July 8, 2019

Regulations Division

Office of General Counsel

Department of Housing and Urban Development.

451 7th Street SW, Room 10276

Washington, DC 20410

RE: FR-6124-P-01 Housing and Community Development Act of 1980: Verification of Eligible Status (the “Proposed Rule”)

To Whom it May Concern:

Housing Partnership Network respectively submits the following comment to express our strong opposition to the Proposed Rule which would alter how HUD implements Section 214 of the Housing and Community Development Act of 1980. As amended, this rule would cause harmful disruption to individuals and communities and impose unnecessary administrative burdens on owners and operators of affordable rental housing assisted under HUD programs.

Housing Partnership Network (HPN) is a collective of nearly 100 top-performing, high-capacity nonprofit housing developers, owners and financial institutions with operations in all 50 states. Collectively, our members have developed and preserved 417,000 homes, and served 11.1 million low-income people through housing, community facilities and services. HPN’s mission is to help millions of people gain access to affordable homes and thriving communities that offer economic opportunity and an enhanced quality of life.

The Proposed Rule will not address the affordable housing crisis or ensure that more families are assisted by federal housing programs. Instead, this rule would harm families and eligible residents, increase the burden and cost of administering the program, and decrease the number of people that can be housed by the programs covered by the Proposed Rule. **For these reasons, we strongly urge HUD to withdraw the Proposed Rule.**

1. **Harm to Existing Residents**

Existing law already prohibits ineligible immigrants from receiving federal housing assistance. In “mixed-status” families—households whose members have different citizenship and immigration statuses the federal government does not provide rental assistance to ineligible immigrants. Rather, mixed-status families receive prorated housing assistance so that the amount of the subsidy is decreased to account for family members with ineligible immigration status.

HUD’s own statistics show that 70% of mixed status families are composed of eligible children and ineligible parents. There are over 38,000 U.S. citizen and otherwise eligible children in these families, and over 55,000 eligible children in mixed status families overall.[[1]](#footnote-1) Since these children are not able to sign leases themselves, the adult heads of household, including those who do not receive assistance, must sign these contracts on behalf of their family. By prohibiting the ineligible adults from living in subsidized units even when they do not benefit from assistance, the Proposed Rule forecloses the possibility of these U.S. citizen and lawful permanent resident children from receiving any housing assistance under the covered housing programs. Even in cases where an adult is the eligible recipient, the Proposed Rule would force mixed-status families to decide to either break up to allow eligible family members to continue receiving assistance or forgo the subsidies so that the families can stay together.

HUD has assumed that most households with mixed eligibility status will leave HUD assisted housing, particularly those where children are eligible and parent(s) are ineligible. If this is true, as many as 108,000 individuals in mixed status families may be displaced from public housing, Section 8, and other programs covered by the Proposed Rule.[[2]](#footnote-2) These mass evictions and departures from housing assistance may cause increased rates of homelessness and unstable housing among an already vulnerable population.[[3]](#footnote-3)

The impact of the Proposed Rule would not be limited to mixed-status families but is likely to spread throughout communities. The Proposed Rule requires that all who declare they are U.S. citizens under penalty of perjury also provide evidence of their citizenship, a practice that has proven to be burdensome, costly and unnecessary to protect program integrity. Currently, to establish eligibility for access to Section 214 housing assistance, U.S. citizens need to provide a declaration signed under penalty of perjury of their citizenship or nationality status. The Proposed Rule would require the nine million U.S. citizens currently receiving HUD assistance to also provide documentary proof of citizenship or nationality, such as a birth certificate. Obtaining such documentation can be particularly difficult for U.S. citizens over the age of 50, citizens of color, citizens with disabilities, and citizens with low incomes. Older individuals face many challenges in getting this kind of documentation, including difficulties getting to government offices to replace lost records, paying to replace these records, and some may have never been issued a birth certificate in the first place.[[4]](#footnote-4) Adding more documentation to program requirements creates more barriers to housing for those who need it most and decreases these programs’ ability to reach those in the most need.

1. **Burden Imposed on Owners**

In addition to the significant direct harm that the Proposed Rule would cause to thousands of people, it would also impose a significant administrative burden on private owners who use the covered programs. HUD suggests that the administrative burden of this program would be minimal, but that analysis neglected to account for significant components of compliance for property owners and managers, such as:

* Explaining the policy to residents and addressing resident concerns
* Training staff on the new requirement and requirements for extension
* Additional time spent contacting residents who fail to timely submit to re-examination for fear of displacement

This significant administrative burden will divert staff time and resources from property operations and from programs that serve all residents.

HUD also significantly underestimated the cost to owners of enforcing the Proposed Rule on mixed-status families that do not voluntarily leave. Discussion in the Regulatory Impact Analysis of compliance and enforcement, including the circumstances under which eviction may be required, are largely limited to public housing authorities and landlords of voucher holders, neglecting owners operating properties with Section 8 project based rental assistance and other multifamily programs. Enforcement expenses for owners are not limited to eviction costs, and where eviction is necessary the costs are not limited to direct transactional costs. Under the Proposed Rule, if an individual fails to provide evidence of eligibility, assistance can be terminated. Termination of assistance itself creates an administrative burden. Tenants may be eligible for continued assistance or a temporary deferral of termination of assistance. Owners are responsible for processing preservation assistance and extensions, which increases the administrative burden of a termination of assistance for a period of up to eighteen months.

1. **Conclusion**

As outlined above, the Proposed Rule is harmful to families and costly and burdensome to property owners and operators. The Proposed Rule is unlikely to improve access to assisted housing because mixed-status families receive prorated assistance. HUD has calculated that the federal government would have to spend at least $193 million more a year to serve the same number of families if this rule is adopted.

As mission-driven owners of affordable housing, HPN members are committed to good stewardship of scarce and valuable housing resources. However, the burden created by the Proposed Rule will jeopardize the housing stability of thousands of current residences and disrupt communities without providing any increase in available housing or improvements in the quality of life for the communities our members serve. This is an unacceptable trade-off. We strongly urge HUD to withdraw the Proposed Rule and to focus on policies that increase access to safe and stable housing.

Thank you for the opportunity to provide comments on this important issue. Please feel free to contact me at ross@housingpartnership.net with any questions about our comments above.

Sincerely,

Shannon Ross

Vice President, Government Relations

1. HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01 (Apr. 15, 2019). [↑](#footnote-ref-1)
2. *Id* at 7. [↑](#footnote-ref-2)
3. Pratt Ctr. for Cmty. Dev., Confronting the Housing Squeeze: Challenges Facing Immigrant Tenants, and What New York Can Do (2018), <https://prattcenter.net/research/confronting-housing-squeeze-challenges-facing-immigrant-tenants-and-what-new-york-can-do>. [↑](#footnote-ref-3)
4. Ina Jafe, *For Older Voters, Getting the Right ID Can Be Especially Tough*, NPR: All Things Considered (Sept. 7, 2018), <https://www.npr.org/2018/09/07/644648955/for-older-voters-getting-the-right-id-can-be-especially-tough>. [↑](#footnote-ref-4)