



July 9, 2019

Office of the General Counsel  
Rules Docket Clerk  
U.S. Department of Housing and Urban Development  
451 Seventh Street SW, Room 10276  
Washington, DC 20410-0001

RE: Docket Number FR-6124-P-01, Housing and Community Development Act of 1980:  
Verification of Eligible Status

To Whom It May Concern:

The Local Initiatives Support Corporation (LISC) appreciates the opportunity to provide comments on proposed amendments to the U.S. Department of Housing and Urban Development's (HUD) regulations implementing Section 214 of the Housing and Community Development Act of 1980, as amended.

Established in 1979, LISC is a national nonprofit housing and community development organization that is dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity. LISC mobilizes corporate, government and philanthropic support to provide local community development organizations with loans, grants and equity investments; as well as technical and management assistance. Our organization has a nationwide footprint, with local offices in 35 cities. LISC invests approximately \$1.4 billion each year in these communities and our work covers a wide range of activities, including affordable housing, economic development, building family wealth and incomes, education, and creating healthy communities.

LISC supports many neighborhoods with large immigrant populations. The communities where we invest are home to 1.5 times more foreign-born residents than those in the average American metropolitan area. We partner in these communities with local community development organizations that provide housing assistance, job training, English language classes and programs to immigrants and refugees, and that organize new residents to fight discrimination and ensure access to vital services. We believe in fully supporting recent arrivals access to the resources to which they are legally entitled. The proposed rule will cut off access to HUD housing assistance for mixed status families, and in so doing, endangers the low-income populations we support through our community-based partners.

### **General Comments**

HUD's proposes to amend its current Section 214 regulations to prohibit mixed status families from

living in HUD assisted housing that is subject to immigration restrictions.<sup>1</sup> Mixed status families are households comprised of eligible and ineligible members subject to Section 214. HUD's current practice, which is congruent with Congressional intent, is to allow mixed status families to live together although prorate assistance based on the composition of eligible members in the household. This ensures that only citizens and eligible persons receive federal housing subsidies while keeping low-income families stably housed.

HUD's proposed rule would require *every* member of a household to be eligible to receive housing assistance. This threatens the housing stability of current mixed status families. In addition, HUD's proposed rule would require all residents under the age of 62 to have their immigration status screen through the Systematic Alien Verification for Entitlements Program, administered by the Department of Homeland Security. Families with members who are deemed ineligible will be evicted from covered housing after 18 months or sooner.

HUD has stated that the proposed rule will help address the large waiting lists for HUD housing assistance resources. There are currently over 3 million low-income persons on voucher waiting lists, with an estimated additional 6 million that would like to be on a waiting list.<sup>2</sup> There is clearly not enough federal housing assistance resources to meet our nation's affordable housing crisis. Unfortunately, HUD's proposal will lead to a decrease in the number of families assisted by covered programs. HUD's own internal analysis indicates that replacing all 25,000 mixed status families with new members who are all eligible would cost up to \$437 million more annually.<sup>3</sup> This is since current mixed status families receive less subsidy overall due to HUD's proration practices. HUD's analysis states that the likeliest scenario is that "HUD would have to reduce the quantity and quality of assisted housing in response to higher costs" and that "there could be fewer households served..."<sup>4</sup> This is in direct contradiction of HUD's mission and responsibilities. HUD should be utilizing its programs and limited funds to stably house as many low-income households as possible.

The proposed rule would threaten the housing stability of over 108,000 people, increase the risk of homelessness, and impose substantial costs to community-based organizations who support immigrant communities. LISC's history of supporting community-based organizations in low-income communities has shown us that while these organizations provide essential services, they cannot be effective without other federal assistance programs – and certainly cannot be viewed as a replacement for federal resources.

Community based organizations do not have the financial resources or organizational capacity to make up for the loss of federal housing assistance. These organizations supplement the nation's safety net and should not be asked to be the primary providers of public assistance to vulnerable populations. Lastly, LISC's research has found that community groups have already needed to work much harder and expend scarce resources in order to reach and serve populations who have been fearful of accessing all kinds of public and community services due to recent federal immigration policy actions.<sup>5</sup> The implementation of HUD's proposed rule would exacerbate these costs.

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<sup>1</sup> The proposed rule would apply to Public Housing, Section 8 Housing Choice Vouchers, Section 8 Project-Based Rental Assistance, Section 235 Home Loan Program, Section 236 Rental Assistance Program, Rent Supplement Program, and Housing Development Grant Programs.

<sup>2</sup> Alice Mazzara, CBPP, *Housing Vouchers Work: Huge Demand, Insufficient Funding for Housing Vouchers Mean Long Waits*. <https://www.cbpp.org/blog/housing-vouchers-work-huge-demand-insufficient-funding-for-housing-vouchers-means-long-waits>

<sup>3</sup> HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01.

<sup>4</sup> *Ibid.*

<sup>5</sup> [http://www.lisc.org/media/filer\\_public/3c/d6/3cd6c801-6931-4e1b-93a7-7a0e825719b4/011419\\_research\\_whitepaper\\_immigration.pdf](http://www.lisc.org/media/filer_public/3c/d6/3cd6c801-6931-4e1b-93a7-7a0e825719b4/011419_research_whitepaper_immigration.pdf)

LISC is *strongly opposed* to amending the current section 214 regulations in the manner proposed by HUD. We urge HUD to withdraw the rule due to the harm it will cause low-income families and children.

### **Comments on the Notice of Proposed Rulemaking**

The following section provides specific comments on the proposed rule.

#### Impact on Low-Income Families, Children and Vulnerable Populations

The proposed rule will force mixed status families to make a decision on whether to break up their current household to continue to receive housing assistance or drop out of the covered programs to keep their family intact. HUD's data shows that 70 percent of mixed status families currently receiving assistance are composed of eligible children and at least one eligible parent, so it is likely that these families will forgo assistance to avoid separation.<sup>6</sup> HUD's proposal effectively bars citizen children from receiving federal housing assistance if they have an ineligible parent or member in their household. HUD's internal analysis states that the Department expects up to 108,000 individuals in mixed status families (in which 3 out of 4 are eligible for assistance) to be evicted or removed from covered programs. HUD's regulatory impact analysis states that "HUD expects that fear of the family being separated would lead to prompt evacuation by most mixed households, whether that fear is justified." Forcing low-income families to forgo housing assistance will cause increased rates of homelessness and housing instability. And as HUD notes, "the cost of homelessness to society can be substantial, arising from the provision of transitional shelter and community supports, emergency services, health care, and the criminal justice systems."<sup>7</sup>

Research has shown the benefits of keeping families stably housed, which include better health outcomes and higher rates of employment and economic self-sufficiency. For children, research has shown that housing instability can lead to mental health problems<sup>8</sup>, gaps in insurance coverage<sup>9</sup>, food insecurity<sup>10</sup>, decreases in educational attainment, and poorer overall life outcomes as adults.<sup>11</sup> HUD's proposed rule will worsen the life of thousands of households and put tremendous strains on families and children, as well as the local and state governments that support them. Local and state governments as well as community-based organizations do not have the resources or capacity to support households displaced by HUD's actions and HUD has not considered these costs in the proposed rule.

#### New Documentation Requirements

HUD's proposed rule requires all who declare themselves to be U.S. citizens to provide evidence of citizenship. The current practice allows citizens to sign a declaration, under penalty of perjury, of their citizenship status. The proposed rule would require a birth certificate or documentation validating their status, which can be difficult for the populations served by federal housing assistance.

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<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Burgard, S. A., Seefeldt, K. S., & Zelner, S. (2012). Housing instability and health: findings from the Michigan Recession and Recovery Study. *Social science & medicine*, 75(12), 2215-2224.

<sup>9</sup> Carroll, A., Corman, H., Curtis, M. A., Noonan, K., & Reichman, N. E. (2017). Housing instability and children's health insurance gaps. *Academic pediatrics*, 17(7), 732-738.

<sup>10</sup> Kushel, M. B., Gupta, R., Gee, L., & Haas, J. S. (2006). Housing instability and food insecurity as barriers to health care among low-income Americans. *Journal of general internal medicine*, 21(1), 71-77.

<sup>11</sup> Will Fischer, *Research Show Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, Center on Budget and Policy Priorities; see also Linda Giannarelli et al., *Reducing Child Poverty in the U.S.: Costs and Impacts of Policies Proposed by the Children's Defense Fund*.

For instance, many low-income older adults, minorities, persons who have experienced homelessness, and persons with disabilities struggle with accessing such documents due to previous episodes of housing instability, which can result in lost records. It is also difficult for these populations to afford the cost of creating new records. Under HUD's proposed rule, these households will be evicted if they cannot produce records in the required time period. Similar to HUD's mixed status proposal, this change will heighten the risk of homelessness and eviction for low-income people, including some of our nation's most vulnerable populations.

#### Public Burden for Public Housing Authorities and Private Owners

The impact of HUD's proposed rule is not limited to immigrants and their families, even though they will be the most harmed. HUD's proposed new documentation requirements will force thousands of public housing authorities, property owners, and management agents to enforce new citizenship documentation requirements for over nine million HUD assisted residents and future households. The proposed rule also calls for public housing authorities to establish their own policies and criteria to determine whether a family should receive continued or temporary deferral of assistance under certain conditions. This increase in public burden is not in line with the Administration's Executive Order on reducing regulatory and administrative burden.<sup>12</sup>

All of these requirements will place a significant cost burden on housing authorities and other housing providers, which is not accounted for in the proposed rule. For instance, HUD's analysis states that formally evicting and terminating assistance for thousands of mixed status families will cost \$4.4 million.<sup>13</sup> These unfunded costs could deter private owners from wanting to participate in HUD programs and further burden underfunded public housing authorities. And all of these efforts will only worsen our nation's affordable housing crisis since as HUD acknowledges, it will reduce the quality and quantity of such housing.

#### Public Burden for Community-Based Organizations Supporting Immigrant Neighborhoods

LIISC's research,<sup>14</sup> echoing the findings of many others,<sup>15</sup> have found that community groups have *already* needed to work much harder and expend considerable resources in order to reach and serve populations who have been fearful of accessing all kinds of public and community services to which they are legally eligible, due to recent federal immigration policy changes. The proposed rule would exacerbate these costs, as eviction and homelessness are issues about which all families, immigrant and nonimmigrant, are legitimately fearful.

#### Incongruent with the Statute and Congressional Intent

In the proposed rule, HUD claims to be revising its regulations "into greater alignment with the wording and purpose of Section 214," namely by barring mixed-status families from receiving assistance. HUD states that Section 214 prohibits the indefinite receipt of prorated assistance by mixed-status families, but does not cite any statutory language. In fact, Section 214 clearly conveys that Congress intended to ensure that individuals with eligible immigration status would receive assistance while keeping mixed status families together. For example, 42 U.S.C. §1436a(b)(2) states, "If the eligibility for financial assistance of at least one member of a family has been affirmatively established under this section, 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

<sup>12</sup> White House Executive Order 13771 - <https://www.govinfo.gov/content/pkg/FR-2017-02-03/pdf/2017-02451.pdf>

<sup>13</sup> HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01.

<sup>14</sup> [http://www.lisc.org/media/filer\\_public/3c/d6/3cd6c801-6931-4e1b-93a7-7a0e825719b4/011419\\_research\\_whitepaper\\_immigration.pdf](http://www.lisc.org/media/filer_public/3c/d6/3cd6c801-6931-4e1b-93a7-7a0e825719b4/011419_research_whitepaper_immigration.pdf)

<sup>15</sup> [https://www.urban.org/sites/default/files/publication/100270/one\\_in\\_seven\\_adults\\_in\\_immigrant\\_families\\_reported\\_avoiding\\_publi\\_4.pdf](https://www.urban.org/sites/default/files/publication/100270/one_in_seven_adults_in_immigrant_families_reported_avoiding_publi_4.pdf)

the applicable Secretary shall be prorated...” The use of “shall be prorated” indicates that HUD *must* provide prorated assistance to mixed status families.

LISC strongly opposes HUD’s proposed amendments to the Section 214 regulations and encourages the Department to withdraw the rule. We urge HUD to advance policies that increase housing assistance for our nation’s low-income families and which prevent homelessness by keeping people stably housed.

Please contact Mark Kudlowitz ([mkudlowitz@lisc.org](mailto:mkudlowitz@lisc.org)), LISC Policy Director, if you need additional clarification or follow up on any of the recommendations provided in this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Matt Josephs".

Matt Josephs  
Senior Vice President for Policy