citizenship or eligible status will be reviewed by the responsible entity for verification purposes; and

(ii) Evidence of U.S. citizenship or eligible status may be released by the responsible entity, without responsibility for the further use or transmission of the evidence by the entity receiving it, to:

(A) HUD, as required by HUD; and

(B) DHS to verify the U.S. citizenship or immigration status of the individual.

(3) *Notice of release of evidence of U.S. citizenship or eligible immigration status by HUD.* The verification consent form must also notify the individual of the possible release of evidence of U.S. citizenship or eligible immigration status by HUD. Evidence of U.S. citizenship or eligible immigration status must only be released to DHS for purposes of verifying the individual has U.S. citizenship or eligible immigration status for financial assistance and not for any other purpose. HUD is not responsible for the further use or transmission of the evidence or other information by DHS.

(e) *Notification of requirements of Section 214—(1) When notice is to be issued.* The responsible entity must give notification of the requirement to submit evidence of citizenship or eligible status as required by this section as follows:

(i) *Applicant's notice.* The responsible entity must give the notification to each applicant at the time of application for assistance.

(ii) *Notice to tenants.* The responsible entity must give the notification to each tenant who has not submitted evidence of citizenship or eligible status as of **[insert effective date of final rule]** no later than **[insert 30 days after effective date of final rule]**.

(2) *Form and content of notice.* The notice must:

(i) State that financial assistance is contingent upon the submission and verification, as appropriate, of evidence of citizenship or eligible status as required by this section;

(ii) Describe the type of evidence that must be submitted, and state the time period in which that evidence must be submitted (see paragraph (f) of this section concerning when evidence must be submitted);

(iii) State that assistance will be denied or terminated, as appropriate, upon a final determination of ineligibility after primary and secondary verification, as applicable, and any informal hearing has concluded (see §§ 5.512(d) and 5.514(e)) or, if an informal hearing is not pursued, at a time to be specified in accordance with HUD requirements;

(iv) State that assistance may be prorated, pursuant to § 5.520, to a family with at least one family member of any age who has U.S. citizenship, U.S. nationality, or eligible immigration status pending final verification, including any procedures under §§ 5.512(d) and 5.514(e), for other family members, or to families eligible for continued assistance pursuant to § 5.516 and § 5.518;

(v) Inform tenants how to obtain assistance under the preservation of families provisions of §§ 5.516 and 5.518; and

(vi) Notify the individual that the PHA or owner, as applicable, must inform DHS immediately whenever personnel determine that any member of a household is present in the U.S. in violation of the Immigration and Nationality Act. The PHA or owner may meet the reporting requirement by conforming with applicable *Federal Register* notices, including Interagency Notices, providing guidance for compliance with PRWORA section 404.

(f) *When evidence of citizenship or eligible status is required to be submitted.* The responsible entity must require evidence of citizenship or eligible immigration status required under § 5.508(b) to be submitted at the times specified in this paragraph, subject to any extension granted in accordance with paragraph (g) of this section.

(1) *Applicants.* For applicants, responsible entities must ensure that evidence of citizenship or eligible status required under § 5.508(b) is submitted not later than the date the responsible entity anticipates or has knowledge that verification of other aspects of eligibility for assistance will occur (see § 5.512(a)).

(2) *Tenants.*

(i) Tenants in mixed families receiving financial assistance under a Section 214 covered program who have not submitted evidence of citizenship or eligible immigration status required under § 5.508(b) as of **[insert effective date of final rule]** are required to submit such evidence within 90 days of **[insert effective date of final rule]**, in accordance with program requirements.

(ii) All other tenants receiving financial assistance under a Section 214 covered program who have not submitted evidence of citizenship or eligible immigration status required under § 5.508(b) as of **[insert effective date of final rule]** are required to submit such evidence at the next annual or interim reexamination of income and household composition after **[insert effective date of final rule]**, in accordance with program requirements.

(3) *New family members of assisted units.* For any new family member that comes to reside in an assisted unit, the required evidence under § 5.508(b) must be submitted not later than the date the responsible entity anticipates or has knowledge that verification of other aspects of eligibility for assistance will occur (see § 5.512(a)).

(4) *Changing participation in a HUD program.* Whenever a family applies for admission to a Section 214 covered program, evidence of citizenship or eligible status is required to be submitted in accordance with the requirements of this subpart E unless the family already has submitted the evidence to the responsible entity for a Section 214 covered program.

(5) *One-time evidence requirement for continuous occupancy and changes in status during occupancy.* For each family member, the family is required to submit evidence of citizenship or eligible status required under paragraph (b) of this section only one time in accordance with paragraph (f) of this section during continuously assisted occupancy under any Section 214 covered program. If a family member's citizenship or immigration status changes during occupancy, the family is required to immediately notify and submit evidence of the new citizenship or eligible status to the responsible entity.

(g) *Extensions of time to submit evidence of citizenship or eligible status—(1) When extension must be granted.* The responsible entity must extend the time, provided in paragraph

(f) of this section, to submit evidence of citizenship or eligible immigration status required under § 5.508(b) if the family member:

(i) Submits the required declaration and verification consent forms described in paragraphs (c) and (d) of this section certifying that any person for whom required evidence has not been submitted is U.S. citizen or a noncitizen with eligible immigration status; and

(ii) Certifies that the evidence needed to support a claim of citizenship or eligible immigration status is temporarily unavailable, additional time is needed to obtain and submit the evidence, and prompt and diligent efforts will be undertaken to obtain the evidence.

(2) *Thirty-day extension period.* Any extension of time, if granted, may not exceed 30 days. The additional time provided should be sufficient to allow any family member the time to obtain the evidence needed. The responsible entity's determination of the length of the extension needed must be based on the circumstances of the individual case. The total extension of time granted by the responsible entity to a family must be limited to 30 days.

(3) *Grant or denial of extension to be in writing.* The responsible entity must issue its decision to grant or deny an extension to the family by written notice. If the extension is granted, the notice must specify the extension period granted (which is limited to a total of 30 days). If the extension is denied, the notice must explain the reasons for denial of the extension.

(h) *Failure to submit evidence of citizenship or eligible immigration status or to verify eligible immigration status.* If the family fails to submit required evidence of citizenship or eligible status within the time period specified in the notice, or any extension granted in accordance with paragraph (g) of this section, or if the evidence is timely submitted but fails to verify citizenship or eligible immigration status, the responsible entity must proceed to deny or terminate assistance or provide continued assistance or temporary deferral of termination of assistance, as appropriate, in accordance with the provisions of §§ 5.514, 5.516, and 5.518.

9. Revise § 5.510 to read as follows:

**§ 5.510 Documents of citizenship and eligible immigration status.**

(a) *General.* A responsible entity must request and review original or certified copies of documents of citizenship and eligible immigration status in accordance with this subpart. The responsible entity must retain photocopies of the documents for its own records and return the original or certified copies of documents to the family.

(b) *Acceptable documentation of U.S. citizenship.* Acceptable documentation of U.S. citizenship is required only for purposes of secondary verification under § 5.512(d) and includes the original or a certified copy of:

- (1) A U.S. birth certificate;
- (2) A naturalization certificate;
- (3) A Consular Report of Birth Abroad (FS-240);
- (4) A valid unexpired U.S. passport;
- (5) A certificate of citizenship; or
- (6) Other acceptable documentation, as specified in HUD guidance.

(c) *Acceptable documentation of eligible immigration status.* Acceptable documentation of eligible immigration status is the original or a certified copy of a document designated by DHS as acceptable evidence of immigration status in one of the categories set forth in Section 214 (see 42 U.S.C. 1436a(a)) for the specific immigration status claimed by the individual.

10. Revise § 5.512 to read as follows:

**§ 5.512 Verification of citizenship and eligible immigration status.**

(a) *General.* Except as described in paragraph (b) of this section and § 5.514, no individual or family applying for assistance may receive such assistance prior to the verification of the eligibility of at least the individual or one family member. Verification of eligibility consistent with § 5.514 occurs when the individual or family members have submitted evidence to the responsible entity in accordance with § 5.508, and this section as applicable.

(b) *PHA election to provide assistance before verification.* A PHA that is a responsible entity under this subpart E may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member.

(c) *Primary verification of U.S. citizenship or eligible immigration status —*

(1) *Verification system.* Primary verification of the U.S. citizenship, U.S. nationality, or eligible immigration status of the person is conducted by the responsible entity through Systematic Alien Verification for Entitlements (SAVE), a DHS-administered program for the verification of U.S. citizenship and immigration status. Primary verification in SAVE confirms U.S. citizenship or immigration status using biographic information (first name, last name, and date of birth) and a government-issued numeric identifier permitted by SAVE.

(2) *Failure of primary verification to confirm U.S. citizenship or eligible immigration status.* If SAVE is not initially able to confirm U.S. citizenship, U.S. nationality, or eligible immigration status for the person, then the responsible entity must conduct secondary verification in accordance with paragraph (d) of this section.

(d) *Secondary verification.*

(1) The responsible entity must provide notice to the person of the opportunity to provide additional information, and acceptable documentation as described in § 5.510, for purposes of secondary verification. The responsible entity's notice must:

(i) Be in writing;

(ii) Notify the person of the results of primary verification and describe the need for secondary verification;

(iii) Identify whether, and describe the reasons why, acceptable documentation under § 5.510(b) and/or additional information is needed for secondary verification, including information on applicable dates under paragraph (d)(3) of this section; and

(iv) Notify the person of the ability to pursue at any point in the verification process a records correction with any agency that issued or maintains records and original or certified copies of documents relevant to verification.

(2) For secondary verification of U.S. citizenship and U.S. nationality:

(i) The person must provide acceptable documentation as described in § 5.510(b) and any information described as necessary for secondary verification in the notice provided by the responsible entity to the individual pursuant to paragraph (d)(1) of this section;

(ii) The responsible entity must then review any acceptable documentation and additional information provided by the person; and

(iii) If applicable as specified in HUD guidance, the responsible entity must request additional verification through the SAVE program.

(3) For secondary verification of eligible immigration status, the responsible entity must request additional verification through the SAVE program within 30 days of notification of the results of primary verification.

(e) *Failure to confirm U.S. citizenship or immigration status.* If primary and secondary verification do not confirm U.S. citizenship, U.S. nationality, or eligible immigration status, or confirm immigration status that is ineligible for assistance under a Section 214 covered program, the responsible entity must issue to the family the notice described in § 5.514(d), which includes notification of the ability to pursue a records correction with any agency that issued or maintains records and original or certified copies of documents relevant to verification, and the right to request an informal hearing with the responsible entity in accordance with § 5.514(e) (see § 5.514(d)(4) and (5)).

(f) *Exemption from liability for DHS verification.* The responsible entity is not liable for any action, delay, or failure of DHS in conducting DHS verification procedures.

11. Amend § 5.514 as follows:

a. Remove “INS” everywhere it appears and add “DHS” in its place;

- b. Revise paragraphs (a), (b), (c)(1), and (d);
- c. Remove paragraph (e) and redesignate paragraphs (f) through (i) as paragraphs (e) through (h) respectively;
- d. Revise redesignated paragraph (e)(1);
- e. In redesignated paragraph (e)(2)(ii), remove the reference to “paragraph (f)(3)(i)” and add, in its place, “paragraph (e)(2)(i)”;
- f. Revise redesignated paragraphs (e)(2)(iii) introductory text, (e)(2)(iii)(C), and (g); and
- g. In the introductory text of redesignated paragraph (h)(1), remove the phrase “Under Housing covered programs” and add, in its place, the phrase “Under the Section 236 program”.

The additions and revisions read as follows:

**§ 5.514 Delay, denial, reduction or termination of assistance.**

(a) Assistance to a family may not be delayed, denied, reduced or terminated because of the immigration status or pending citizenship verification of a family member except as provided in this section.

(b) *Restrictions on delay, denial, reduction, or termination of assistance—*

(1) *Restrictions on delay, denial, reduction, or termination of assistance for applicants and tenants.* Assistance to an applicant or tenant may not be delayed, denied, reduced, or terminated, on the basis of lack of U.S. citizenship, lack of U.S. nationality, or ineligible immigration status of a family member, if:

(i) The applicable verification process under § 5.512, including secondary verification under § 5.512(d), has been timely instituted but has not yet completed;

(ii) The family member for whom required evidence has not been submitted has moved from the assisted dwelling unit;

(iii) The family member who is determined not to be a U.S. citizen, a U.S. national, or in an eligible immigration status following the SAVE verification has moved from the assisted dwelling unit;

(iv) Assistance for a mixed family is prorated in accordance with § 5.520 pending final verification, including any procedures under §§ 5.512(d) and 5.514(e), on the eligibility of family members;

(v) Assistance is continued in accordance with §§ 5.516 and 5.518; or

(vi) Deferral of termination of assistance is granted in accordance with §§ 5.516 and 5.518.

(2) *Restrictions on delay, denial, reduction, or termination of assistance pending fair hearing for tenants.* In addition to the factors listed in paragraph (b)(1) of this section, assistance to a tenant cannot be delayed, denied, reduced, or terminated until the completion of the informal hearing process described in paragraph (e) of this section.

(c) *Events causing denial or termination of assistance—(1) General.* The responsible entity must deny assistance to an applicant and must terminate a tenant's assistance in accordance with the procedures of this section, upon the occurrence of any of the following events:

(i) Evidence of citizenship or eligible status as required by § 5.508 is not submitted by the date specified in § 5.508(f) or by the expiration of any extension granted in accordance with § 5.508(g); or

(ii) Evidence of citizenship or eligible status as required by § 5.508 or § 5.512 is timely submitted, but primary and secondary verification do not verify U.S. citizenship, U.S. nationality, or eligible immigration status of a family member; and

(A) The family does not pursue informal hearing rights as provided in this section; or

(B) The family does pursue informal hearing rights, but the final hearing decision is decided against the family member.

(iii) The responsible entity determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the public or assisted housing unit of the family member. Such termination must be for a period of not less

than 24 months. This provision does not apply to families eligible for continued assistance pursuant to §§ 5.516 and 5.518.

\* \* \* \* \*

(d) The notice of denial or termination of assistance must advise the family:

(1) That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;

(2) That the family may be eligible for proration of assistance as provided under § 5.520 pending final verification, including any procedures under §§ 5.512(d) and 5.514(e), on the eligibility of other family members;

(3) In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families in §§ 5.516 and 5.518;

(4) That the family has the ability to pursue at any point in the verification process a records correction with any agency that issued or maintains records and original or certified copies of documents relevant to verification;

(5) That the family has a right to request an informal hearing with the responsible entity as provided in § 5.514(e); and

(6) For applicants, the notice shall advise that assistance may not be delayed until the conclusion of procedures under § 5.512, but assistance may be delayed during the pendency of the informal hearing process as provided in § 5.514(e).

(e) \* \* \*

(1) *When request for hearing is to be made.* For U.S. citizenship verification and eligible immigration status verification by responsible entities, the family may request that the responsible entity provide a hearing. This request must be made within 30 days of receipt of the notice described paragraph (d) of this section.

(2) \* \* \*

(iii) *Families under the Section 236 Program and applicants for assistance under all covered programs.* For all families under the Section 236 program (applicants as well as tenants already receiving assistance) and for applicants for assistance under all covered programs, the procedures for the informal hearing before the responsible entity are as follows: \* \* \*

(C) *Presentation of evidence and arguments in support of eligible status.* The family must be provided the opportunity to present evidence and arguments in support of U.S. citizenship or eligible immigration status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;

\* \* \* \* \*

(g) *Retention of documents.* The responsible entity must retain, for a minimum of 5 years, the following documents that may have been submitted to the responsible entity by the family, or provided to the responsible entity as part of the verification process, including primary verification under § 5.512(d), or the informal hearing process under this section:

- (1) The application for financial assistance;
- (2) The form completed by the family for income reexamination;
- (3) Photocopies of any original or certified copies of documents (front and back),

including original or certified copies of DHS and citizenship documents, and corrected records and documents;

- (4) The signed verification consent form;
- (5) The DHS or responsible entity verification results;
- (6) The request for an informal hearing, if any; and
- (7) The final informal hearing decision.

\* \* \* \* \*

12. Revise § 5.516 to read as follows:

**§ 5.516 Availability of preservation assistance to tenant families.**

(a) *Assistance available for tenant families—(1) General.* Preservation assistance may be available to tenant families, in accordance with this section and following completion of the verification and informal hearing procedures provided in §§ 5.512 and 5.514. There are two types of preservation assistance:

(i) Continued assistance (see § 5.518(a)); and

(ii) Temporary deferral of termination of assistance (see § 5.518(b)).

(2) *Availability of assistance—(i) For the Section 236 Program.* One of the two types of assistance described in paragraph (a)(1) of this section may be available to tenant families assisted under the Section 236 Program or a 1965 HUD Act covered program, depending upon the family's eligibility for such assistance. Continued assistance must be provided to a mixed family that meets the conditions for eligibility for continued assistance.

(ii) *For Section 8 or Public Housing covered programs:* One of the two types of assistance described in paragraph (a)(1) of this section may be available to tenant families assisted under a Section 8 or Public Housing covered program.

(b) *Assistance available to other families in occupancy.* Temporary deferral of termination of assistance may be available to families receiving assistance under a Section 214 covered program on June 19, 1995, and who have no members with eligible immigration status, as set forth in paragraphs (b)(1) and (2) of this section.

(1) *For the Section 236 Program.* Temporary deferral of termination of assistance is available to families assisted under the Section 236 program.

(2) *For Section 8 or Public Housing covered programs.* The responsible entity may make temporary deferral of termination of assistance to families assisted under a Section 8 or Public Housing covered program.

(c) *Section 8 covered programs: Discretion afforded to provide certain family preservation assistance—(1) Project owners.* With respect to assistance under a Section 8 Act covered program administered by a project owner, HUD has the discretion to determine under

what circumstances families are to be provided one of the two statutory forms of assistance for preservation of the family (continued assistance or temporary deferral of assistance). HUD is exercising its discretion by specifying the standards in this section under which a project owner must provide one of these two types of assistance to a family.

(2) *PHAs*. The PHA, rather than HUD, has the discretion to determine the circumstances under which a family will be offered one of the two statutory forms of assistance (continued assistance, see § 5.518(a), or temporary deferral of termination of assistance, see § 5.518(b)). The PHA must establish its own policy and criteria to follow in making its decision. In establishing the criteria for granting continued assistance or temporary deferral of termination of assistance, the PHA must incorporate the statutory criteria, which are set forth in § 5.518(a) and (b).

13. Amend § 5.518 as follows:

- a. Revise the section heading and paragraphs (a), (b)(1), and (b)(2) introductory text;
- b. Remove paragraph (b)(2)(iii);
- c. Revise paragraphs (b)(3), (b)(5)(i)(A), and (b)(5)(ii)(A);
- d. Add paragraph (b)(6); and
- e. Remove paragraph (c) and redesignate paragraph (d) as paragraph (c).

The revisions and addition read as follows:

### **§ 5.518 Types of preservation assistance available to tenant families.**

(a) *Continued assistance*. (1) A mixed family may receive prorated continued housing assistance if all the following conditions are met (a mixed family assisted under the Section 236 program must be provided prorated continued assistance if the family meets the following conditions):

- (i) The family was receiving assistance under a Section 214 covered program on June 19, 1995;

(ii) The family's head of household or spouse is a U.S. citizen, a national of the United States, or has eligible immigration status as described in § 5.506; and

(iii) The only individuals in the family without eligible status are the head of household or spouse of the head of household, any parents of the head of household, any parents of the spouse, or any children of the head of household or spouse. An individual without eligible status means a person that is neither a U.S. citizen or national nor a person that has eligible immigration status.

(2) *Proration of continued assistance.* Continued assistance for eligible families under paragraph (a) of this section must be prorated as described in § 5.520.

(b) *Temporary deferral of termination of assistance—(1) Eligibility for this type of assistance.* If a mixed family does not qualify for continued assistance, the family may be eligible for temporary deferral of termination of assistance, if necessary, to permit the family additional time for the orderly transition of those family members with ineligible status, and any other family members involved, to other affordable housing.

(2) *Section 236 Program: Conditions for granting temporary deferral of termination of assistance.* The responsible entity must grant a temporary deferral of termination of assistance to a family if the family is assisted under the Section 236 program and one of the following conditions is met:

\* \* \* \* \*

(3) *Time limit on deferral period.* If temporary deferral of termination of assistance is granted, the initial deferral period may not exceed six months. The initial period may be renewed for additional periods of six months, but the aggregate deferral period for deferrals may not exceed a period of eighteen months. These time periods do not apply to a family that includes an individual admitted as a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act.

\* \* \* \* \*

(5) \* \* \*

(i) \* \* \*

(A) For the Section 236 Program: Make a determination that one of the two conditions specified in paragraph (b)(2)(i) and (ii) of this section continues to be met (note: affordable housing will be determined to be available if the vacancy rate is five percent or greater), and the owner’s knowledge and the tenant's evidence indicate that other affordable housing is available; or

\* \* \* \* \*

(ii) \* \* \*

(A) Notify the tenant family in writing, at least 60 days in advance of the expiration of the deferral period, that termination will be deferred again (provided that the granting of another deferral will not result in aggregate deferral periods that exceeds the maximum deferral period), because a determination was made that other affordable housing is not available. This time period does not apply to a family which includes a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act; *or*

\* \* \* \* \*

*(6) Proration of assistance during temporary deferral of termination of assistance.*

Assistance for eligible families under paragraph (b) of this section must be prorated as described in § 5.520.

\* \* \* \* \*

14. Amend § 5.520 as follows:

a. Revise paragraphs (a) and (b); and

b. In paragraph (c)(1)(ii), remove the reference to “section 5.613(a)” and add, in its place, a reference to “§ 5.628”.

The revisions to read as follows:

**§ 5.520 Proration of assistance.**

(a) *Applicability.* This section applies to a mixed family with at least one family member who has U.S. citizenship, U.S. nationality, or eligible immigration status pending final verification, including any procedures under §§ 5.512(d) and 5.514(e), for other family members, or to a mixed family eligible for preservation assistance under §§ 5.516 and 5.518.

\* \* \* \* \*

(b) *Method of prorating assistance for the Section 236 Program.—* (1) *Proration under Section 236 Program without the benefit of additional assistance.* If the household participates in the Section 236 Program without the benefit of any additional assistance, the household's rent must be increased above the rent the household would otherwise pay by an amount equal to the difference between the market rate rent for the unit and the rent the household would otherwise pay multiplied by a fraction the denominator of which is the number of people in the household and the numerator of which is the number of ineligible persons in the household.

(2) *Proration under Section 236 Program with the benefit of additional assistance.* If the household participates in the Section 236 Program with the benefit of additional assistance under the Section 8 programs, the household's rent must be increased above the rent the household would otherwise pay by:

(i) An amount equal to the difference between the market rate rent for the unit and the basic rent for the unit multiplied by a fraction, the denominator of which is the number of people in the household, and the numerator of which is the number of ineligible persons in the household, plus;

(ii) An amount equal to the housing assistance payment (the unit's gross rent minus the family's total tenant payment, see 24 CFR 5.628) the household would otherwise be entitled to multiplied by a fraction, the denominator of which is the number of people in the household and the numerator of which is the number of ineligible persons in the household.

\* \* \* \* \*

15. Revise § 5.522 to read as follows:

**§ 5.522 Prohibition of assistance to noncitizen students.**

(a) *General.* The provisions of §§ 5.516 and 5.518 permitting continued assistance or temporary deferral of termination of assistance for certain families do not apply to any person who is determined to be a noncitizen student as in Section 214(c)(2)(A) (42 U.S.C. 1436a(c)(2)(A)).

(b) *Family of noncitizen students.* The prohibition on providing assistance to a noncitizen student as described in paragraph (a) of this section extends to the noncitizen spouse of the noncitizen student and minor children accompanying the student or following to join the student.

**Scott Turner,**

Secretary

[FR Doc. 2026-03405 Filed: 2/19/2026 8:45 am; Publication Date: 2/20/2026]



# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 26-910

**Agenda Date:** 3/17/2026

**Agenda #:** C.1.

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** RATIFY HACCC'S EXECUTIVE DIRECTOR'S EXECUTION OF PURCHASE AND SALES AGREEMENTS AUTHORIZING THE SALE OF FOUR PARCELS OF LAND IN RICHMOND, LOCATED AT 1710-1714 FIRST STREET, 317/325 SILVER AVENUE, 525 SILVER/1711 GIARAMITA , AND 308, 320,322 MARKET/1748 3<sup>RD</sup> STREET.

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

RATIFY HACCC'S Executive Director's execution of Purchase and Sales Agreements authorizing the sale of four parcels of land in Richmond, located at 1710-1714 First St, 317/325 Silver Ave, 525 Silver Ave/1711 Giaramita, and 308, 320,322 Market/1748 3RD St.

### BACKGROUND:

The Housing Authority of the County of Contra Costa (HACCC), in collaboration with both the HUD Office of Recapitalization (RECAP) and the HUD Special Application Center (SAC) agreed on a process to demolish and dispose of the Las Deltas Public Housing development through the combined use of Rental Assistance Demonstration Program (RAD) and Section 18 Demolition and Disposition.

HACCC requested, and HUD approved, the removal of the Declarations of Trust on the properties that make up the entire site. In addition, HUD approved the recording of a new Declaration of Restrictive Covenant (DRC) on all the units and parcels at Las Deltas. The DRC required that any scattered sites sold at market rate would need to be substantiated by a certified appraisal and would no longer be subject to the restrictive covenants. The proceeds of the sale would be required to be used for affordable housing purposes. Moreover, HUD has approved the sale of the properties referenced below prior to the sale as required by the DRC.

The sale of Las Deltas was earmarked to give preference to former residents of Las Deltas as the Tier 1 group and residents of or person working in North Richmond as the Tier 2 group. Tier 3 would be members of the general public with a conscious effort to avoid selling the properties to a speculative developer.

This Board approved the sale and disposition of 17 properties at below market rates on September 12, 2023 to four non-profit housing developers who are refurbishing the units and will then sell them to former Las Deltas residents and residents of North Richmond with incomes at or below 80% of the area median income. This was the first phase of the disposition plan for Las Deltas.

The second phase was to sell the remaining 18 parcels at Fair Market Value based on a certified market appraisal. HACCC began this phase in March of 2025. A certified appraiser was hired to complete market appraisals for these properties which HACCC used to begin marketing the parcels to the former residents of

Las Deltas before proceeding with members of the North Richmond community. On May 20, 2025, this Board approved the sale of the first scattered site property and authorized the Executive Director to proceed with executing all necessary documents to memorialize the sale of the remaining 17 parcels.

**RECOMMENDED ACTION:**

Pursuant to the instructions of the Board, the Executive Director of HACCC has proceeded to close on four additional sales and now seeks to have the Board ratify the sales. The four parcels in question are as follows:

Buyer: Julian Castro Cruz  
Address of Property: Building 588-589: 1710 - 1714 First Street  
APN: 409-200-016-7  
Lot Square Footage: 7,500  
Closing Date: February 13, 2026  
Price: \$350,000

Buyer: Alejandro and Claudia Dominguez  
Address of Property: Building 592-593: 317/325 Silver Avenue  
APN: 409-191-009-3  
Lot Square Footage: 10,026  
Closing Date: February 9, 2026  
Price: \$370,000

Buyer: Khanh Keomanee  
Address of Property: Building 609-610: 525 Silver /1711 Giaramita  
APN: 409-152-007-4  
Lot Square Footage: 7,500  
Closing Date: January 23, 2026  
Price: \$340,000

Buyer: Direct Resources Development Enterprise's Limited Liability Company  
Address of Property: Building 626-629: 308.320.322 Market /1748 3rd St  
APN: 409-191-001-0  
Lot Square Footage: 15,214  
Closing Date: March 2, 2026  
Price: \$500,000

HACCC is currently in final stages of closing on two additional transactions. We will bring those to the Board for Ratification at the next meeting along with any other closings that may be completed by then.

**FISCAL IMPACT:**

HACCC will receive \$1,560,000 for the sale of the properties on the four parcels. Closing costs and realtor fees will be paid from these funds.

**CONSEQUENCE OF NEGATIVE ACTION:**

There are no negative consequences of this action.





# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 26-912

**Agenda Date:** 3/17/2026

**Agenda #:** C.2.

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** INVESTMENT REPORT FOR THE QUARTER ENDING DECEMBER 31, 2025

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

RECEIVE the Housing Authority of the County of Contra Costa's investment report for the quarter December 31st, 2025

### BACKGROUND:

California Government Code (CGC) Section 53646 requires the Housing Authority of the County of Contra Costa (HACCC) to present the Board of Commissioners with a quarterly investment report that provides a complete description of HACCC's portfolio. The report is required to show the issuers, type of investments, maturity dates, par values (equal to market value here) and the current market values of each component of the portfolio, including funds managed by third party contractors. It must also include the source of the portfolio valuation (in HACCC's case it is the issuer). Finally, the report must provide certifications that (1) all investment actions executed since the last report have been made in full compliance with the Investment Policy and; (2) HACCC will meet its expenditure obligations for the next six months. (CGC 53646(b)).

The state-mandated report has been amended to indicate the amount of interest earned and how the interest was allocated. The amended report is attached.

In summary, HACCC had \$32,629.20 in interest earnings for the quarter ending December 31st, 2025. That interest was earned within discrete programs and most of the interest earned is available only for use within the program which earned the interest. Further, interest earnings may be restricted to specific purposes within a given program.

The Housing Choice Voucher Program reserve as of 12/31/2013 held in cash and investments was transitioned to HUD held program reserve account.

Non-restricted interest earnings within both the voucher and public housing programs must be used solely within those programs, but such interest earnings can be used for a wider range of purposes within the individual programs. The interest earned in the State and Local fund can be used for any purpose within HACCC's scope of operations.

The interest earned for the quarter ending December 31st, 2025 is shown below. A more detailed report is attached.

| Public Housing               | Housing Choice Voucher Fund |                              | Central Office               | State & Local                |
|------------------------------|-----------------------------|------------------------------|------------------------------|------------------------------|
| Unrestricted Interest Earned | Restricted Interest Earned  | Unrestricted Interest Earned | Unrestricted Interest Earned | Unrestricted Interest Earned |
| \$9,703.01                   |                             |                              | \$14,125.95                  | \$8,800.24                   |

**FISCAL IMPACT:**

None. For reporting purposes only.

**CONSEQUENCE OF NEGATIVE ACTION:**

Should the Board of Commissioners elect not to accept the investment report it would result in an audit finding of non-compliance and could ultimately affect future funding from the U.S. Department of Housing and Urban Development (HUD).

**HOUSING AUTHORITY OF CONTRA COSTA COUNTY  
INVESTMENT REPORT : PORTFOLIO HOLDINGS BY TYPE**

**For Period Ending: 12/31/2025**

| Issuer                               | Investment Type        | Amount Invested     | Yield  | Investment Date | Maturity Date | Estimated Value@ Maturity Date |
|--------------------------------------|------------------------|---------------------|--------|-----------------|---------------|--------------------------------|
| <b><u>Cantella &amp; Company</u></b> |                        |                     |        |                 |               |                                |
| Fidelity Market Reserves             | Money Market           | 100,812.68          | 3.420% | ongoing         | ongoing       | 100,812.68                     |
| State Bank of India                  | Certificate of Deposit | 105,000.00          | 1.000% | 4/27/21         | 4/27/26       | 110,252.88                     |
| Sally Mae Bank                       | Certificate of Deposit | 75,000.00           | 1.050% | 9/23/21         | 9/22/26       | 78,937.50                      |
| Synchrony Bank                       | Certificate of Deposit | 100,000.00          | 0.950% | 9/24/21         | 9/24/26       | 104,752.60                     |
| Federal Home Loan bank               | Govt Agency            | 115,000.00          | 1.350% | 1/27/22         | 1/27/26       | 121,214.25                     |
| Federal Home Loan bank               | Govt Agency            | 110,000.00          | 1.750% | 2/04/22         | 1/27/27       | 119,588.08                     |
| American Express national Bank       | Certificate of Deposit | 247,000.00          | 2.000% | 3/09/22         | 3/09/27       | 271,713.53                     |
| Capital One Bank, USA                | Certificate of Deposit | 230,000.00          | 2.250% | 3/23/22         | 3/23/27       | 255,889.18                     |
| BMO Harris Bank                      | Certificate of Deposit | 150,000.00          | 3.300% | 6/15/22         | 6/15/27       | 174,763.56                     |
| Morgan Stanley Bank                  | Certificate of Deposit | 150,000.00          | 3.750% | 6/30/22         | 6/30/27       | 178,140.41                     |
| Discover Bank                        | Certificate of Deposit | 140,000.00          | 3.300% | 7/20/22         | 7/20/26       | 158,492.66                     |
| CIBC Bank USA                        | Certificate of Deposit | 150,000.00          | 4.350% | 5/16/23         | 5/15/28       | 182,642.88                     |
| Texas Trust Credit Union             | Certificate of Deposit | 150,000.00          | 5.000% | 8/09/23         | 8/09/27       | 180,020.55                     |
| Greenstate Credit Union              | Certificate of Deposit | 130,000.00          | 5.000% | 8/29/23         | 8/29/28       | 162,535.62                     |
| Toyota Financial Bank                | Certificate of Deposit | 100,000.00          | 4.600% | 5/24/24         | 5/24/29       | 123,012.60                     |
| Federal Home Loan Mort Corp          | Govt Agency            | 720,000.00          | 4.300% | 8/23/24         | 8/07/29       | 873,527.67                     |
| Farmer Mac                           | Govt Agency            | 200,000.00          | 4.790% | 1/31/25         | 1/28/30       | 247,847.51                     |
| Federal Home Loan Mort Corp          | Govt Agency            | 150,000.00          | 4.250% | 5/29/25         | 5/20/30       | 181,735.27                     |
| Morgan Stanley Private Bank          | Certificate of Deposit | 110,000.00          | 4.350% | 6/23/25         | 6/21/30       | 133,911.89                     |
| Citi Bank NA                         | Certificate of Deposit | 175,000.00          | 4.150% | 7/29/25         | 7/29/28       | 196,807.40                     |
| Fannie Mae                           | Govt Agency            | 200,000.00          | 4.000% | 8/26/25         | 8/26/30       | 240,021.92                     |
| <b>GRAND TOTALS</b>                  |                        | <b>3,607,812.68</b> |        |                 |               | <b>4,196,620.64</b>            |

|                             |                |                     |       |         |         |                     |
|-----------------------------|----------------|---------------------|-------|---------|---------|---------------------|
| L.A.I.F. (Acct # 25-07-003) | Liquid Account | 122,998.36          | 4.20% | ongoing | ongoing | 122,998.36          |
| <b>GRAND TOTALS</b>         |                | <b>3,730,811.04</b> |       |         |         | <b>4,319,619.00</b> |

# HOUSING AUTHORITY OF CONTRA COSTA COUNTY

## INVESTMENT REPORT BY FUND

For Period Ending 12/31/2025

| Issuer                               | Amount Invested     | Amount Invested by Fund: |                   |                     |                        |                       |
|--------------------------------------|---------------------|--------------------------|-------------------|---------------------|------------------------|-----------------------|
|                                      |                     | Public Housing           | Management        | Central Office      | Housing Choice Voucher | Rental Rehabilitation |
| <b><u>Cantella &amp; Company</u></b> |                     |                          |                   |                     |                        |                       |
| Fidelity Market Reserves             | 100,812.68          | 27,517.68                | 26,993.39         | 46,301.61           |                        |                       |
| State Bank of India                  | 105,000.00          |                          |                   | 105,000.00          |                        |                       |
| Sally Mae Bank                       | 75,000.00           |                          |                   | 75,000.00           |                        |                       |
| Synchrony Bank                       | 100,000.00          | 100,000.00               |                   |                     |                        |                       |
| Federal Home Loan bank               | 115,000.00          |                          |                   | 115,000.00          |                        |                       |
| Federal Home Loan bank               | 110,000.00          |                          |                   | 110,000.00          |                        |                       |
| American Express national Bank       | 247,000.00          |                          |                   | 247,000.00          |                        |                       |
| Capital One Bank, USA                | 230,000.00          |                          |                   | 230,000.00          |                        |                       |
| BMO Harris Bank                      | 150,000.00          |                          |                   | 150,000.00          |                        |                       |
| Morgan Stanley Bank                  | 150,000.00          |                          |                   | 150,000.00          |                        |                       |
| Discover Bank                        | 140,000.00          |                          |                   | 140,000.00          |                        |                       |
| CIBC Bank USA                        | 150,000.00          |                          | 150,000.00        |                     |                        |                       |
| Texas Trust Credit Union             | 150,000.00          |                          |                   | 150,000.00          |                        |                       |
| Greenstate Credit Union              | 130,000.00          | 130,000.00               |                   |                     |                        |                       |
| Toyota Financial Bank                | 100,000.00          |                          | 100,000.00        |                     |                        |                       |
| Federal Home Loan Mort Corp          | 720,000.00          | 720,000.00               |                   |                     |                        |                       |
| Farmer Mac                           | 200,000.00          |                          |                   | 200,000.00          |                        |                       |
| Federal Home Loan Mort Corp          | 150,000.00          |                          | 150,000.00        |                     |                        |                       |
| Morgan Stanley Private Bank          | 110,000.00          |                          | 110,000.00        |                     |                        |                       |
| Citi Bank NA                         | 175,000.00          |                          | 175,000.00        |                     |                        |                       |
| Fannie Mae                           | 200,000.00          |                          |                   | 200,000.00          |                        |                       |
| <b>GRAND TOTALS</b>                  | <b>3,607,812.68</b> | <b>977,517.68</b>        | <b>711,993.39</b> | <b>1,718,301.61</b> | -                      | -                     |
| L.A.I.F. (Acct # 25-07-003)          | 122,998.36          | -                        | -                 | -                   |                        | 122,998.36            |
| <b>GRAND TOTALS</b>                  | <b>3,730,811.04</b> | <b>977,517.68</b>        | <b>711,993.39</b> | <b>1,718,301.61</b> | -                      | <b>122,998.36</b>     |

# HOUSING AUTHORITY OF CONTRA COSTA COUNTY

## Report per CGC 53646 CURRENT MARKET VALUE

For Period Ending 12/31/2025

| Issuer                         | Investment Type        | Maturity Date | Amount Invested     | Current Market Value (at 12/31/25) | Yield |
|--------------------------------|------------------------|---------------|---------------------|------------------------------------|-------|
| <b>Cantella &amp; Company</b>  |                        |               |                     |                                    |       |
| Fidelity Market Reserves       | Money Market           | ongoing       | 100,812.68          | 100,812.68                         | 3.42% |
| State Bank of India            | Certificate of Deposit | 4/27/2026     | 105,000.00          | 104,069.70                         | 1.00% |
| Sally Mae Bank                 | Certificate of Deposit | 9/22/2026     | 75,000.00           | 73,654.50                          | 1.05% |
| Synchrony Bank                 | Certificate of Deposit | 9/24/2026     | 100,000.00          | 98,122.00                          | 0.95% |
| Federal Home Loan bank         | Govt Agency            | 1/27/2026     | 115,000.00          | 114,819.45                         | 1.35% |
| Federal Home Loan bank         | Govt Agency            | 1/27/2027     | 110,000.00          | 107,092.30                         | 1.75% |
| American Express national Bank | Certificate of Deposit | 3/09/2027     | 247,000.00          | 242,415.68                         | 2.00% |
| Capital One Bank, USA          | Certificate of Deposit | 3/23/2027     | 230,000.00          | 226,264.80                         | 2.25% |
| BMO Harris Bank                | Certificate of Deposit | 6/15/2027     | 150,000.00          | 149,274.00                         | 3.30% |
| Morgan Stanley Bank            | Certificate of Deposit | 6/30/2027     | 150,000.00          | 150,051.00                         | 3.75% |
| Discover Bank                  | Certificate of Deposit | 7/20/2026     | 140,000.00          | 139,706.00                         | 3.30% |
| CIBC Bank USA                  | Certificate of Deposit | 5/15/2028     | 150,000.00          | 152,074.50                         | 4.35% |
| Texas Trust Credit Union       | Certificate of Deposit | 8/09/2027     | 150,000.00          | 153,135.00                         | 5.00% |
| Greenstate Credit Union        | Certificate of Deposit | 8/29/2028     | 130,000.00          | 134,096.30                         | 5.00% |
| Toyota Financial Bank          | Certificate of Deposit | 5/24/2029     | 100,000.00          | 102,513.00                         | 4.60% |
| Federal Home Loan Mort Corp    | Govt Agency            | 8/07/2029     | 720,000.00          | 719,949.60                         | 4.30% |
| Farmer Mac                     | Govt Agency            | 1/28/2030     | 200,000.00          | 201,752.00                         | 4.79% |
| Federal Home Loan Mort Corp    | Govt Agency            | 5/20/2030     | 150,000.00          | 150,139.50                         | 4.25% |
| Morgan Stanley Private Bank    | Certificate of Deposit | 6/21/2030     | 110,000.00          | 110,561.00                         | 4.35% |
| Citi Bank NA                   | Certificate of Deposit | 7/29/2028     | 175,000.00          | 175,021.00                         | 4.15% |
| Fannie Mae                     | Govt Agency            | 8/26/2030     | 200,000.00          |                                    | 4.00% |
|                                |                        |               | <b>3,607,812.68</b> | <b>3,230,503.01</b>                |       |
| L.A.I.F. (Acct # 25-07-003)    | Liquid Account         | ongoing       | 122,998.36          | 122,998.36                         | 4.20% |
| <b>GRAND TOTALS</b>            |                        |               | <b>3,730,811.04</b> | <b>3,353,501.37</b>                |       |

# HOUSING AUTHORITY OF CONTRA COSTA COUNTY

## Investment Interest Earnings Report

For Period Ending 12/31/2025

| 150189                               | Amount Invested     | Interest Earned this Qtr | Interest Earned this Quarter by Fund |                 |                  |                 |                 |
|--------------------------------------|---------------------|--------------------------|--------------------------------------|-----------------|------------------|-----------------|-----------------|
|                                      |                     |                          | Public Housing                       | Management      | Central          | Rental Rehab    | Housing Voucher |
|                                      |                     |                          | Unrestricted                         | Unrestricted    | Unrestricted     | Unrestricted    | Unrestricted    |
| <b><u>Cantella &amp; Company</u></b> |                     |                          |                                      |                 |                  |                 |                 |
| Fidelity Market Reserves             | 100,812.68          | 850.14                   | 232.05                               | 227.63          | 390.46           | -               | -               |
| State Bank of India                  | 105,000.00          | 258.90                   | -                                    | -               | 258.90           | -               | -               |
| Sally Mae Bank                       | 75,000.00           | 194.18                   | -                                    | -               | 194.18           | -               | -               |
| Synchrony Bank                       | 100,000.00          | 234.25                   | 234.25                               | -               | -                | -               | -               |
| Federal Home Loan bank               | 115,000.00          | 382.81                   | -                                    | -               | 382.81           | -               | -               |
| Federal Home Loan bank               | 110,000.00          | 474.66                   | -                                    | -               | 474.66           | -               | -               |
| American Express national Bank       | 247,000.00          | 1,218.08                 | -                                    | -               | 1,218.08         | -               | -               |
| Capital One Bank, USA                | 230,000.00          | 1,276.03                 | -                                    | -               | 1,276.03         | -               | -               |
| BMO Harris Bank                      | 150,000.00          | 1,220.55                 | -                                    | -               | 1,220.55         | -               | -               |
| Morgan Stanley Bank                  | 150,000.00          | 1,386.99                 | -                                    | -               | 1,386.99         | -               | -               |
| Discover Bank                        | 140,000.00          | 1,139.18                 | -                                    | -               | 1,139.18         | -               | -               |
| CIBC Bank USA                        | 150,000.00          | 1,608.90                 | -                                    | 1,608.90        | -                | -               | -               |
| Texas Trust Credit Union             | 150,000.00          | 1,849.32                 | -                                    | -               | 1,849.32         | -               | -               |
| Greenstate Credit Union              | 130,000.00          | 1,602.74                 | 1,602.74                             | -               | -                | -               | -               |
| Toyota Financial Bank                | 100,000.00          | 1,134.25                 | -                                    | 1,134.25        | -                | -               | -               |
| Federal Home Loan Mort Corp          | 720,000.00          | 7,633.97                 | 7,633.97                             | -               | -                | -               | -               |
| Farmer Mac                           | 200,000.00          | 2,362.19                 | -                                    | -               | 2,362.19         | -               | -               |
| Federal Home Loan Mort Corp          | 150,000.00          | 1,571.92                 | -                                    | 1,571.92        | -                | -               | -               |
| Morgan Stanley Private Bank          | 110,000.00          | 1,179.86                 | -                                    | 1,179.86        | -                | -               | -               |
| Citi Bank NA                         | 175,000.00          | 1,790.75                 | -                                    | 1,790.75        | -                | -               | -               |
| Fannie Mae                           | 200,000.00          | 1,972.60                 | -                                    | -               | 1,972.60         | -               | -               |
| -                                    | <b>3,607,812.68</b> | <b>31,342.27</b>         | <b>9,703.01</b>                      | <b>7,513.31</b> | <b>14,125.95</b> | -               | -               |
| L.A.I.F. (Acct # 25-07-003)          | 122,998.36          |                          |                                      |                 |                  | 1,286.93        |                 |
| <b>GRAND TOTALS</b>                  | <b>3,730,811.04</b> | <b>32,629.20</b>         | <b>9,703.01</b>                      | <b>7,513.31</b> | <b>14,125.95</b> | <b>1,286.93</b> | <b>-</b>        |



# CONTRA COSTA COUNTY

1025 ESCOBAR STREET  
MARTINEZ, CA 94553

## Staff Report

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**File #:** 26-913

**Agenda Date:** 3/17/2026

**Agenda #:** C.3.

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**To:** Contra Costa County Housing Authority Board of Commissioners

**From:** Joseph Villarreal, Executive Director

**Report Title:** CONTRACT WITH STAPLES BUSINESS ADVANTAGE FOR OFFICE PRODUCTS AND SUPPLIES IN AN AMOUNT NOT TO EXCEED \$300,000.

Recommendation of the County Administrator  Recommendation of Board Committee

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### RECOMMENDATIONS:

APPROVE and AUTHORIZE the Executive Director of the Housing Authority of the County of Contra Costa, or his designee, to execute a contract with Staples Business Advantage that will expire on February 2, 2029, to provide the Housing Authority with office products and supplies in an amount not to exceed \$300,000.

### BACKGROUND:

In preparing to bid this contract out, staff determined that HACCC could obtain more advantageous pricing by linking to a contract for office and classroom supplies and equipment between Sourcewell and Staples Business Advantage.

HUD requires housing authorities to competitively procure goods and services, a process normally undertaken by each individual agency. However, HUD permits housing authorities to award contracts to firms selected by a state or local governmental agency in a competitive solicitation process. The state or local government's selection process must meet HUD's procurement guidelines and must have been for the same goods and services sought by the housing authority. HUD encourages housing authorities to procure goods and services in this manner in order to "foster greater economy and efficiency..."

Sourcewell is a Municipal Contracting government agency established through legal statute in 1978. Sourcewell serves over 35,000 members throughout the nation with competitively awarded purchasing solutions from industry-leading vendors. Sourcewell's solicitations meet HUD's procurement guidelines.

Staples Business Advantage was awarded a competitively solicited contract to provide office and school supplies to Sourcewell's members from February 3, 2025 through February 3, 2029. This Contract allows up to three additional one-year extensions upon the request of Sourcewell and written agreement by Supplier.

Staples Business Advantage was formed in 1997 and has served as HACCC's primary office products and supply vendor since 2001. HACCC presently receives a 28% discount off of the published catalog price. By contracting through Sourcewell, HACCC will receive a 44% discount off of the published catalog price.

Staff is recommending that HACCC award a contract to Staples Business Advantage to provide HACCC with office products and supplies. The total cost of the proposed contract will not exceed \$300,000 without additional Board approval.

**FISCAL IMPACT:**

The cost for these supplies will not exceed \$300,000 and is funded by grants the Housing Authority of the County of Contra Costa (HACCC) receives from the United States Department of Housing and Urban Development (HUD). The anticipated yearly amount of the contract falls within the amount presently budgeted for this purpose.

**CONSEQUENCE OF NEGATIVE ACTION:**

Should the Board of Commissioners elect not to award the contract to Staples Business Advantage via Sourcewell, HACCC will be required to go out to bid for office products and supplies. This process will be lengthy and expensive, and it is unlikely that HACCC will be able to obtain the level of discount provided via Sourcewell's contract.