

A Guide for Immigrants, Limited English Proficient Persons and Their Advocates on Federally Subsidized Housing

Some Important Points to Remember

- Immigrants and immigrant families have rights to some rental housing programs that get funding from the federal government.
- Immigrants may be eligible for rental housing help from the federal government even if no one in the family is a citizen or has a green card.
- Living in housing funded by the federal government should not hurt your chances of getting a green card or of re-entering the U.S. after being abroad. Immigrations do not look at your receipt of federal housing assistance as part of a public charge determination.
- Sponsor deeming rules that otherwise apply to "federal means tested public benefits" (examples: TANF, SSI) do not apply to housing assistance programs.
- Applicants only have to verify that one household member, who may be a child or infant, is a U.S. citizen or "eligible immigrant." The subsidy these "mixed families" get will be prorated to the number of U.S. citizens and "eligible immigrants" in the household.
- Limited English proficient (LEP) persons have the right to meaningful access to programs and activities getting federal financial assistance. Such programs and activities must take reasonable steps to ensure LEP persons have access by providing a mix of services.

How can rental housing assistance from the federal government help immigrants?

- Federally-funded rental housing can provide low-income people safe, sanitary and decent housing.
- Persons who get rental housing assistance from the federal government pay as little as 30 percent of household income towards rent.
- Most low-income rental housing programs prohibit the landlord from evicting someone unless the landlord can show "good cause" for the eviction. Examples of good cause: failing to pay rent, engaging in criminal activity or damaging the apartment.

What types of rental housing programs may be available?

There are three types of rental housing programs that may be available to immigrants.

1. Housing Programs Available to All Immigrants

- Short-term housing assistance, such as homeless shelters, battered women's shelters and shelters for runaway, abused or abandoned youth.
- Section 515 Rural Rental Housing Program: Apartments in rural areas served by the Rural Housing Service (RHS) under the U.S. Dept. of Agriculture. The units are affordable for low- and very low-income households. RHS provides loans for the construction of housing in rural areas for families, elderly persons, persons with disabilities or for congregate living facilities.
- Low Income Housing Tax Credit units (LIHTC): Apartments owned by private landlords who receive tax benefits in return for renting some or all of the units to eligible tenants. The Internal Revenue Service (IRS) administers this program.
- Housing administered by the U.S. Department of Housing and Urban Development (HUD):
 - Section 811: Provides funding for nonprofit organizations to develop supportive housing for persons with disabilities and provide rental assistance. Eligible households include at least one very low-income person (within 50% of median income) and at least one person over the age of 18 with a disability.
 - Section 231: Provides mortgage insurance to support the construction and rehabilitation of multifamily rental housing for elderly persons (over age 62) and/or persons with disabilities.
 - Section 221(d)(3) and Section 221(d)(4) (unless receiving Rent Supplement or Section 8 funds, in which case see below): Provides mortgage insurance to support the construction and rehabilitation of multifamily rental or cooperative housing for low and moderate income persons, the elderly and persons with disabilities.
 - Housing Opportunities for Persons with AIDS (HOPWA): Includes short-term assistance to prevent homelessness, longer-term rental assistance and facility-based housing (such as adult family homes) for persons living with HIV/AIDS.

2. Housing Programs Available Only to U.S. Citizens or "Eligible Immigrants"

You only have to verify that one household member, who may be a child or infant, is a U.S. citizen or "eligible immigrant" in order to qualify for these housing programs. However, if not everyone in the household is a citizen or "eligible immigrant," your subsidy will be prorated.

Immigration status may be verified at one of three points in time:

1. Waiting list. Most housing authorities will choose not to verify status or will allow persons to be on waiting lists for housing units even if you are not yet U.S. citizens or "eligible immigrants. Citizenship/immigration status may change while you wait on the list.
2. When you will get assistance. The housing authority may opt not to verify the immigration status of any household members before providing your household housing assistance.
3. Annual recertification. Your family must verify that at least one family member is a citizen or "eligible immigrant" at the annual recertification, which is the 1-year anniversary date when your family first got federal housing assistance.

- Public Housing: Program administered by local housing authorities to provide subsidized apartments owned by the housing authorities to low-income families, the elderly and persons with disabilities. Households generally pay 30% of the monthly adjusted income.
- All Section 8 programs, including Section 8 Voucher program, Project-based Section 8, and housing programs getting Section 8 funds: Program administered by local housing authorities to provide housing choice vouchers to secure housing for very low-income families, the elderly and persons with disabilities. Some vouchers are for renting apartments owned by private landlords who receive project subsidies from HUD on behalf of eligible tenants. Others are to rent individual apartments or houses from private landlords that get no other subsidy. Local housing authorities administer this program. Households generally pay 30% of the monthly adjusted income.
- Section 202: Capital advances and rent subsidies to help in the construction, rehabilitation or acquisition of supportive housing for very low-income elderly (over age 62) persons.
- Section 101: Rent supplement program for needy tenants living in privately-owned housing. Tenants pay 30% of unit rent or 30% of their income, whichever is greater.

- Section 235: Federal Housing Administration single family mortgage insurance with subsidies on interest for low/moderate income families.
- Section 236: Federal Housing Administration multifamily mortgage insurance with subsidies on interest for low/moderate income projects.

3. Loans/Grants for U.S. citizen or Permanent Resident Farm Laborers

Sections 514 and 516 of the Housing Act of 1949, as amended, provide loans and grants to U.S. citizen and permanent resident farm laborers. These Farm Labor Housing loans and grants provide low-cost financing for the development of affordable rental housing for both year-round and migrant “domestic farm laborers” and their households. These programs may be used to build, buy, improve or repair farm labor housing and provide related facilities, such as on-site child care centers.

Who is an "eligible immigrant?"

Federal law¹ and regulations² say the immigrants eligible for programs getting federal funding include:

1. Lawful permanent residents (LPRs or persons with “green cards”)
2. Refugees
3. Persons granted asylum
4. Persons granted withholding of deportation/removal
5. Conditional entrants
6. Persons granted parole by the U.S. Citizenship and Immigration Services (USCIS) or the Department of Homeland Security (DHS)³
7. Lawful temporary residents under the general amnesty program created by the Immigration Reform and Control Act of 1986
8. Citizens of Micronesia, the Marshall Islands, and Palau

¹ The Housing and Development Act of 190, as amended.

² of the Department of Housing and Urban Development

³ The categories described in numbers 1 through 6 are also "qualified" immigrants under other federal law (Responsibility and Work Opportunity Reconciliation Act or PWORA). They are both "eligible" for federal housing programs and "qualified" for many federal public benefits.

The following immigrants may be able to get housing assistance under other laws.

1. Victims of trafficking. Must be under 18 years old or certified by the U.S. Dept. of Health and Human Services as willing to help in the investigation and prosecution of severe forms of trafficking.
2. Cuban/Haitian entrants
3. Certain abused immigrants, their children, and/or their parents

To fall within the battered spouse or child category, you must have an approved visa petition filed by a spouse or parent, a VAWA self-petition that sets forth a prima facie case for relief, or an application for cancellation of removal under VAWA.

If you have filed a self-petition (I-360) under VAWA but you have not yet gotten a notice of deferred action, you may be eligible for federal housing programs. But you will not be eligible for work authorization, and you will have a hard time getting a Social Security number.

You may be able to get a non-work Social Security number if DSHS asks the SSA to issue one as part of the receipt of cash, food or medical benefits.

Is there home ownership assistance?

Yes. For information about those programs, contact your local Housing and Urban Development (HUD) office at:

HUD Seattle Regional Office (for Western WA)

Seattle Federal Office Building
909 First Avenue, Suite 200
Seattle, WA 98104-1000

Phone: (206) 220-5101

Toll-free: (877) 741-3281

Fax: (206) 220-5108

TTY: (206) 220-5254

Spokane Field Office (for Eastern WA)

Thomas Foley U.S. Courthouse Building
920 West Riverside, Suite 588
Spokane, WA. 99201

Phone: (509) 368-3200

Fax: (509) 368-3209

TTY: (509) 368-3220

What papers will prove my immigration status?

The list of required paperwork includes:

Providing false or falsified document(s) to get federal housing assistance can result in loss of federal housing assistance. It can also put your immigration status at risk.

If you believe you have "eligible immigrant" status, but you do not have papers showing that, talk to an immigration lawyer or call CLEAR.

United States Citizens:

- Signed declaration of United States citizenship or United States nationality. (You may also need a United States birth certificate or a United States passport.)

"Eligible Immigrants" 62 Years and Older:

- Signed declaration of eligible non-citizen status, and
- Proof of age.

"Eligible Immigrants" under 62 Years of Age:

- Signed declaration of eligible non-citizen status,
- Signed consent form, and
- One of the following:
 - **Form I-551, Alien Registration Receipt Card** (for permanent resident aliens);
 - **Form I-94, Arrival-Departure Record** that says one of following:
 - "Admitted as a Refugee Pursuant to Section 207;"
 - "Section 208" or "Asylum;"
 - "Section 243(h)" or "Deportation stayed by Attorney General;" or
 - "Paroled Pursuant to Section 212(d)(5) of the INA."
 - **Form I-94, Arrival-Departure Record**, along with one of the following:
 - Final court decision granting asylum (only if no appeal);
 - Letter from U.S. Citizenship and Immigration Services (USCIS) asylum officer granting asylum (if application filed on or after October 1, 1990) or from the USCIS district director granting asylum (if application filed before October 1, 1990);
 - Court decision granting withholding of deportation; or
 - Letter from asylum officer granting withholding of deportation (if application filed on or after October 1, 1990).
 - **Form I-688, Temporary Resident Card** marked "Section 245A" or "Section 210."
 - **Form I-668B, Employment Authorization Card** marked "Provision of Law 274a.12(11)" or "Provision of Law 274a.12."

- **Receipt from the USCIS** stating application for replacement document (for one of the above) has been made and you are entitled to a replacement copy.
- **Form I-151, Alien Registration Receipt Card.**
- **Form I-914, for T-1 Nonimmigrant visa** followed by written confirmation that application is "bona fide."

Do I need to provide a Social Security Number?

- **Housing programs available to U.S. citizens or "eligible immigrants":** Only household members who claim to be a US citizen or "eligible immigrant" have to verify a valid Social Security Number.
- **Housing programs available to all U.S. citizens and immigrants:** You should not have to give a Social Security number to a program that does not verify citizenship or immigration status.

How does a federally-funded housing program that restricts eligibility to U.S. citizens and "eligible immigrants" figure out rent?

It depends on the immigration status of the various family members.

1. **If everyone in the family is a U.S. citizen or an "eligible immigrant":** It depends on the program. Some programs, such as the Low Income Housing Tax Credit, charge all tenants in subsidized units the same rent amount regardless of income. HUD-funded housing programs generally base the rent amount on household income. When all members of the family are U.S. citizens or "eligible immigrants," families in these programs generally pay about 30% of their total income toward rent.
 - Income generally means: wages, business and property income, Social Security, retirement, pensions, unemployment compensation, disability compensation, worker's compensation, severance pay, alimony and child support.
 - Income generally does NOT mean: income of children under age 18, reimbursed medical expenses, income of a live-in aid, income to a person with a disability disregarded under a Plan to Attain Self-Sufficiency and resident service stipends.
 - Adjustment: household income used to figure out what program participants should pay may be reduced by deductions, including those for dependents, elderly or disabled family members, unreimbursed medical expenses of elderly or disabled family members, unreimbursed reasonable attendant care and reasonable child care expenses.
2. **If at least one person in the family is NOT a U.S. citizen or an "eligible immigrant (called a "mixed family"):** the rent will be higher than if all members were eligible. The

landlord prorates, or figures out proportionately, the rent based on the number of citizens or "eligible immigrants" in the household.

3. **If no one in the family is a U.S. citizen or "eligible immigrant" by the 1-year anniversary date:** Federally-funded housing assistance will be cut off. The family will get a certain deadline to leave their housing program.

Where do I go to apply for government-funded rental housing assistance?

There is no single application or waiting list for any of the federal housing programs. To apply for public housing and the Section 8 Voucher program, contact your local public housing authority.

You can get housing information for the following agencies through their websites:

- HUD - www.hud.gov/offices/hsg/mfh/mfdata.cfm
- Rural Housing Service of WA - www.rurdev.usda.gov/wa/MFHPrograms.html
- Washington State Housing Finance Commission (administering LIHTC properties) - www.wshfc.org/bonds/CountyMap.htm
- Searchable website for multifamily affordable rental properties- www.aptfinder.org

You may apply for housing assistance at as many different places as you want. It is a good idea to do so. Waiting lists vary from place to place. Some may be several years long.

The agency operating the housing program does not have to check your immigration status until it is ready to offer you a unit or other housing assistance. You should ask to get on the waiting list. Immigration laws may change or a petition filed to change immigration status may be approved while you are on a waiting list.

Once the housing is available:

- Provide the name and income of every person (even those who are not citizens or "eligible immigrants") who will live in the home. **Knowingly allowing any unauthorized person to reside in a unit may result in your getting cut off from the housing program. This provision does not apply if the ineligible person is listed as a household member.**
- If someone in the family is not a citizen or "eligible immigrant," that person does not have to tell the housing authority his/her immigration status. S/he can mark "decline to state" or "ineligible" on the application.
- Anyone who claims to be a U.S. citizen or "eligible immigrant" must prove immigration status by providing the proof listed above of citizenship or "eligible immigrant" status.

- You should ask for a grievance hearing if a housing provider has improperly determined that you or a family member does not have "eligible immigrant" status.

The housing authority and other housing providers will also screen you and all other adults in the household for criminal, credit and rental history. You may be entitled to a hearing to challenge the denial of housing assistance for any of these reasons.

What if I have no credit or rental history?

Many immigrants are new arrivals in the United States. They often do not have a credit or rental history. Housing programs often ask for these. Immigrant applicants cannot be denied housing programs or services because they have no credit or rental history. You should be able to show other proof, such as a letter from a social service provider or proof of income.

The housing authority, landlords and HUD cannot use the information that you provide them for any purpose other than figuring out your eligibility for housing assistance.

HUD does have to report to the USCIS anyone it knows not lawfully in the U.S. A person is not lawfully present only when:

- 1) An agency has made a formal agency determination subject to administrative review on the immigrant's claim (of eligibility for housing assistance) that has not been appealed; **and**
- 2) The agency's determination that the individual is unlawfully in the U.S. is supported by a determination by the USCIS or the Executive Office of Immigration Review, such as in a Final Order of Deportation.

What are my rights if I have a limited ability to read, write, speak or understand English (limited English proficient or "LEP")?

All recipients of federal financial assistance from HUD must take reasonable steps to ensure meaningful access to LEP persons to their programs and activities.

- Federal financial assistance includes grants, training, use of equipment and property donations.
- Recipients of HUD assistance include: state and local governments, public housing authorities, assisted housing providers, profit and nonprofit organizations and other entities receiving funds directly or indirectly from HUD.

LEP persons, and their parents and family members, have rights to meaningful access when they:

- Seek or receive housing assistance from a HUD-funded agency or provider
- Seek assistance from state or local government for a rehabilitation grant for their home
- Attempt to file a housing discrimination complaint with a local Fair Housing Assistance Program grantee
- Seek supportive services to become first-time homebuyers
- Seek housing related social services, training or any other assistance from HUD recipients

Housing programs and services must provide a mix of LEP services, including oral interpretation, either in person or via telephone, and written translation of documents such as notices and rental contracts. The right to interpreters and translated documents depends, in part, on the following factors:

- The size of the LEP community served or encountered by the program,
- The frequency of contact with LEP persons,
- The importance of the program, activity or service and
- The available resources and costs.

Examples of housing-related LEP access services to which LEP persons may have a right:

- Providing interpreters in person or on the phone
- Providing bilingual staff or staff interpreters
- Translating consent and complaint forms, intake forms, notices of eviction, notices advising LEP persons of free language assistance, leases and tenant rules and applications for programs or activities.
- Translating notices of rights, denial, loss or decreases in benefits or services and other hearings.

The HUD Office for Civil Rights investigates complaints and monitors programs and services for compliance. The contact number for the regional office overseeing programs in Washington State is 206-615-2290. If you know someone who has been denied meaningful access to a housing-related program or activity that receives federal assistance, please have the person consult a lawyer or call Northwest Justice Project for more information: in King County at 206-464-1519 and outside King County at 1-888-201-1014.

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