
HOUSING AUTHORITY OF THE CITY OF SEATTLE

MANUAL OF OPERATIONS

SUBJECT: Restrictions on Assistance to Non-Citizens

SCOPE: This Section shall apply to all applicants of public housing and Section 8 New Construction housing programs administered by the Seattle Housing Authority.

POLICY:

Section 214 of the Housing and Community Development Act of 1980 prohibits the Secretary of the Department of Housing and Urban Development (HUD) from providing financial assistance to persons other than United States Citizens, and Nationals, and certain categories of eligible non-citizens in its Public and Indian Housing programs.

All public housing applicants and residents are required to declare citizenship or eligible immigration status, regardless of age. Eligibility for assistance is contingent upon a household's submission to SHA of the documents described in this policy for each household member.

Definitions:

Citizen: is a citizen (by birth or naturalization) or national of the United States;

National: is a person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession, including Puerto Rico, Guam, the U.S. Virgin Islands, etc.

Non-citizen: is a person who is neither a citizen nor national of the United States;

Non-citizen student: is a person who has a residence in a foreign country; is a bona fide student qualified to pursue a full course of study; and is admitted to the U.S. temporarily and solely for purposes of pursuing a course of study.

Mixed Family: is a family whose members include those with citizenship or eligible immigration status, and members without citizenship who are lawfully in the United States but who lack eligible immigration status as described in Section A.

IMPLEMENTATION POLICY:

A. General Provisions.

Notice. SHA shall notify applicants at the time of application of the requirement to submit evidence of citizenship or eligible immigration status.

Restriction on Housing assistance. Housing assistance is restricted to the following individuals:

1. U.S. Citizens or U.S. Nationals;
2. Non-citizens who have Eligible Immigration Status in one of the following categories:
 - a. **Immigrants and Special Agriculture Workers.** A non-citizen lawfully admitted for permanent residence, as defined by (Section 101(a)(20) of the Immigration and Nationality Act (INA), as an immigrant, as defined by section 101(a)(15) of the INA (8 U.S.C. 1101(a)(20) and 1101 (a)(15) respectively) (immigrants)). This category includes a non-citizen admitted under section 210 or 210A of the INA (8 U.S.C. 1160 or 1161), special agriculture workers, who have been granted lawful temporary resident status; or
 - b. **Non-citizens Residing in U.S. Prior to 1972.** A non-citizen who entered the United States before January 1, 1972, or such later date as enacted by law, and has continuously maintained residence in the United States since then, and who is not eligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General under Section 249 of the INA (8 U.S.C. 1259); or
 - c. **Refugee or Asylum Status.** A non-citizen who is lawfully present in the United States pursuant to an admission under section 207 of the INA (8 U.S.C. 1157)(refugee status); pursuant to the grant of asylum (which has not been terminated) under section 208 of the INA (8 U.S.C. 1158) (asylum status); or as a result of being granted conditional entry under Section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic national calamity; or
 - d. **Parole Status.** A non-citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest under Section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) (parole status); or
 - e. **Deportation Asylum.** A non-citizen who is lawfully present in the United States as a result of the Attorney General's withholding deportation under Section 234(h) of the INA (8 U.S.C. 1253(h)) (threat to life or freedom); or
 - f. **Amnesty Granted.** A non-citizen lawfully admitted for temporary or permanent residence under Section 245A of the INA (8 U.S.C. 1255a) (amnesty granted under INA 245A).

B. Documentation of citizenship or eligible immigration status.

Eligibility for housing assistance is contingent upon a family's submission of documents for each family member. SHA shall request and review original documents of citizenship or eligible immigration status. Where original documents are not available, SHA may accept photocopies. SHA shall retain photocopies of the documents for the applicants file.

Each family member, regardless of age, must submit the following documents:

1. **U.S. Citizens or U.S. Nationals -**
 - a. a signed Declaration of U.S. Citizenship or Immigration Status form; and

- b. U.S. birth certificate, or
- c. U.S. Passport, or
- d. Employment Authorization card, or
- e. Temporary Resident Card, or
- f. Other appropriate documentation, as provided by HUD's Section 214.

2. **Non-Citizens -**

- a. a signed Declaration of Eligible Immigration Status; and
- b. a signed Verification Consent Form; and
- c. one of the following documents from the U.S. Department of Immigration and Naturalization Services (INS):

- (a) **Form I-551** Alien Registration Card
- (b) **Form I-94** Arrival Departure Record annotated with one of the following:
 - (1) Admitted as Refugee Pursuant to Section 207
 - (2) Section 208 or Asylum
 - (3) Section 243(h) or Deportation stayed by Attorney General
 - (4) Paroled Pursuant to Section 212(d)(5) of the INA
- (c) **Form I-94** Arrival Departure Record not annotated, must be accompanied by one of the following:
 - (1) A final court decision granting asylum
 - (2) A letter from the INS asylum officer, or INS district director granting asylum
 - (3) A court decision granting withholding or deportation
 - (4) A letter from an INS asylum officer granting withholding of deportation
- (d) **Form I-688** Temporary Resident Card annotated with Section 245A or Section 210
- (e) **Form I688B** Employment Authorization Card annotated with Provision of Law 274a.12(11) or Provision of Law 274a.12
- (f) **INS Receipt** Indicating the application for issuance of a replacement document for one of the above.

SHA shall require evidence of eligible immigration status be submitted simultaneously with other records of eligibility for assistance. Applicants who declared an eligible immigration status but who state they are unable to provide the required evidence will be placed in suspension for up to 60 days. At the close of the 60-day suspension period, applicants may request an extension if the evidence is temporarily unavailable and the applicant submits the evidence that additional time is needed; and that prompt and diligent efforts will be undertaken to obtain the evidence. SHA's decision to grant or deny an extension shall be issued to the applicant by written notice. Any extension shall be for a period of time based on the circumstances of the applicant's case.

SHA shall require new members added to an existing resident's household to submit evidence of eligible immigration status at the first interim or regular recertification following the member's occupancy.

C. Verification of eligible immigration status.

Evidence of eligible immigration status shall be verified by the U.S. Department of Homeland Security. Primary verification is conducted by SHA through the Department of Homeland Security's computer system, "SAVE Verification Information System."

When the system cannot provide the immigration status, the request for verification will automatically be transmitted to an INS office for additional verification.

If the secondary verification fails to confirm eligible immigration status, SHA shall send a copy of the INS determination and a letter notifying the family of its ineligible status and options, including their right to an appeal. The family will have thirty (30) days to respond to this letter.

Because SHA will not be able to reverse an INS determination of immigration status, the head of household will be encouraged to pursue the INS appeal process prior to requesting an informal hearing with SHA. The INS is required to issue a decision within 30 days of its receipt of documentation concerning the appeal. If they are unable to issue a decision within 30 days, the INS will inform the family and SHA of the reasons for the delay. Once SHA receives a copy of the INS decision, a determination will be made as outlined on the Eligibility Chart.

D. Delay or denial of housing assistance. Assistance to a applicant may not be delayed, or denied on the basis of ineligible immigration status of a family member if:

- a. the primary and secondary verification of any immigration documents that were timely submitted has not been completed; or
 - b. the family member for whom required evidence has not been submitted has moved; or
 - c. the family member who is determined not to be in an eligible immigration status following INS verification has moved; or
 - d. the INS appeals process has not been concluded; or
 - e. the Housing Authority's informal hearing process has not been concluded; or
 - f. assistance is prorated;
1. Denial of housing assistance. An applicant shall be denied housing assistance upon the occurrence of any of the following events:
- a. evidence of citizenship and eligible immigration status is not submitted by the date specified by SHA.
 - b. evidence of citizenship and eligible immigration status is submitted but INS primary and secondary verification does not verify eligible immigration status.
 - c. the family does not pursue INS appeal for a failed verification of eligible immigration status.

- d. the family does not request an informal hearing with SHA .
 - e. the INS appeal and or informal hearing decisions are decided against the family member.
2. Denial Notice. A notice of denial of housing assistance shall be given to the family. The notice shall provide the reasons for denial and, if a mixed family, advise the family's of its housing choices.
3. Pro-ration of assistance. The amount of assistance paid for a mixed family is reduced based on the number of household members who are not citizens, U.S. Nationals or have eligible immigration status. The term "household" does not include foster children or unrelated live-in attendants.
- E. Prohibition of Assistance to Non-citizen Student.** Applicants determined to be a non-citizen student are not eligible for prorated assistance. Applicants' non-citizen spouse and minor children are also not eligible for prorated assistance. Only Applicants' citizen spouse and the children of the citizen spouse and non-citizen student are eligible for prorated assistance.
- F. Changing Types of Assistance**
A family whose immigration status changes may make a written request to SHA to re-review the family members' immigration status and proration of assistance. SHA shall adjust the proration of assistance based on the adjusted number of household members who have ineligible status.
- G. Compliance with non-discrimination requirements.** SHA shall administer the restrictions on use of assisted housing by non-citizens with ineligible immigration status in conformity with the nondiscrimination requirements of including, but not limited to, Title VI of the Civil Rights Act of 1964 and the implementing regulation of 24 CFR Part 1, Section 504 of the Rehabilitation Act of 1973, and the implementing regulation of 24 CFR Part 100, and other civil rights statutes cited in the applicable program regulations. These statutes prohibit, among other things, discriminatory practices on the basis of race, color, national origin, sex, religion age, sexual orientation, disability and familial status in the provision of housing.
- H. Protection from liability for SHA.** HUD will not take any compliance, disallowance, penalty, or other regulatory action against SHA with respect to any error in its determination of eligibility for financial assistance based on citizenship or immigration status, provided that SHA complies with HUD's immigration verification procedures.
- I. Protection from liability for State, local, and tribal government agencies and officials.** State, local and tribal government agencies and officials shall not be liable for the design or implementation of the verification system (ASVS) and the informal hearings provided, so long as the implementation by the State, local or tribal government agency or official is in accordance with prescribed HUD rules and requirements.
- J. Liability of ineligible tenants for reimbursement of benefits.** When a tenant has received the benefit of housing assistance to which the tenant was not entitled because the tenant intentionally misrepresented eligible status, the ineligible tenant is responsible for reimbursing HUD for the assistance improperly paid. If the amount of the assistance is substantial, the Housing Authority shall refer the case to the HUD Inspector General's Office for further investigation.