



July 9, 2019

Regulations Division, Office of General Counsel
U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 10276
Washington, DC 20410-0500

Submitted electronically via www.regulations.gov

Re: Housing and Community Development Act of 1980: Verification of Eligible Status, Docket No. FR-6124-P-01

To Whom It May Concern:

On behalf of the state Housing Finance Agencies (HFAs) it represents, the National Council of State Housing Agencies (NCSHA) writes to oppose HUD's proposed rule on the Housing and Community Development Act of 1980: Verification of Eligible Status.

We believe the proposed rule is unnecessary, would increase administrative burdens without proportionate program improvement, and would likely cause serious displacement of and disruption to current tenants of the covered affordable housing programs. We therefore respectfully urge HUD to withdraw it.

NCSHA represents the HFAs of the 50 states, the District of Columbia, New York City, Puerto Rico, and the U.S. Virgin Islands. HFAs administer a wide range of affordable housing and community development programs, including the HOME Investment Partnerships (HOME) program, the National Housing Trust Fund (HTF), project-based and tenant-based Section 8, Emergency Solutions Grants (ESG), Community Development Block Grants (CDBG), and Housing Opportunities for Persons with AIDS (HOPWA). HFAs also administer down payment assistance, the Low Income Housing Tax Credit (Housing Credit) and issue tax-exempt private activity bonds (Housing Bonds) to finance affordable housing for renters and home buyers.

NCSHA is a nonprofit, nonpartisan organization created by the nation's state HFAs more than 40 years ago to coordinate and leverage their federal advocacy efforts for affordable housing.¹ In addition to its policy and advocacy work, NCSHA provides HFAs education and training and facilitates best practice exchange among them.

¹ NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

Section 214 of the Housing and Community Development Act of 1980 prohibits HUD from making financial assistance available to persons other than U.S. citizens and other eligible noncitizen immigrants. Under current regulations, mixed immigration status (“mixed-status”) families receive prorated subsidies so that no federal funds are being used to help those who are not citizens or eligible immigrants while still allowing eligible members of these households, including many eligible children, to receive assistance.

While HUD suggests that this new proposed rule on mixed-status family eligibility for housing assistance is simply an attempt to better align current regulations with this statute, the proposed rule is unnecessary given that mixed-status families already receive prorated housing assistance. The proposed rule is also problematic because it would increase considerably the administrative burdens of operating HUD programs, may potentially cause serious displacement of and disruption to current tenants of the covered affordable housing programs, and could have broader negative implications for state HFAs’ abilities to provide affordable housing to families in need.

By HUD’s own admission in its [regulatory analysis of the proposed rule \(dated April 15, 2019\)](#), this proposed rule will result in evictions and very likely homelessness among these mixed-status families. Public housing agencies (PHAs), including state HFAs, also will face heavy administrative burdens in order to implement this proposed rule. With no additional funding, this will force them to redirect scarce resources toward compliance and evictions instead of reaching more households.

HUD’s regulatory analysis further shows that this proposed rule will cost the federal government more money than under current regulations and is unlikely to address long waiting lists for federal housing assistance in any meaningful way.

Proposed Rule will Hurt Families and Children, Including U.S. Citizens

HUD’s proposed rule puts each and every member of a mixed-status household at risk, even if the majority of household members are eligible. In fact, HUD’s regulatory analysis shows that more than 55,000 children who are U.S. citizens, or otherwise eligible to receive housing benefits, could face eviction under the proposed rule.

Mixed-status families would be forced to make an impossible decision: either separate or lose their housing assistance altogether. The former devastates family stability, and also likely means the loss of a critical caregiver or homemaker, creating undue financial hardship. The latter forces the entire family to find unassisted housing and likely pay more than they are able. In many situations, especially in tight housing markets, this will lead to severe housing instability and homelessness.

HFAs and their local partners are making great strides in preventing and ending homelessness in their states, but this proposed rule could obstruct or reverse this important work.

The consequences go beyond housing, as research clearly shows the negative educational and health outcomes for children facing housing instability and homelessness.

Proposed Rule is Administratively Burdensome

NCSHA is also seriously concerned by the administrative burden of implementing this proposed rule, both for HFAs and their public and private housing provider partners. The proposed rule would require the verification of eligible immigration status of all recipients of a covered housing program under the age of 62. Housing providers would also need to collect status documentation from 120,000 elderly tenants.

Additionally, the proposed rule calls for PHAs, including HFAs, to establish their own policies and criteria to determine whether a family should receive continued or temporary deferral of assistance. Housing providers will also need to re-house families in new units if the family size changes, update admission and continued occupancy plans, and implement extremely prescriptive procedural requirements for applicants and program participants.

Finally, enforcing compliance through evictions and voucher terminations will also increase staff time and expenses. The proposed rule doesn't adequately acknowledge the burden of these various requirements, and there are no new resources to offset the associated costs. These additional burdens could also deter private housing providers from participating in the Section 8 programs, worsening the affordable housing crisis.

Proposed Rule is Costly

If implemented, the proposed rule would increase HUD program costs as families that receive prorated assistance leave the covered housing programs and more costly families participate. According to HUD's analysis, the aggregate cost increase could range from \$193 million to \$227 million annually. Under current budgetary constraints, this will not likely be made up by additional appropriations. In fact, HUD's own analysis suggests that, given increased costs, housing providers may not be able to re-issue vouchers on a one-for-one basis for the families terminated from the program. This could force PHAs, including HFAs, to redirect scarce resources to fill these gaps.

HUD's analysis also estimates that eviction costs could reach between \$3.3 million and \$4.4 million for households that require a formal eviction process. PHAs, including HFAs, may also be faced with litigation costs when advocacy groups seek to prevent evictions.

While we appreciate Secretary Carson's stated desire to reduce waiting lists for housing assistance, the proposed rule is not well designed to meet this goal and will do more harm than good. If implemented, it will harm the mixed-status families that receive prorated assistance now and put more financial and administrative pressure on HFAs and their partners in a resource-

constrained environment. The proposed rule will also increase federal program costs. NCSHA therefore urges HUD to withdraw this proposed rule.

Please contact me if we can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Garth Rieman", with a long horizontal flourish extending to the right.

Garth Rieman
Director of Housing Advocacy and Strategic Initiatives