

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

Introduction: Some Important Points to Remember

- Immigrants and immigrant families have rights to some rental housing programs that receive 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 one's chances of getting a green card or of re-entering the U.S. after being abroad, because receipt of federal housing assistance will not be considered by immigration officials as part of a public charge determination.
- Sponsor deeming rules that otherwise apply to "federal means tested public benefits" (e.g. TANF, SSI) are not applicable 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 received by these "mixed families" 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 receiving federal financial assistance. Such programs and activities must take reasonable steps to ensure access to LEP persons by providing a mix of services.

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

- Federally-funded rental housing can provide safe, sanitary and decent housing for low-income people.
- Persons eligible for and receiving 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 include 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 apartments are either heavily or minimally subsidized, so that 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. This program is administered by the Internal Revenue Service (IRS).
- 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 individuals living with HIV/AIDS.

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

Applicants 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," the 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 they are not yet U.S. citizens or "eligible immigrants," because citizenship/immigration status may change while persons wait on the lists.

2. When assistance is provided. The housing authority may opt not to verify the immigration status of any household members before providing housing assistance to the household.

3. Annual recertification. The 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 the family first received 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 receiving 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 can be used to rent apartments owned by private landlords who receive project subsidies from HUD on behalf of eligible tenants. Other vouchers are provided to households to rent individual apartments or houses from private landlords that receive no other subsidy. This program is administered through local housing authorities, and households generally pay 30% of the monthly adjusted income.
- Section 202: Capital advances and rent subsidies to assist 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"?

The Housing and Community Development Act of 1980, as amended, and its implementing

regulations of the Department of Housing and Urban Development define the categories of immigrants eligible for programs receiving federal funding to include the following:

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 Immigration and Naturalization Service (INS) or the Department of Homeland Security (DHS)¹
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

The following categories are not specifically defined as "eligible immigrants," but are arguably eligible for housing benefits under other laws.

1. Victims of trafficking (according to a law passed in 2000, are eligible for most federal public benefits). Must be under 18 years old or certified by the U.S. Dept. of Health and Human Services as willing to assist 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, the immigrant must have an approved visa petition filed by a spouse or parent, a self-petition under the Violence Against Women Act (VAWA) that sets forth a prima facie case for relief, or an application for cancellation of removal under the VAWA. If a person has filed a self-petition (I-360) under the VAWA but has not yet received a notice of deferred action, she may be eligible for federal housing programs. However, until she receives a notice of deferred action, the immigrant will not be eligible for work authorization and will have difficulty obtaining a Social Security number. It may be possible for her to obtain a non-work Social Security number if the Department of Social and Health Services requests the Social Security Administration to issue one as part of the receipt of cash, food or medical benefits. Please contact the Northwest Justice Project for more information: in King County at 206-464-1519 and outside King County at 1-888-201-1014.

¹ The categories described in numbers 1 through 6 are also defined as "qualified" immigrants in the Personal Responsibility and Work Opportunity Reconciliation Act (PWORA), and thus are both "eligible" for federal housing programs and "qualified" for many federal public benefits.

In addition to rental housing programs, is there home ownership assistance available?

Many immigrants are also eligible for homeownership, home improvement and home repair programs funded by the federal government. 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 documents are necessary to verify immigration status?

Anyone who claims to be a U.S. citizen or "eligible immigrant" must provide valid documents that verify such status. The following list describes the required documentation to verify status.

Providing false or falsified document(s) to obtain federal housing assistance can result in loss of federal housing assistance and can place a person's immigration status in jeopardy.

Persons who believe they have "eligible immigrant" status but are without documents showing that immigration status should consult an immigration lawyer or call Northwest Immigrant Rights Project (206-587-4009 or 509-854-2100) for advice.

United States Citizens:

- Signed declaration of United States citizenship or United States nationality. (A United States birth certificate or a United States passport may also be required.)

"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 documents:
 - **Form 1-551**, *Alien Registration Receipt Card* (for permanent resident aliens);
 - **Form 1-94**, *Arrival-Departure Record* annotated with 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 1-94**, *Arrival-Departure Record* (with no annotation) accompanied by one of the following:
 - Final court decision granting asylum (but 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 1-688**, *Temporary Resident Card* annotated “Section 245A” or “Section 210”.
 - **Form 1-668B**, *Employment Authorization Card* annotated “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 applicant entitlement to document verified.
 - **Form 1-151**, *Alien Registration Receipt Card*.
 - **Form 1-914**, for *T-1 Nonimmigrant visa* followed by written confirmation that application determined “bona fide”.

When is it necessary to provide a Social Security Number?

- **Housing programs available to all U.S. citizens and immigrants:** Programs that do not verify citizenship or immigration status should not make verification of a valid Social Security Number for any household member a requirement to receive housing assistance.
- **Housing programs available to U.S. citizens or "eligible immigrants":** Only household members who claim to be a US citizen or "eligible immigrant" are required to verify a valid Social Security Number.

How is rent determined in a federally-funded housing program that restricts eligibility to U.S. citizens and "eligible immigrants"?

The answer 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":** The rules regarding how much a family pays each month can vary based on the type of housing program and funding the program receives. Some housing programs, such as the Low Income Housing Tax Credit, charge all tenants in subsidized units the same rent amount regardless of their income. HUD-funded housing programs generally calculate the rent amount on household income. When all members of the family are U.S. citizens or "eligible immigrants," families living these programs generally pay about 30% of their total income toward rent.
 - Income generally includes: 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 include: income of children under age 18, reimbursed medical expenses, income of a live-in aid, income received by a person with a disability disregarded under a Plan to Attain Self-Sufficiency and resident service stipends.
 - Adjustment: household income used to calculate the amount owed by program participants 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":** If some members of the family are not U.S. citizens or "eligible immigrants" (called a "mixed family") the rent will be higher than if all members were eligible. The landlord prorates, or assesses 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 terminated, and the family will be given a certain timeframe to leave their housing program.

Where does a person 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.

Housing information for the following agencies can be accessed 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

A person may submit an application for housing assistance at as many different places as she wants. It is a good idea to apply to many different places because the waiting list varies from place to place. In some cases, the waiting list may be several years long. There is no central waiting list for all programs.

The agency operating the housing program does not have to check an applicant's immigration status until it is ready to offer her a unit or other housing assistance. Therefore, it is a good idea to ask to be placed on the waiting list. Immigration laws may change or a petition filed to change immigration status may be approved while the applicant waits for housing assistance.

Once the housing is available:

- Provide the name and income of every person (even those individuals 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 termination 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 or her immigration status. S/he can mark "decline to state" or "ineligible" on the application.
- Any individual who claims to be a U.S. citizen or "eligible immigrant" must prove immigration status by providing the necessary documents, listed above, verifying his or her citizenship or "eligible immigrant" status.
- Persons should request a grievance hearing if a housing provider has improperly determined that she or a family member does not have "eligible immigrant" status.

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

What are the options for immigrants and refugees who do not have a credit or rental history?

Because many immigrants are new arrivals in the United States, they often do not have a credit or rental history, which is typically requested by various housing programs. Immigrant applicants cannot be denied housing programs or services because they do not have a credit or

rental history. They should be permitted to provide other documentation, such as a letter from a social service provider or proof of income, in lieu of a credit or rental history.

The housing authority, landlords and HUD cannot use the information that an applicant provides them for any purpose other than determining an individual's eligibility for housing assistance.

However, HUD is required to report to the United States Citizenship and Immigration Services (USCIS) individuals it knows are not lawfully in the U.S., a phrase that is defined by law. HUD knows that an individual 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 the rights of individuals living in the U.S. who have a limited ability to read, write, speak or understand English--limited English proficient or "LEP" persons?

HUD's regulations require all recipients of federal financial assistance from HUD to 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 include:

- 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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