

Dear NAHMA Members,

Today, HUD published a proposed rule for comment regarding the verification of eligible immigration status for recipients of housing assistance. According to the proposed rule, HUD believes that requiring the verified eligible immigration status of the head of household or spouse is more in keeping with statutory goals 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. **Please send NAHMA any comments on the proposed rule by Friday, June 28, 2019.**

The proposed rule would make two changes to HUD's current regulations implementing parts of the Housing and Community Development Act of 1980 relating to U.S. citizens and certain categories of eligible noncitizens in HUD's public housing and Section 8 Housing Assistance programs (Section 214):

- Under current regulation, HUD can prorate assistance for a household based on the immigration eligibility of household members. The proposed rule would require verification of the eligible immigration status of all recipients of assistance under a covered housing program who are under the age of 62; as a result, the proposed rule would make prorated assistance a temporary condition pending verification of eligible status.
- The proposed rule would also specify that individuals who are not in eligible immigration status may not serve as a leaseholder, even as part of a mixed-eligibility family whose assistance is prorated based on the percentage of members with eligible status.
- The proposed rule also makes a number of nonsubstantive (technical) changes to update terminology and formatting in the Section 214 statutory requirements.

According to the proposed rule, several factors have prompted HUD to reconsider its noncitizen regulations, including the President's April 2018 [Executive Order 13828](#). Titled "Reducing Poverty in America by Promoting Opportunity and Economic Mobility," the Executive Order provides that agencies should "adopt policies to ensure that only eligible persons receive benefits and enforce all relevant laws providing that aliens who are not otherwise qualified and eligible may not receive benefits."

As stated in the proposed rule, "HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives." Less burdensome alternatives could include grandfathering clauses and targeted (leaseholder only) eligibility verification requirements.

To view the proposed rule online, please click [here](#). More details about the proposed rule and HUD's request for comment are included below. **Please send any comments to NAHMA by Friday, June 28th, 2019. We will also work with our Regulatory Affairs Committee for further analysis of this issue.**

Thanks,
Juliana

"Housing and Community Development Act of 1980: Verification of Eligible Status"

Section 214 of the Housing and Community Development Act of 1980 (as amended) prohibits the Secretary of HUD from making financial assistance available to persons other than U.S. citizens or certain categories of eligible noncitizens in HUD's public and specified assisted housing programs,

including HUD's Public Housing programs, Section 8 Housing Assistance Programs, Housing Development Grant programs, the Rent Supplement Program, and Sections 235 and 236.

According to the proposed rule, HUD believes that the following amendments will bring its regulations into greater alignment with the wording and purpose of Section 214:

1. Verification of Eligible Immigration Status

The first proposed amendment would require that the eligible immigration status of all recipients of assistance under a Section 214 covered program who are under the age of 62 be verified through Systematic Alien Verification for Entitlements (SAVE), which is administered by the Department of Homeland Security (DHS).

Current HUD regulations excuse individuals from submitting immigration status documentation if they do not contend to having eligible immigration status. This results in no actual determination of immigration status being made.

Under the proposed amendment to the rule, a current participant in a Section 214 covered program (with the exception of Section 235 assistance payments) who has not previously submitted evidence of eligible immigration status, will be required to do so at the first regular reexamination after the effective date of HUD's final rule for this rulemaking. This typically occurs on an annual basis. For financial assistance in the form of Section 235 assistance payments, the mortgagor would be required to submit the required evidence in accordance with requirements imposed under the Section 235 Program. The proposed amendment to the rule would not change the timing of verification for new applicants to a Section 214 covered program.

2. Leaseholder Eligibility

The second proposed regulatory amendment would specify that individuals who are not verified in an eligible immigration status may not serve as the head of household or spouse (i.e., the holder of the lease).

Under the current regulations, the "do not contend" provision facilitates the indefinite use by a mixed family of prorated assistance. Further, it is possible under the current regulations for the holder of the lease to be ineligible under the Section 214 covered program for which the mixed family is receiving assistance.

HUD no longer agrees that a leaseholder, the individual who is contractually bound to the landlord and who holds conditional ownership of the unit for the lease term, can be exempted from having verified eligible immigration status.

3. Technical Nonsubstantive Changes

The proposed rule also makes a number of nonsubstantive (technical) changes to update terminology and formatting in the Section 214 statutory requirements. For example, the proposed rule would replace outdated references to the Immigration and Naturalization Service (INS) to refer to DHS.

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NAHMA is the leading voice for affordable housing management, advocating on behalf of multifamily property managers and owners whose mission is to provide quality affordable housing.