

To: Contra Costa County Housing Authority Board of Commissioners
 From: Joseph Villarreal, Housing Authority
 Date: March 10, 2020



Contra
Costa
County

Subject: HUD'S PROPOSED MIXED-STATUS RULE

RECOMMENDATIONS

CONSIDER accepting a report concerning HUD's proposed mixed-status rule.

BACKGROUND

As you are aware, on February 24, 2020, the U.S. Department of Homeland Security (DHS) implemented the [Inadmissibility on Public Charge Grounds final rule](#). Under the final rule, when considering citizenship applications, DHS will now look more closely at factors such as an applicant's age, health, family status, assets, resources, and financial status, education and skills in order to determine whether the applicant is likely at any time to become a public charge. DHS will also consider the use of a variety of public benefit programs, including assistance under the public housing and Section 8 (voucher and project-based) programs.

Action of Board On: **03/10/2020** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF COMMISSIONERS

AYE: John Gioia,
 Commissioner
 Candace Andersen,
 Commissioner
 Diane Burgis,
 Commissioner
 Karen Mitchoff,
 Commissioner
 Federal D. Glover,
 Commissioner

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: March 10, 2020

Joseph Villarreal, Executive Director

By: June McHuen, Deputy

Contact: 925-957-8028

cc:

BACKGROUND (CONT'D)

While this is a significant change and will have an impact on many programs and applicants for U.S. citizenship, it does not appear that it will have a significant effect on HACC's current and future clients. This is because housing authorities have limited assistance to persons with eligible immigration status for a few decades now. However, a pending U.S. Department of Housing and Urban Development (HUD) rule change, related, but separate from DHS' Public Charge rule, will have a far more significant impact on many of our clients.

On May 10, 2019, HUD proposed changes to their regulations implementing Section 214 of the Housing and Community Development Act of 1980, as amended (The Act). As it stands now, The Act prohibits the Secretary of HUD from making financial assistance available to persons other than U. S. citizens or certain categories of eligible noncitizens in HUD's public housing program and in certain specified assisted housing programs as well. Those eligible for assistance under the Act are: (1) U.S. citizens and nationals; (2) lawful permanent residents; (3) VAWA self-petitioners; (4) asylees and refugees; (5) parolees; (6) persons granted withholding of removal/deportation; (7) victims of trafficking; (8) individuals residing in the U.S. under compacts of free association with Marshall Islands, Micronesia & Palau; and (9) immigrants admitted for lawful temporary residence under the Immigration Reform & Control Act of 1986.

While The Act currently prohibits the Secretary of HUD from making financial assistance available to persons that meet one of the criteria above, it does not prohibit prorated assistance for eligible household individuals who are part of mixed-status families (families that have at least one eligible household member, as well as one or more ineligible household members). The current Practice for mixed-status families is as follows:

- People who are ineligible do NOT receive assistance;
- At least one U.S. citizen or eligible immigrant must live in the household and may receive prorated assistance from a HUD program; and
- Individuals in the household must submit or meet one of the following documentation requirements:
 - declaration that they are a U.S. citizen or noncitizen with eligible status;
 - eligible noncitizens must provide an original copy of a document designated by DHS as acceptable evidence; or
 - a household member can "Not Contend" eligibility (i.e., they do not request consideration for assistance).

The proposed change would force the removal/eviction from our programs of any mixed status family and will significantly increase the verification documentation required.

Specifically, HUD is seeking to:

- Prohibit prorated assistance to mixed-status families, even if some of its members are otherwise eligible to apply and participate in the program under The Act;
- Require all noncitizen family members' immigration statuses to be verified in USCIS's Systematic Alien Verification for Entitlements ("SAVE") Program, regardless of whether each family member is applying for benefits;
- Require the housing unit's leaseholder (i.e., the head of household) to be verified as eligible through the SAVE Program, regardless of whether he/she is applying for benefits; and
- Institute additional documentation requirements for all applicants, including U.S. citizens and seniors.

Nationally, based on HUD's analysis, there are 25,000 households (over 100,000 people) that will be affected by the proposed rule change. In California, the number is 9,250 households. California, Texas and New York account for a little over 75% of the families who will be impacted. At the micro level, HACCC has 27 families that will be affected if the rule changes (11 in public housing, 16 in the voucher programs) and 396 more that could be affected (29 in public housing, 367 in the voucher programs) depending on the final rule's eligibility definitions and the household composition of each family.

Staff will discuss this issue further with the Board at our meeting.

Attached to this Board Order are HUD's Proposed Rule and a list of the HUD programs covered under The Act.

FISCAL IMPACT

None. Information item only.

CONSEQUENCE OF NEGATIVE ACTION

None. Information item only.

CLERK'S ADDENDUM

ATTACHMENTS

Housing Covered by S214

HUD 2019-0044-0001