

Exhibit 2-3 Meet Citizenship Requirements

HUD Regulation – 24 CFR 5.500

(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 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:

(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) Covered individuals and entities –

(1) Covered individuals/persons and families. The provisions of this subpart E apply to both applicants for assistance and persons already receiving assistance covered under this subpart E.

(2) Covered entities. The provisions of this subpart E apply to Public Housing Agencies (PHAs), project (or housing) owners, and mortgagees under the Section 235 Program. The term "responsible entity" is used in this subpart E to refer collectively to these entities, and is further defined in §5.504.



1. Limited English Proficiency

HUD Regulation – 24 CFR 5.502

For any notice or document (decision, declaration, consent form, etc.) that this subpart E requires the responsible entity to provide to an individual, or requires the responsible entity to obtain the signature of an individual, the responsible entity, where feasible, must arrange for the notice or document to be provided to the individual in a language that is understood by the individual if the individual is not proficient in English. (See 24 CFR 8.6 of HUD's regulations for requirements concerning communications with persons with disabilities.)

2. Nondiscrimination Requirements

HUD Regulation – 24 CFR 5.524

The responsible entity shall administer the restrictions on use of assisted housing by noncitizens with ineligible immigration status imposed by this part in conformity with all applicable nondiscrimination and equal opportunity requirements, including, but not limited to, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-5) and the implementing regulations in 24 CFR part 1, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations in 24 CFR part 8, the Fair Housing Act (42 U.S.C. 3601-3619) and the implementing regulations in 24 CFR part 100.

3. Restrictions on Assistance

HUD Regulation – 24 CFR 5.506

(a) Restrictions on assistance. Financial assistance under a Section 214 covered program is restricted to:

- (1) Citizens; or
- (2) Noncitizens who have eligible immigration status under one of the categories set forth in Section 214 (see 42 U.S.C. 1436a(a)).

(b) Family eligibility for assistance.

(1) A family shall not be 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 paragraph (b)(2) of this section.

(2) Despite the ineligibility of one or more family members, a mixed family may be eligible for one of the three types of assistance provided in §§5.516 and 5.518. A family without any eligible members and receiving assistance on June 19, 1995 may be eligible for temporary deferral of termination of assistance as provided in §§5.516 and 5.518.

(c) Preferences. Citizens of the Republic of Marshall Islands, the Federated States of Micronesia, and the Republic of Palau who are eligible for assistance under paragraph (a)(2) of this section are entitled to receive local preferences for housing assistance, except that, within Guam, such citizens who have such local preference will not be entitled to housing assistance in preference to any United States citizen or national resident therein who is otherwise eligible for such assistance.

AHFC Policy

See the Definitions section of this policy for a listing of eligible persons under 42 U.S.C. 1436a.

4. Citizenship Choices

HUD Regulation – 24 CFR 5.508(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 paragraph (b) of this section for each family member. 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 as provided in paragraph (e) of this section, and the provisions of §§5.516 and 5.518 shall apply.

4.A Declaration of Citizenship or Eligible Immigration Status

HUD Regulation – 24 CFR 5.508

(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 or U.S. nationals, the evidence consists of a signed declaration of U.S. citizenship or U.S. nationality. The responsible entity may request verification of the declaration by requiring presentation of a United States passport or other appropriate documentation, as specified in HUD guidance.

(2) For noncitizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a Section 214 covered program on September 30, 1996 or applying for assistance on or after that date, the evidence consists of:

- (i) A signed declaration of eligible immigration status; and
 - (ii) Proof of age document.
- (3) For all other noncitizens, the evidence consists of:
- (i) A signed declaration of eligible immigration status;
 - (ii) One of the INS documents referred to in §5.510; and
 - (iii) A signed verification consent form.

(c) Declaration.

(1) For each family member who contends that he or she is a U.S. citizen or a noncitizen with eligible immigration status, the family must submit to the responsible entity a written declaration, signed under penalty of perjury, by which the family member declares whether he or she is a U.S. citizen or a noncitizen with eligible immigration status.

- (i) For each adult, the declaration must be signed by the adult.
- (ii) For each child, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) For Housing covered programs: The written declaration may be incorporated as part of the application for housing assistance or may constitute a separate document.

AHFC Policy

1. Each adult family member must declare his or her citizenship or immigration status prior to receiving assistance. Each individual may choose from the following:
 - Eligible Immigration Status - U.S. citizen, U.S. national, or Noncitizen with eligible immigration status
 - Ineligible Immigration Status - Not an eligible citizen or Choose not to state
2. For each child, an adult residing in the unit who is responsible for that child will declare the citizenship status and sign on behalf of the child.
3. Declarations of citizenship or immigration status will be signed under penalty of perjury.
4. If clarification or additional verification for a family member is required, AHFC may ask for such items as a birth certificate, U.S. passport, military identification card, or DD-214.

4.B Noncitizen with Eligible Immigration Status

HUD Regulation – 24 CFR 5.508(d)

Verification consent form –

(1) Who signs. Each noncitizen who declares eligible immigration status (except certain noncitizens who are 62 years of age or older as described in paragraph (b)(2) of this section) must sign a verification consent form as follows.

(i) For each adult, the form must be signed by the adult.

(ii) For each child, the form must be signed by an adult residing in the assisted dwelling unit who is responsible for the child.

(2) Notice of release of evidence by responsible entity. The verification consent form shall provide that evidence of eligible immigration 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:

(i) HUD, as required by HUD; and

(ii) The INS for purposes of verification of the immigration status of the individual.

(3) Notice of release of evidence by HUD. The verification consent form also shall notify the individual of the possible release of evidence of eligible immigration status by HUD. Evidence of eligible immigration status shall only be released to the INS for purposes of establishing eligibility 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 the INS.

4.C Other Persons with Eligible Immigration Status

The following are specific groups of individuals and their citizenship or immigration status.

4.C.1. U.S. Territories and Possessions

U.S. nationals have the right to reside in the U.S. (i.e., the 50 states and District of Columbia) and may apply for citizenship by naturalization after three months of residency by passing a test in English and civics and by taking an oath of allegiance to the United States. U.S. nationals are allowed to travel freely between their territory and the U.S. mainland. U.S. nationals are eligible for housing assistance.

a. American Samoa

American Samoa is an unincorporated territory of the United States of America. The citizens of American Samoa are U.S. nationals.

b. Commonwealth of the Northern Mariana Islands

The Commonwealth of the Northern Mariana Islands consists of 15 islands in the northwestern Pacific Ocean. The CNMI includes all islands in the Mariana Archipelago and is an insular area and commonwealth of the United States. Persons born in these islands are U.S. citizens by birth.

c. Guam

Persons born on the island of Guam after April 11, 1899 and their children, are citizens of the United States as of August 1, 1950.

d. Puerto Rico

Puerto Rican citizenship was first legislated by the United States Congress in Article 7 of the Foraker Act of 1900 and later recognized in the Constitution of Puerto Rico. On March 2, 1917, the Jones-Shafroth Act was signed, collectively making Puerto Ricans U.S. citizens without rescinding their Puerto Rican citizenship.

e. Swains Island

Swains Island is also known as Olosenga Island, Olohega Island, Quiros Island, Gente Hermosa Island, and Jennings Island. It was annexed in 1925 and made part of American Samoa. As it is part of American Samoa, persons born here are considered U.S. nationals.

f. U.S. Virgin Islands

Previously the Danish West Indies of the Kingdom of Denmark-Norway, they were sold to the United States by Denmark in the Treaty of the Danish West Indies of 1916. They are classified by the U.N. as a non-self-governing territory and are currently an organized, unincorporated U.S. territory. Persons born in the U.S. Virgin Islands (islands are Saint Croix, Saint John, and Saint Thomas) are U.S. citizens.

4.C.2. Section 141 of the Compacts of Free Association

Citizens of the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI), and the Republic of Palau are admitted to the U.S. as nonimmigrants when admitted under the terms of those nations' respective Compacts of Free Association with the United States. These three countries are sometimes referred to collectively as the "Freely Associated States." These persons are not citizens or nationals of the U.S.

Under their respective Compacts of Free Association, these persons are eligible to work in the U.S. as nonimmigrants for an unlimited length of time. Most citizens of the FSM,

the RMI, and Palau who are lawfully present in the U.S. are Compact nonimmigrants, but some have lawful permanent resident status or some other status under U.S. immigration law.

Public and Indian Housing Notice 2001-27¹

Section 3(b) of Public Law 106-504, enacted November 13, 2000, amends Section 214 (a) of the Housing and Community Development Act of 1980 (USC 1436a(a)) to provide that an alien who is a lawful resident in the United States and its territories and its possessions under section 141 of the Compacts of Free Association between the government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia and Palau (collectively referred to as "the Freely Associated States" (FAS)) is eligible for financial assistance while the applicable section is in effect.

4.C.3. Canadian Indian

Since 1794, aboriginal peoples have been guaranteed the right to trade and travel between the United States and Canada, which was then a territory of Great Britain. This right is recognized in Article III of the Jay Treaty, also known as the Treaty of Amity, Commerce and Navigation of 1794 and subsequent laws that stem from the Jay Treaty.

Canadian-born people with at least 50 percent aboriginal blood can enter, live in, and work in the United States without immigration restrictions. This right is guaranteed by federal statute (8 U.S. Code 1359) and the federal court case *Akins v. Saxbe*, 380 F. Supp. 1210 (D.Me. 1974). These rights include the ability to:

1. Cross the U.S./Canadian border freely.
2. Live and work in the U.S.
3. Be eligible for public benefits such as Medicaid, Supplemental Security Income (SSI), Medicare, unemployment benefits, and other public assistance provided the person meets the appropriate agency guidelines.

Federal benefits may include federal student loans, Section 8 housing, and veterans' benefits.

State benefits may include public assistance, Women/Infants/Children ("WIC"), and Temporary Assistance for Needy Families (TANF).

¹ Public and Indian Housing Notice 2001-27 dated August 3, 2001 titled "Implementation of Public Law 106-504 regarding the eligibility of the citizens of the Freely Associated States for federally assisted housing"

4.C.4. Panama Canal Zone

Persons born in the Panama Canal Zone whose mother or father was a U.S. citizen is a U.S. citizen.

4.C.5. Independent State of Samoa (Western Samoa)

Samoa has been an independent sovereign state since 1962. Citizenship in Samoa is not the same as citizenship in American Samoa. For persons born in Samoa, they must provide evidence of eligible immigration status.

4.D Ineligible Noncitizen or Choose Not to State

HUD Regulation – 24 CFR 5.508(e)

Individuals who do not contend that they have eligible status. 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. The family, however, must identify in writing to the responsible entity, the family member (or members) who will elect not to contend that he or she has eligible immigration status.

HUD Regulation – 24 CFR 5.511

(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 documentation to the responsible entity in accordance with §5.508.

(b) PHA election to provide assistance before verification. A PHA that is a responsible entity under this subpart may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member.

AHFC Policy

1. At least one member of a family must have citizenship or eligible immigration status for the family to be eligible for housing assistance.
2. AHFC will prorate rental assistance (see Mixed or Prorated Family).

4.D.1. Noncitizen Student

HUD Regulation – 24 FR 5.522

(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 paragraph (c)(2)(A) of Section 214 (42 U.S.C. 1436a(c)(2)(A)). The family of a noncitizen student may be eligible for prorated assistance, as provided in paragraph (b)(2) of this section.

(b) Family of noncitizen students.

(1) 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.

(2) The prohibition on providing assistance to a noncitizen student does not extend to the citizen spouse of the noncitizen student and the children of the citizen spouse and noncitizen student.

AHFC Policy

AHFC will not provide assistance to persons admitted to the United States temporarily and solely for purposes of pursuing a course of study at an established institution of learning or other recognized place of study in the United States (an F-1 or M-1 student visa). Noncitizen students are not eligible for continuation of assistance, prorated assistance, or temporary deferral of termination of assistance.

1. Any noncitizen family members living with the noncitizen student are also ineligible for assistance.
2. A noncitizen student with a citizen spouse or citizen child is considered a “mixed family” and may receive assistance.

4.D.2. Other Alien Status

Under no circumstances will AHFC provide assistance to alien visitors, tourists, diplomats, or students who enter the United States temporarily with no intention of abandoning their residence in a foreign country.

4.E Mixed or Prorated Family

HUD Regulation – 24 CFR 5.516(a)

Assistance available for tenant mixed families –

(1) General. Preservation assistance is available to tenant mixed families, following completion of the appeals and informal hearing procedures provided in §5.514. There are three types of preservation assistance:

- (i) Continued assistance (see paragraph (a) of §5.518);
- (ii) Temporary deferral of termination of assistance (see paragraph (b) of §5.518); or
- (iii) Prorated assistance (see §5.520, a mixed family must be provided prorated assistance if the family so requests).

(2) Availability of assistance –

- (i) For Housing covered programs: One of the three types of assistance described is available to tenant mixed families assisted under a National Housing Act or 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 three types of assistance described may be available to tenant mixed families assisted under a Section 8 or Public Housing covered program.

HUD Regulation – 24 CFR 5.516(b)

Assistance available for applicant mixed families. Prorated assistance is also available for mixed families applying for assistance as provided in §5.520.

HUD Regulation – 24 CFR 5.518(d)

Notification of decision on family preservation assistance. A responsible entity shall notify the family of its decision concerning the family's qualification for family preservation assistance. If the family is ineligible for family preservation assistance, the notification shall state the reasons, which must be based on relevant factors. For tenant families, the notice also shall inform the family of any applicable appeal rights.

4.E.1. Preservation Assistance – Continued

HUD Regulation – 24 CFR 5.518

(a) Continued assistance –

(1) General. A mixed family may receive continued housing assistance if all of the following conditions are met (a mixed family assisted under a Housing covered program must be provided 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 has eligible immigration status as described in §5.506; and
- (iii) The family does not include any person (who does not have eligible immigration status) other than the head of household, any 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.

(2) Proration of continued assistance. A family entitled to continued assistance before November 29, 1996 is entitled to continued assistance as described in paragraph (a) of this section. A family entitled to continued assistance after November 29, 1996 shall receive prorated assistance as described in §5.520.

4.E.2. Preservation Assistance – Temporary Deferral

HUD Regulation – 24 CFR 5.518

(b) Temporary deferral of termination of assistance –

(1) Eligibility for this type of assistance. If a mixed family qualifies for prorated assistance (and does not qualify for continued assistance), but decides not to accept prorated assistance, or if a family has no members with eligible immigration status, 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. Other affordable housing is used in the context of transition of an ineligible family from a rent level that reflects HUD assistance to a rent level that is unassisted; the term refers to 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.

(2) Housing covered programs: Conditions for granting temporary deferral of termination of assistance. The responsible entity shall grant a temporary deferral

of termination of assistance to a mixed family if the family is assisted under a Housing covered program and one of the following conditions is met:

- (i) The family demonstrates that reasonable efforts to find other affordable housing of appropriate size have been unsuccessful (for purposes of this section, reasonable efforts include seeking information from, and pursuing leads obtained from the State housing agency, the city government, local newspapers, rental agencies and the owner);
- (ii) The vacancy rate for affordable housing of appropriate size is below five percent in the housing market for the area in which the project is located; or
- (iii) The consolidated plan, as described in 24 CFR part 91 and if applicable to the covered program, indicates that the local jurisdiction's housing market lacks sufficient affordable housing opportunities for households having a size and income similar to the family seeking the deferral.

(3) Time limit on deferral period. If temporary deferral of termination of assistance is granted, the deferral period shall be for an initial period not to exceed six months. The initial period may be renewed for additional periods of six months, but the aggregate deferral period for deferrals provided after November 29, 1996 shall not exceed a period of eighteen months. The aggregate deferral period for deferrals granted prior to November 29, 1996 shall not exceed 3 years. These time periods do 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.

(4) Notification requirements for beginning of each deferral period. At the beginning of each deferral period, the responsible entity must inform the family of its ineligibility for financial assistance and offer the family information concerning, and referrals to assist in finding, other affordable housing.

(5) Determination of availability of affordable housing at end of each deferral period.

- (i) Before the end of each deferral period, the responsible entity must satisfy the applicable requirements of either paragraph (b)(5)(i)(A) or (B) of this section. Specifically, the responsible entity must:
 - (A) For Housing covered programs: Make a determination that one of the two conditions specified in paragraph (b)(2) 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), the owner's knowledge and the tenant's evidence indicate that other affordable housing is available; or
 - (B) For Section 8 or Public Housing covered programs: Make a determination of the availability of affordable housing of appropriate size based on evidence of conditions which when taken together will demonstrate an inadequate supply of affordable housing for the area in

which the project is located, the consolidated plan (if applicable, as described in 24 CFR part 91), the responsible entity's own knowledge of the availability of affordable housing, and on evidence of the tenant family's efforts to locate such housing.

(ii) The responsible entity must also:

(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). 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, and a determination was made that other affordable housing is not available; or

(B) Notify the tenant family in writing, at least 60 days in advance of the expiration of the deferral period, that termination of financial assistance will not be deferred because either granting another deferral will result in aggregate deferral periods that exceed the maximum deferral period (unless the family includes a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act), or a determination has been made that other affordable housing is available.

(c) Option to select proration of assistance at end of deferral period. A family who is eligible for, and receives temporary deferral of termination of assistance, may request, and the responsible entity shall provide proration of assistance at the end of the deferral period if the family has made a good faith effort during the deferral period to locate other affordable housing.

4.E.3. Preservation Assistance – Prorated

HUD Regulation – 24 CFR 5.520

(a) Applicability. This section applies to a mixed family other than a family receiving continued assistance, or other than a family who is eligible for and requests and receives temporary deferral of termination of assistance. An eligible mixed family who requests prorated assistance must be provided prorated assistance.

(c) Method of prorating assistance for Section 8 covered programs –

(1) Section 8 assistance other than assistance provided for a tenancy under the Section 8 Rental Voucher Program or for an over-FMR tenancy in the Section 8

Rental Certificate Program. For Section 8 assistance other than assistance for a tenancy under the voucher program or an over-FMR tenancy under the certificate program, the PHA must prorate the family's assistance as follows:

- (i) Step 1. Determine gross rent for the unit. (Gross rent is contract rent plus any allowance for tenant paid utilities).
- (ii) Step 2. Determine total tenant payment in accordance with section 5.613(a). (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)
- (iii) Step 3. Subtract amount determined in paragraph (c)(1)(ii), (Step 2), from amount determined in paragraph (c)(1)(i), (Step 1).
- (iv) Step 4. Multiply the amount determined in paragraph (c)(1)(iii), (Step 3) by a fraction for which:
 - (A) The numerator is the number of family members who have established eligible immigration status; and
 - (B) The denominator is the total number of family members.
- (v) Prorated housing assistance. The amount determined in paragraph (c)(1)(iv), (Step 4) is the prorated housing assistance payment for a mixed family.
- (vi) No effect on contract rent. Proration of the housing assistance payment does not affect contract rent to the owner. The family must pay as rent the portion of contract rent not covered by the prorated housing assistance payment.

(2) Assistance for a Section 8 voucher tenancy or over-FMR tenancy. For a tenancy under the voucher program or for an over-FMR tenancy under the certificate program, the PHA must prorate the family's assistance as follows:

- (i) Step 1. Determine the amount of the pre-proration housing assistance payment. (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)
- (ii) Step 2. Multiply the amount determined in paragraph (c)(2)(i), (Step 1) by a fraction for which:
 - (A) The numerator is the number of family members who have established eligible immigration status; and
 - (B) The denominator is the total number of family members.
- (iii) Prorated housing assistance. The amount determined in paragraph (c)(2)(ii), (Step 2) is the prorated housing assistance payment for a mixed family.
- (iv) No effect on rent to owner. Proration of the housing assistance payment does not affect rent to owner. The family must pay the portion of rent to owner not covered by the prorated housing assistance payment.

(d) Method of prorating assistance for Public Housing covered programs. The PHA shall prorate the family's assistance by:

(1) Step 1. Determining total tenant payment in accordance with 24 CFR 913.107(a). (Annual income includes income of all family members, including any family member who has not established eligible immigration status.)

(2) Step 2. Subtracting the total tenant payment from a HUD-supplied "public housing maximum rent" applicable to the unit or the PHA. (This "maximum rent" shall be determined by HUD using the 95th percentile rent for the PHA.) The result is the maximum subsidy for which the family could qualify if all members were eligible ("family maximum subsidy").

(3) Step 3. Dividing the family maximum subsidy by the number of persons in the family (all persons) to determine the maximum subsidy per each family member who has citizenship or eligible immigration status ("eligible family member"). The subsidy per eligible family member is the "member maximum subsidy".

(4) Step 4. Multiplying the member maximum subsidy by the number of family members who have citizenship or eligible immigration status ("eligible family members").

(5) Step 5. The product of steps 1 through 4, as set forth in paragraph (d)(2) of this section is the amount of subsidy for which the family is eligible ("eligible subsidy"). The family's rent is the "public housing maximum rent" minus the amount of the eligible subsidy.

AHFC Policy

AHFC will prorate assistance for a family using the HUD income calculation as detailed in the regulations above.

5. Regular Examination

AHFC Policy

As part of its regular or annual examination process, AHFC will update any changes in eligible immigration status. This includes updating verification of eligible status, when necessary.

6. Delay of Assistance

HUD Regulation – 24 CFR 5.514

- (a) General. Assistance to a family may not be delayed, denied, reduced or terminated because of the immigration status of a family member except as provided in this section.
- (b) Restrictions on delay, denial, reduction or termination of assistance –
- (1) Restrictions on reduction, denial or termination of assistance for applicants and tenants. Assistance to an applicant or tenant shall not be delayed, denied, reduced, or terminated, on the basis of ineligible immigration status of a family member if:
- (i) The primary and secondary verification of any immigration documents that were timely submitted has not been 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 in an eligible immigration status following INS verification has moved from the assisted dwelling unit;
 - (iv) The INS appeals process under §5.514(e) has not been concluded;
 - (v) Assistance is prorated in accordance with §5.520; or
 - (vi) Assistance for a mixed family is continued in accordance with §§5.516 and 5.518; or
 - (vii) 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 described in paragraph (f) of this section.

AHFC Policy

AHFC shall not delay rental assistance to a family if at least one member of the household is a U.S. citizen, U.S. national, or has eligible immigration status.

7. Notification to Family

HUD Regulation – 24 CFR 5.508(f)

Notification of requirements of Section 214 –

(1) When notice is to be issued. Notification of the requirement to submit evidence of citizenship or eligible immigration status, as required by this section, or to elect not to contend that one has eligible status as provided by paragraph (e) of this section, shall be given by the responsible entity as follows:

- (i) Applicant's notice. The notification described in paragraph (f)(1) of this section shall be given to each applicant at the time of application for assistance. Applicants whose applications are pending on June 19, 1995, shall be notified of the requirement to submit evidence of eligible status as soon as possible after June 19, 1995.
- (ii) Notice to tenants. The notification described in paragraph (f)(1) of this section shall be given to each tenant at the time of, and together with, the responsible entity's notice of regular reexamination of income, but not later than one year following June 19, 1995.
- (iii) Timing of mortgagor's notice. A mortgagor receiving Section 235 assistance must be provided the notification described in paragraph (f)(1) of this section and any additional requirements imposed under the Section 235 Program.

(2) Form and content of notice. The notice shall:

- (i) State that financial assistance is contingent upon the submission and verification, as appropriate, of evidence of citizenship or eligible immigration status as required by paragraph (a) of 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 (g) of this section concerning when evidence must be submitted); and
- (iii) State that assistance will be prorated, denied or terminated, as appropriate, upon a final determination of ineligibility after all appeals have been exhausted (see §5.514 concerning INS appeal, and informal hearing process) or, if appeals are not pursued, at a time to be specified in accordance with HUD requirements. Tenants also shall be informed of how to obtain assistance under the preservation of families provisions of §§5.516 and 5.518.

AHFC Policy

1. AHFC provides an opportunity for the head of household and spouse/co-tenant to declare his or her citizenship or immigration status at the time of application.
2. Citizenship or immigration status for all household members must be disclosed and verified prior to an offer of admission.
3. A family member may grieve AHFC's citizenship determination under AHFC's grievance procedures.

7.A Evidence Submission

HUD Regulation – 24 CFR 5.510

- (a) General. A responsible entity shall request and review original documents of eligible immigration status. The responsible entity shall retain photocopies of the documents for its own records and return the original documents to the family.
- (b) Acceptable evidence of eligible immigration status. Acceptable evidence of eligible immigration status shall be the original of a document designated by INS as acceptable evidence of immigration status in one of the six categories mentioned in §5.506(a) for the specific immigration status claimed by the individual.

7.B Evidence Submission Deadlines

HUD Regulation – 24 CFR 5.508(g)

When evidence of eligible status is required to be submitted. The responsible entity shall require evidence of eligible status to be submitted at the times specified in paragraph (g) of this section, subject to any extension granted in accordance with paragraph (h) of this section.

(1) Applicants. For applicants, responsible entities must ensure that evidence of eligible status 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. For tenants, evidence of eligible status is required to be submitted as follows:

- (i) For financial assistance under a Section 214 covered program, with the exception of Section 235 assistance payments, the required evidence shall be submitted at the first regular reexamination after June 19, 1995, in accordance with program requirements.

(ii) For financial assistance in the form of Section 235 assistance payments, the mortgagor shall submit the required evidence in accordance with requirements imposed under the Section 235 Program.

(3) New occupants of assisted units. For any new occupant of an assisted unit (e.g., a new family member comes to reside in the assisted unit), the required evidence shall be submitted at the first interim or regular reexamination following the person's occupancy.

(4) Changing participation in a HUD program. Whenever a family applies for admission to a Section 214 covered program, evidence of eligible status is required to be submitted in accordance with the requirements of this subpart 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. For each family member, the family is required to submit evidence of eligible status only one time during continuously assisted occupancy under any Section 214 covered program.

7.C Evidence Submission Deadline Extensions

HUD Regulation – 24 CFR 5.508(h)

Extensions of time to submit evidence of eligible status –

(1) When extension must be granted. The responsible entity shall extend the time, provided in paragraph (g) of this section, to submit evidence of eligible immigration status if the family member:

(i) Submits the declaration required under §5.508(a) certifying that any person for whom required evidence has not been submitted is a noncitizen with eligible immigration status; and

(ii) Certifies that the evidence needed to support a claim of 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, shall not exceed thirty (30) days. The additional time provided should be sufficient to allow the individual the time to obtain the evidence needed. The responsible entity's determination of the length of the extension needed shall be based on the circumstances of the individual case.

(3) Grant or denial of extension to be in writing. The responsible entity's decision to grant or deny an extension as provided in paragraph (h)(1) of this section shall be issued to the family by written notice. If the extension is granted, the notice shall specify the extension period granted (which shall not exceed

thirty (30) days). If the extension is denied, the notice shall explain the reasons for denial of the extension.

- (i) Failure to submit evidence or to establish eligible status. If the family fails to submit required evidence of eligible immigration status within the time period specified in the notice, or any extension granted in accordance with paragraph (h) of this section, or if the evidence is timely submitted but fails to establish eligible immigration status, the responsible entity shall proceed to deny, prorate 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.
- (ii) [Reserved]

7.D Verification Methods

HUD Regulation – 24 CFR 5.511

(c) Primary verification –

(1) Automated verification system. Primary verification of the immigration status of the person is conducted by the responsible entity through the INS automated system (INS Systematic Alien Verification for Entitlements (SAVE)). The INS SAVE system provides access to names, file numbers and admission numbers of noncitizens.

(2) Failure of primary verification to confirm eligible immigration status. If the INS SAVE system does not verify eligible immigration status, secondary verification must be performed.

(d) Secondary verification –

(1) Manual search of INS records. Secondary verification is a manual search by the INS of its records to determine an individual's immigration status. The responsible entity must request secondary verification, within 10 days of receiving the results of the primary verification, if the primary verification system does not confirm eligible immigration status, or if the primary verification system verifies immigration status that is ineligible for assistance under a Section 214 covered program.

(2) Secondary verification initiated by responsible entity. Secondary verification is initiated by the responsible entity forwarding photocopies of the original INS documents required for the immigration status declared (front and back), attached to the INS document verification request form G- 845S (Document Verification Request), or such other form specified by the INS to a designated INS office for review. (Form G-845S is available from the local INS Office.)

(3) Failure of secondary verification to confirm eligible immigration status. If the secondary verification does not confirm eligible immigration status, the responsible entity shall issue to the family the notice described in §5.514(d), which includes notification of the right to appeal to the INS of the INS finding on immigration status (see §5.514(d)(4)).

(e) Exemption from liability for INS verification. The responsible entity shall not be liable for any action, delay, or failure of the INS in conducting the automated or manual verification.

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1. Each adult family member declaring that he or she is a noncitizen with eligible immigration status will provide documentation of his or her status and sign the verification consent form.
2. For each child, an adult residing in the unit who is responsible for that child will provide the documentation and sign on behalf of the child.
3. All family members declaring eligible noncitizen status will be checked in the Systematic Alien Verification for Entitlements (SAVE) system.
4. Upon direction from the SAVE system, AHFC will submit the appropriate documentation to DHS for manual verification of immigration status.

Document Retention

HUD Regulation - 24 CFR 5.514(h)

Retention of documents. The responsible entity shall 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 INS appeal or the informal hearing process:

- (1) The application for financial assistance;
- (2) The form completed by the family for income reexamination;
- (3) Photocopies of any original documents (front and back), including original INS documents;
- (4) The signed verification consent form;
- (5) The INS verification results;
- (6) The request for an INS appeal;
- (7) The final INS determination;
- (8) The request for an informal hearing; and
- (9) The final informal hearing decision.

8. Denial or Termination of Assistance

HUD Regulation – 24 CFR 5.514(c)

Events causing denial or termination of assistance –

(1) General. Assistance to an applicant shall be denied, and a tenant's assistance shall be terminated, in accordance with the procedures of this section, upon the occurrence of any of the following events:

- (i) Evidence of citizenship (i.e., the declaration) and eligible immigration status is not submitted by the date specified in §5.508(g) or by the expiration of any extension granted in accordance with §5.508(h);
- (ii) Evidence of citizenship and eligible immigration status is timely submitted, but INS primary and secondary verification does not verify eligible immigration status of a family member; and
 - (A) The family does not pursue INS appeal or informal hearing rights as provided in this section; or
 - (B) INS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the family member; or
- (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 shall be for a period of not less than 24 months. This provision does not apply to a family if the ineligibility of the ineligible individual was considered in calculating any proration of assistance provided for the family.

(2) Termination of assisted occupancy. For termination of assisted occupancy, see paragraph (i) of this section.

HUD Regulation – 24 CFR 5.514(i)

Termination of assisted occupancy.

(1) Under Housing covered programs, and in the Section 8 covered programs other than the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs, assisted occupancy is terminated by:

- (i) If permitted under the lease, the responsible entity notifying the tenant that because of the termination of assisted occupancy the tenant is required to pay the HUD-approved market rent for the dwelling unit.
- (ii) The responsible entity and tenant entering into a new lease without financial assistance.
- (iii) The responsible entity evicting the tenant. While the tenant continues in occupancy of the unit, the responsible entity may continue to receive

assistance payments if action to terminate the tenancy under an assisted lease is promptly initiated and diligently pursued, in accordance with the terms of the lease, and if eviction of the tenant is undertaken by judicial action pursuant to State and local law. Action by the responsible entity to terminate the tenancy and to evict the tenant must be in accordance with applicable HUD regulations and other HUD requirements. For any jurisdiction, HUD may prescribe a maximum period during which assistance payments may be continued during eviction proceedings and may prescribe other standards of reasonable diligence for the prosecution of eviction proceedings.

(2) In the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs, assisted occupancy is terminated by terminating assistance payments. (See provisions of this section concerning termination of assistance.) The PHA shall not make any additional assistance payments to the owner after the required procedures specified in this section have been completed. In addition, the PHA shall not approve a lease, enter into an assistance contract, or process a portability move for the family after those procedures have been completed.

8.A Notice of Denial or Termination

HUD Regulation – 24 CFR 5.514(d)

Notice of denial or termination of assistance. The notice of denial or termination of assistance shall 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;
- (3) In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families in §§5.514 and 5.518;
- (4) That the family has a right to request an appeal to the INS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal in accordance with the procedures of paragraph (e) of this section;
- (5) That the family has a right to request an informal hearing with the responsible entity either upon completion of the INS appeal or in lieu of the INS appeal as provided in paragraph (f) of this section;

(6) For applicants, the notice shall advise that assistance may not be delayed until the conclusion of the INS appeal process, but assistance may be delayed during the pendency of the informal hearing process.

8.B Deferral

HUD Regulation – 24 CFR 5.516

(c) 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 (c)(1) and (2) of this section.

(1) For Housing covered programs: Temporary deferral of termination of assistance is available to families assisted under a Housing covered 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.

(d) 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. However, project owners and PHAs must offer prorated assistance to eligible mixed families.

(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 or temporary deferral of termination of assistance). 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 paragraphs (a) and (b) of §5.518. However, the PHA must offer prorated assistance to eligible families.

8.C Family in Appeal Status

HUD Regulation – 24 CFR 5.514

(e) Appeal to the INS—

(1) Submission of request for appeal. Upon receipt of notification by the responsible entity that INS secondary verification failed to confirm eligible immigration status, the responsible entity shall notify the family of the results of the INS verification, and the family shall have 30 days from the date of the responsible entity's notification, to request an appeal of the INS results. The request for appeal shall be made by the family communicating that request in writing directly to the INS. The family must provide the responsible entity with a copy of the written request for appeal and proof of mailing.

(2) Documentation to be submitted as part of appeal to INS. The family shall forward to the designated INS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the INS document verification request form G-845S (used to process the secondary verification request) or such other form specified by the INS, and a cover letter indicating that the family is requesting an appeal of the INS immigration status verification results.

(3) Decision by INS—

(i) When decision will be issued. The INS will issue to the family, with a copy to the responsible entity, a decision within 30 days of its receipt of documentation concerning the family's appeal of the verification of immigration status. If, for any reason, the INS is unable to issue a decision within the 30 day time period, the INS will inform the family and responsible entity of the reasons for the delay.

(ii) Notification of INS decision and of informal hearing procedures. When the responsible entity receives a copy of the INS decision, the responsible entity shall notify the family of its right to request an informal hearing on the responsible entity's ineligibility determination in accordance with the procedures of paragraph (f) of this section.

(4) No delay, denial, reduction, or termination of assistance until completion of INS appeal process; direct appeal to INS. Pending the completion of the INS appeal under this section, assistance may not be delayed, denied, reduced or terminated on the basis of immigration status.

8.D Informal Hearing Process

For the Informal Hearing process under 24 CFR 5.514(f), see Informal Hearing for Citizenship Determination.

HUD Regulation – 24 CFR 5.514(g)

Judicial relief. A decision against a family member, issued in accordance with paragraphs (e) or (f) of this section, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

9. Protection from Liability

HUD Regulation – 24 CFR 5.526

(a) Protection from liability for responsible entities. Responsible entities are protected from liability as set forth in Section 214(e) (42 U.S.C 1436a(e)).

(b) Protection from liability for State and local government agencies and officials. State and local government agencies and officials shall not be liable for the design or implementation of the verification system described in §5.512, as long as the implementation by the State and local government agency or official is in accordance with prescribed HUD rules and requirements.

10. Obligation to Reimburse

HUD Regulation – 24 CFR 5.528

Where a tenant has received the benefit of HUD financial assistance to which the tenant was not entitled because the tenant intentionally misrepresented eligible status, the ineligible tenant is responsible for reimbursing HUD for the assistance improperly paid. If the amount of the assistance is substantial, the responsible entity is encouraged to refer the case to the HUD Inspector General's office for further investigation. Possible criminal prosecution may follow based on the False Statements Act (18 U.S.C. 1001 and 1010).

11. Definitions

11.A Terms as Used in This Policy

HUD Regulation – 24 CFR 5.504

(a) The definitions 1937 Act, HUD, Public Housing Agency (PHA), and Section 8 are defined in subpart A of this part.

(b) As used in this subpart E:

-*Child* means a member of the family other than the family head or spouse who is under 18 years of age.

-*Citizen* means a citizen or national of the United States.

-*Evidence of citizenship or eligible status* means the documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

-*Family* has the same meaning as provided in the program regulations of the relevant Section 214 covered program.

-*Head of household* means the adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

-*Housing covered programs* means the following programs administered by the Assistant Secretary for Housing:

(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); and

(3) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) (the Rent Supplement Program).

-*INS* means the U.S. Immigration and Naturalization Service.

-*Mixed family* means a family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

-*National* means a person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

-*Noncitizen* means a person who is neither a citizen nor national of the United States.

-*Project owner* means the person or entity that owns the housing project containing the assisted dwelling unit.

-*Public Housing covered programs* means the public housing programs administered by the Assistant Secretary for Public and Indian Housing under

title I of the 1937 Act. This definition does not encompass HUD's Indian Housing programs administered under title II of the 1937 Act. Further, this term does not include those programs providing assistance under section 8 of the 1937 Act. (See definition of "Section 8 Covered Programs" in this section.)

-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 235 Program, the mortgagee.

(2) For Public Housing, the Section 8 Rental Certificate, the Section 8 Rental Voucher, and the Section 8 Moderate Rehabilitation programs, the PHA administering the program under an ACC with HUD.

(3) For all other Section 8 programs, the Section 236 Program, and the Rent Supplement Program, the owner.

-Section 8 covered programs means all HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8-assisted housing for which loans are made under section 202 of the Housing Act of 1959.

-Section 214 means section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

-Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

-Tenant means an individual or a family renting or occupying an assisted dwelling unit. For purposes of this subpart E, the term tenant will also be used to include a homebuyer, where appropriate.

11.B Noncitizen Definitions Under 42 U.S.C. 1436a

Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is—

1. an alien lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(15) and (20) of title 8, excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;
2. an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed

to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 1259 of title 8;

3. an alien who is lawfully present in the United States pursuant to an admission under section 1157 of title 8 or pursuant to the granting of asylum (which has not been terminated) under section 1158 of title 8;
4. an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 1182(d)(5) of title 8;
5. an alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 1231(b)(3) of title 8;
6. an alien lawfully admitted for temporary or permanent residence under section 1255a of title 8; or
7. an alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: Provided, That, within Guam any citizen or national of the United States shall be entitled to a preference or priority in receiving financial assistance before any such alien who is otherwise eligible for assistance.

Numbered Memo

26-05 Meet Citizenship Requirement Exhibit 2-3 and Examinations Chapter 4