

June 6, 2019

Submitted via www.regulations.gov
Office of General Counsel, Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: HUD Docket No. FR-6124-P-01, RIN 2501-AD89 Comments in Response to Proposed Rulemaking: Housing and Community Development Act of 1980: Verification of Eligible Status

Dear Sir/Madam:

I am writing on behalf of the Immigrant Law Center of Minnesota (ILCM) in response to the Department of Housing and Urban Development's (HUD) proposed rule to express our strong opposition to the changes regarding "verification of eligible status," published in the Federal Register on May 10, 2019 (RIN 2501-AD89; HUD Docket No. FR-6124-P-01). In the Twin Cities, nearly one in three households rents rather than owns. Many Minnesota children and elders live in mixed-status families and rely on subsidized housing because of the extremely high costs and low availability of affordable housing, especially in Minneapolis and St. Paul. We urge the rule to be withdrawn in its entirety, and that HUD's long-standing regulations remain in effect.

The Immigrant Law Center of Minnesota (ILCM) is a nonprofit agency that provides immigration legal assistance to low-income immigrants and refugees in Minnesota. ILCM also works to educate Minnesota communities and professionals about immigration matters, and advocates for state and federal policies which respect the universal human rights of immigrants. In our daily work, we see the struggles of immigrant families to find affordable housing in a metropolitan area where the rental vacancy rate is consistently below 5 percent and the average monthly rental in the seven-county metropolitan area exceeds \$1,000 and rises every year.

I. Housing Availability, Affordability, and Mixed-Status Immigrant Families

In the city of Minneapolis, the average rent rose to [\\$1,279 in 2017](#), up 17 percent from 2010. In St. Paul, where our main office is located, 69 percent of renter households pay more than they can afford on housing. The housing vacancy rate in St. Paul was [3.3 percent in 2017, and Minneapolis was close to that number with a 3.5 percent vacancy rate](#). Households of color, including many immigrant households, are far more likely to rent than to own a home. The shortage of affordable housing is pervasive throughout the state. In suburban Dakota County, 43 percent of renter households pay more than they can afford in housing. The percentage of cost-stressed households is even higher for senior renters.

In Minnesota, [more than 36,500 individuals reside in public housing, accounting for 6 percent of all Minnesota renter households](#). That is [more than 20,000 households](#) in communities across the

state. In 2017, there were [nearly 89,518 subsidized units across the state, providing housing to 173,900 total people](#). In 2017, the average waitlist time for subsidized housing in Minnesota was [22 months](#).

This proposed rule does not address the undeniable crisis of affordable housing, including the extremely long waiting lists for public housing and Section 8 subsidies. Instead, it is part of the Trump administration's war on immigrants. Blaming immigrants will not solve the nation's affordable housing problem.

[In Minnesota](#), almost 140,000 people live in mixed-status families with at least one unauthorized family member. That includes more than 60,000 children living with at least one unauthorized family member. Nationally, about six million U.S. citizen children live in mixed-status families with at least one unauthorized family member.

HUD's own data shows that the proposed rule will evict 108,000 people, with three-quarters of these people being family members who are themselves eligible for subsidized housing. Some 55,000 of the people who would be thrown out of their homes by this rule are children who are U.S. citizens or legal permanent residents. The rule would force mixed status families to make an impossible decision—either break up to allow eligible family members to continue receiving assistance or forgo the subsidies so that the families can stay together.

Since 70% of mixed status families currently receiving HUD assistance are composed of eligible children and at least one ineligible parent, it is likely that these families will forgo the subsidies to avoid separation. In fact, HUD is banking on this, noting in their regulatory impact analysis that “HUD expects that fear of the family being separated would lead to prompt evacuation by most mixed households, whether that fear is justified.” Therefore, this rule would effectively evict mixed status families (in which nearly 3 out of 4 people are eligible for assistance) from public housing, Section 8, and other programs covered by the proposed rule. These mass evictions and departures from housing assistance will cause increased rates of homelessness and unstable housing among an already vulnerable population.

II. Regulatory Burden on All HUD-Assisted Families and on Housing Authorities

While it is clear that the proposed rule is a direct attack on immigrants and citizens in mixed status households, these families are not the only group that will be harmed if the rule is finalized. In addition to attacking mixed status families, the proposed rule creates red tape that threatens housing security for 9.5 million U.S. citizens currently receiving HUD assistance and all future U.S. citizens seeking these benefits.

The rule would require 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 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 that these individuals also provide documentary proof of citizenship or nationality, such as a birth certificate, which can be extremely difficult for certain segments of the population. One survey from 2006 showed that as

many as seven percent of citizens did not have citizen documentation readily available. 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.

In addition to the difficulties faced by individuals who will be required to produce documentary evidence of citizenship or qualifying immigration status, this requirement will add to the cost of administering public housing programs, creating an additional layer of bureaucratic requirements, and diverting funding that could otherwise be used simply for providing housing. In the Regulatory Impact Analysis issued by HUD, the agency acknowledged that the proposed rule could create about \$200 million in new costs.

The Regulatory Impact Analysis released by HUD makes it clear that the proposed rule will not further HUD's mission to "create strong, sustainable, inclusive communities and quality affordable homes for all." In fact, the proposed rule will do the exact opposite, reducing the quantity of affordable homes on the market.

Under the proposed new requirements for documentation, tens of thousands of public housing agencies and private property owners and managers would need to collect documents "proving" the citizenship of over nine million assisted residents receiving HUD assistance who have already attested, under penalty of perjury, as well as the citizenship of future applicants for assistance. Housing providers would also need to collect status documentation from 120,000 elderly immigrants. Additionally, the proposed rule calls for public housing authorities to establish their own policies and criteria to determine whether a family should receive continued or temporary deferral of assistance. All of these requirements will place a significant cost burden on housing authorities and other subsidized housing providers that are completely unaccounted for in the rule. Housing authorities, charged with administering the public housing and Housing Choice Voucher programs, have spoken out against the proposed rule. For example, the president of the Public Housing Authorities Directors Association (PHADA)—John Clarke—noted that "[r]emoving a family is not free. It takes staff time. It takes legal resources. Staff will have to sit in court instead of screening families or going over eligibility applications. It doesn't seem like a quality way to maximize the slim resources we do have."

Other anticipated costs for housing authorities and other subsidized housing providers include:

- Formally evicting and terminating the assistance of thousands of mixed status families that HUD estimates would be \$4.4 million.
- Unit turnovers because of the chilling effect of this rule on eligible immigrant families who will forgo housing assistance.
- Fielding questions from tenants fearful about the implications of the proposed rule on their families. Housing providers will have to be prepared to answer consumer questions about the new rule. They will experience increased call volume and traffic from tenants and applicants about the new policies.
- Updating forms and notices to ensure that they are providing tenants and applicants with accurate information about the potential consequences of receiving certain housing assistance.

III. Negative Impact on the U.S. Economy

Immigrants are a critical factor in keeping the U.S. economy healthy and growing. Currently, more than 27 million foreign-born workers in the U.S. labor market comprise about 17% of the total U.S. workforce. Immigrants are more concentrated in labor markets that literally feed and house America—immigrants make up 28% of construction trade workers and upwards of 70% of agricultural workers.

Immigrants are an essential part of our health care system, comprising [nearly one in five of all health care workers and nearly one in four health care workers in the long-term care sector](#). Nearly one worker in three at home health agencies is an immigrant. As the elderly population in the United States continues to grow, immigrant health care workers are essential to providing needed care.

In Minnesota, immigrants are essential to economic growth, as described in "[Immigrants and the Economy](#)," published by the Minnesota Department of Employment and Economic Development in 2017,

"Immigrants have become critical to Minnesota's economy, providing a rapid stream of new workers in the face of an aging native-born workforce. Foreign-born workers now account for 10 percent of the total available labor force in Minnesota, up from 7.5 percent just one decade earlier. In sum, the number of foreign workers jumped from 216,409 in 2006 to 302,879 in 2016.

"Minnesota's labor force increased by just over 150,000 workers from 2006 to 2016, a steady 5.2 percent expansion. More than half – 86,470 or 58 percent – of those workers were foreign born. Put another way, the foreign-born labor force expanded by 40 percent from 2006 to 2016, compared with 2.4 percent growth among the native-born workforce."

In-depth statistical analysis shows that low-income immigrants and their families make important contributions to the entire U.S. economy, and that overall, immigration into the United States is a long-term fiscal net positive. The proposed rule will cut into these economic gains by increasing housing instability—essential immigrant workers, particularly those in areas with high rents, rely on stable housing in order to maintain their employment, contribute to local economies, and help their communities thrive. The proposed rule does not adequately consider these issues, and HUD should study the extended impact the rule will have on the U.S. economy before publishing its final rule.

IV. Chilling Effect of Proposed HUD Regulation

In addition to the families who actually would be rendered ineligible for housing assistance under the proposed rule, many others would be affected by fear stemming from this regulation. Even immigrant and mixed-status families in which every member is entitled to the benefits of subsidized housing or public housing would leave or fail to claim these benefits because of fear that they would be penalized for using housing assistance. This has already happened in the area of public benefits. [The Urban Institute found that one in seven adults in immigrant families](#)

[reported avoiding public benefit programs in 2018](#)—despite the fact that the proposed regulation has not yet taken effect and might not apply to them even if it is promulgated.

"Beyond reducing future immigration numbers, there is widespread concern this revised public charge rule would have “chilling effects” on low-income immigrant families by discouraging them from applying for and receiving public benefits for which they are eligible, for fear of risking future green card status....

"We find that:

- "About one in seven adults in immigrant families (13.7 percent) 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. This figure was even higher, 20.7 percent, among adults in low-income immigrant families.
- "Though the proposed rule would only directly affect adults who do not yet have a green card (i.e., lawful permanent residence), we observed chilling effects in families with various mixes of immigration and citizenship statuses, including 7 percent of adults in families where all noncitizen members had green cards and 9.3 percent of those in families where all foreign-born members were naturalized citizens."

We urge HUD to immediately withdraw its current proposal, and dedicate its efforts to advancing policies that strengthen—rather than undermine—the ability of immigrants to support themselves and their families in the future. If we want our communities to thrive, everyone in those communities must be able to stay together and get the care, services and support they need to remain healthy and productive.

Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact the Immigrant Law Center of Minnesota to provide further information.

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