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Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

RE: FR-6124-P-01: Housing and Community Development Act of 1980: Verification of Eligible Status

To Whom It May Concern:

The King County Housing Authority (KCHA) strongly opposes the Department of Housing and Urban Development's (HUD's) proposed rule, "Housing and Community Development Act of 1980: Verification of Eligible Status," published in the Federal Register on May 10, 2019.

KCHA houses more than 50,000 individuals each night – 20,000 households – through a variety of low-income and workforce housing programs, including through HUD's Housing Choice Voucher (HCV) and Public Housing (PH) programs. KCHA's mission is to ensure that all residents of King County have access to quality affordable housing. Our region is home to a diverse population and we work diligently to ensure broad access to our services. We are very concerned that HUD's proposed rule would explicitly deny housing assistance to eligible low-income individuals on the basis of their family's mixed-immigration status. The detrimental impacts of this policy are clear: families breaking up to preserve their subsidies or risking being forced into homelessness; and immediate and long-term negative impacts on life outcomes for those impacted.

HUD's Rule Contradicts Existing Statute

HUD's proposal is in direct conflict with the plain language of the statute and the intent of Congress in enacting Section 214 of the Housing and Community Development Act of 1980. In fact, 42 U.S.C. § 1436a (b)(2), plainly states that housing assistance may be provided on a prorated basis for mixed-eligibility households:

"If the eligibility for financial assistance of at least one member of a family has been affirmatively established under this section, and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the applicable Secretary shall be prorated..."

By ignoring the language in Section 214 mandating the proration of assistance, HUD is attempting to circumvent the legislative process through administrative rulemaking. Congress clearly envisioned mixed-status families receiving federal housing subsidies, and provided the formula for how the subsidies are to be provided in such cases. Given that Congress has not amended the statute to eliminate this option, HUD should continue to provide a pathway for individuals living in mixed-status households to receive housing assistance in accordance with the law.

The Proposal Would Force Families to Make Impossible Choices

The proposed rule overturns nearly 25 years of regulations implementing the provisions of Section 214 of the Housing and Community Development Act of 1980 that have governed housing programs, including admittance of families with mixed-eligibility status. Existing regulations have allowed low-income families with eligible members – many of whom are children who are American citizens or have legal immigration status – to live together with their family members. These rules have enabled the prorating of assistance, allowing public housing authorities (PHAs) to administer housing assistance to mixed-eligibility households so that monetary subsidies only benefit eligible household members.

This proposed rule denies a pathway for mixed-eligibility families to maintain their subsidized housing, except for cases where the leaseholder is over the age of 62. Eliminating services for mixed-eligibility households leaves families with an impossible choice – breaking apart in order to preserve their housing subsidy or staying together and risking homelessness. Given that within impacted households over 70% of members are eligible for assistance (many of whom are American citizens), HUD’s proposal is unnecessarily cruel to a large population of low-income individuals in need of housing assistance. The disruption to these families and their stability will be significant.

HUD’s Regulatory Impact Analysis opined that families are more likely to forgo assistance to preserve their family than break up. In most cases families will have little choice – children cannot be leaseholders and are not eligible for assistance on their own in many cases. As a result, we expect that as households are unable to secure affordable housing on their own, the number of families sleeping on our streets will increase and the strain on our under-resourced homelessness system will be exacerbated.

King County’s Constrained Housing Market Leaves Few Other Affordable Options

HUD purports the continued assistance provisions will allow time for an “orderly transition” to other affordable housing options. The likelihood that households will be able to locate non-subsidized affordable housing options is extremely low, especially in high cost areas of the country like Seattle and King County. The National Low Income Housing Coalition recently reported that a family requires a household income of \$75,120 to be able to afford a two bedroom apartment in King County. This far exceeds the earnings of the low-income households in our programs. Rather than enabling self-sufficiency, this policy is likely to result in housing instability characterized by high rates of shelter burden for those who do find new housing, and homelessness for those who do not. In both cases, the strain on homelessness response system and local resources will be exacerbated.

Negative Impact on Health, Stability, and Outcomes for Immigrant Communities

Stable and affordable housing has been well-documented as a platform for success on a range of indicators, including health and educational outcomes. We are concerned that this rule, like the “public charge” rule before it, will further deter eligible members of our community from seeking public services. The impact of prior proposals aimed at limiting access to services has already led immigrant families to avoid public services. As documented by the Urban Institute, “about one in seven adults in immigrant families (13.7%) reported “chilling effects,” in which the respondent or a family member did not participate in a noncash government benefit program in 2018 for fear of risking future green card status.”¹

When low-income families avoid services they are legally entitled to, their position can become even more precarious. Of the individuals who would be impacted by HUD’s proposed rule, roughly half are children. Homelessness among children has been shown to increase the likelihood that they will lag behind their peers with delayed literacy, language, and socio-emotional development.² Homeless children are also more likely to experience negative health outcomes than their peers. KCHA is committed to lowering barriers for low-income children – not raising them – so they can achieve self-sufficiency as adults. This proposal would hamper our efforts and our region’s future.

The Proposed Rule Would be Administratively Burdensome and Cause Housing Uncertainty for Non-Mixed-Status Households

While we appreciate the Administration’s stated commitment to reducing regulations, we believe the proposal increases the burden of administering federal housing programs that are already administratively underfunded and will create uncertainty for a larger portion of our residents than intended.

First, HUD’s proposal would require PHAs to verify the eligibility of all household members through the SAVE system. Nationally, this would require 9.57 million people to produce documentation even though HUD is interested in removing ineligible individuals comprising only 0.3% of all individuals housed through Section 214 programs. Of the 50,000 individuals KCHA serves each night, over 36,000 receive assistance through a Section 214 program and would require new verification. This is unnecessarily excessive and will have the unintended consequence of putting at risk the housing stability of many people who will struggle to locate proper identification or produce it in a timely period. The elderly, including elderly immigrants, people with disabilities, and formerly homeless individuals are especially at risk of not being able to timely produce materials. Replacing documents will require traveling to government offices (a challenge for mobility-impaired residents) and paying for replacements (a challenge for all extremely low-income households). For PHA staff, these changes would have the cumulative effect of adding time to an already lengthy reexamination process. For residents, these changes and new requirements will add unnecessary stress, out-of-pocket costs, and jeopardize housing stability for many of the populations we serve.

¹ Hamutal Bernstein, Dulce Gonzalez, Michael Karpman, and Stephen Zuckerman. May 22, 2019. “One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018.” Urban Institute.

² Ziolo Guest, K. M., & McKenna, C. C. (2014). “Early childhood housing instability and school readiness”. *Child Development*, 85(1), 103–113.

Second, the proposed rule requires PHAs to establish criteria for continued housing assistance which would in turn require tracking mixed-eligibility households impacted by the rule. As households attempt to find other housing options, the request for additional six month extensions will undoubtedly require informal hearings and new procedures for verifying that households have made good faith efforts to find housing. For PHA housing caseworkers, these efforts will occupy time that could otherwise be spent providing much needed housing stability services.

Third, HUD has proposed an administrative process for implementing the proposed rule that would impact tenants in unpredictable ways, especially those using tenant-based vouchers. Under the proposal, subsidy termination could begin at a household's next interim or regular reexamination. Given that interim reexaminations are often driven by factors outside the control of households (such as rent increases or changes in income), impacted households will have difficulty planning. A family would have only thirty days to verify eligibility and could see their subsidy terminated mid-lease, leading to early lease-ending fees, inability to pay rent, and potentially eviction -- all occurrences that would exacerbate the challenge of securing new housing.

HUD Should Withdraw the Proposed Rule

HUD's proposal stands in stark contrast to congressional intent and we urge HUD to withdraw the proposed rule in its entirety. The change in policy would decrease housing stability for our lowest-income neighbors, many of them legal residents, strain overstretched local homelessness response systems, and increase the administrative burden required to administer HCV and PH programs. By explicitly denying eligible individuals access to housing assistance, HUD is unnecessarily increasing barriers for low-income individuals already facing strong headwinds as they strive for self-sufficiency.

For these reasons, we strongly encourage HUD to reconsider its proposal and continue to provide housing subsidies to qualified individuals, regardless of family mix.

Sincerely,



Stephen Norman

Executive Director
King County Housing Authority