



703 Market St., Suite 2000
San Francisco, CA 94103
Telephone: 415-546-7000
Fax: 415-546-7007
nhlp@nhlp.org
www.nhlp.org



4300 Nebraska Avenue NW C100
Washington, D.C. 20016
Telephone: 202.274.4457
info@niwap.org
www.niwaplibrary.wcl.american.edu

List of Supporting Documents for the Webinar “Immigrant Access to Federally Assisted Housing” (February 22, 2017)

1. NHLP & NIWAP, PowerPoint Slides for Webinar: Immigrant Access to Federally Assisted Housing (Feb. 22, 2017)
2. DOJ/HHS/HUD Joint Letter on Immigrant Access to Federally Funded Services Necessary to Protect Life or Safety (Aug. 5, 2016)
3. HUD, SNAPS, The Personal Responsibility and Work Opportunity Act of 1996 and HUD’s Homeless Assistance Programs (Aug. 16, 2016)
4. HUD, Memo for Secretary Julian Castro from Tonya Robinson, Acting General Counsel re: Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980 (Dec. 15, 2016)
5. HUD, Notice PIH 2017-02 (HA), Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures (Jan. 19, 2017)
6. NHLP, Memo: HUD Housing Covered by Section 214 of the Housing and Community Development Act
7. NHLP, Chart on Federally Assisted Housing and Immigrant Eligibility (Feb. 2017)
8. NIWAP, Brochure for Transitional Housing
9. NIWAP, Fact Sheet: Immigrant Access to Emergency Shelter and Transitional Housing (Oct. 23, 2016)
10. NIWAP, How to Advocate for Public and Assisted Housing for Your Battered Immigrant or Trafficking Survivor Client (Feb. 8, 2017)
11. NIWAP & Legal Momentum, HUD Programs and Immigrant Eligibility, Chapter 16.2 (Feb. 8, 2017)

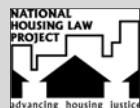
This project was supported by Grant No. 2016-TA-AX-K028 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Immigrant Access to Federally Assisted Housing

GIDEON ANDERS & KARLO NG
NATIONAL HOUSING LAW PROJECT

LESLYE ORLOFF
NATIONAL IMMIGRANT WOMEN'S
ADVOCACY PROJECT

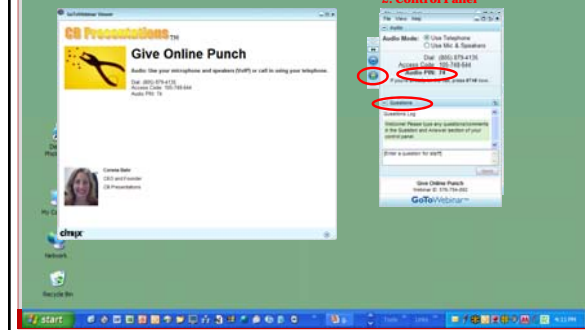
FEBRUARY 22, 2017



GoToWebinar Interface

1. Viewer Window

2. Control Panel



Housekeeping

- Materials were emailed to registrants and will be emailed again after the webinar, along with the evaluations.
- Materials and recording will be posted at <http://nhlp.org/OVWgrantees>.
- NHLP will email MCLE certificates to California attorneys.
- If you are seeking MCLE in other states, please contact NIWAP at niwap@wcl.american.edu



Goals Today

- Provide an overview of the rights of immigrants to access
 - Federally assisted housing
 - Federally funded emergency shelter and transitional housing programs
- Identify and discuss issues specific to survivors of domestic violence, dating violence, sexual assault, stalking, and human trafficking.



Who is in the Audience?

- Poll: Are you an
 - Advocate that works with domestic and sexual violence survivors?
 - Attorney that works with survivors?
 - Shelter or transitional housing provider?
 - Public housing authority or other permanent housing provider?
 - Government agency staff?
 - Other – Tell us who you are in the chat box.



"Section 214" Restrictions



“Section 214” Restricted Housing

7

- What is Section 214 of the Housing and Community Development Act of 1980?
- Poll: Which program is **not** Section 214-restricted?
 - Public housing
 - Section 8 vouchers
 - Project-based Section 8
 - Low Income Housing Tax Credit
 - Section 514 and 516 Farm Labor Housing programs



“Section 214” Restricted HUD Programs

8

- Public Housing
- Housing Choice Voucher Program
- Section 8 Project-Based Housing
- Section 236 Housing
- Section 235 Homeownership Housing
- Rent Supplement Housing
- Housing Development Grants (HoDAG)
- Section 23 Leased Housing Program



“Section 214” Restricted RD Programs

9

- Section 514 and 516 Farm Labor Housing programs
- Section 502 home loan program
- Section 504 rehabilitation loan and grant program
- Section 521 Rental Assistance Program
- RD Voucher Program



Programs Not Restricted by Section 214

10

- Low Income Housing Tax Credit (LIHTC)
- Section 202 Housing for the Elderly
- Section 811 Housing for the Disabled
- Section 221 (d) (3)
- Indian Housing
- CDBG
- HOME
- HOPWA
- McKinney-Vento/HEARTH Act*
- Rental Rehabilitation
- HOPE 2
- Section 515 Rural Rental Housing Program (without Rental Assistance)
- Rural Housing Preservation Grants
- Section 538 Multi-family Loan Guarantees



Who is Eligible for Section 214 Housing?

11

- Poll: Which one is **not** eligible for 214-restricted housing?
 - Legal permanent residents
 - Bona fide T visas
 - U visa applicants/recipients
 - VAWA self-petitioners
 - Asylum recipients



Section 214 Eligible Categories

12

- U.S. Citizens/U.S. Nationals
- Lawful Permanent Residents
- VAWA self-petitioners
- Refugees and Asylees
- Parolees
- Persons granted withholding of removal/deportation
- Qualified victims of trafficking
- Persons granted admission for emergent or public interest reasons
- Persons granted amnesty under the Immigration Reform and Control Act of 1986
- Immigrants eligible for registry who entered the U.S. before June 30, 1948
- Lawful U.S. residents under the Compacts of Free Association with the Marshall Islands, Micronesia, Palau and Guam
- Immigrants admitted for lawful temporary residence prior to January 1, 1982



Immigrant Survivors: U and T Visa Holders

13

- U Visa holders are not among the categories of eligible immigrants listed in Section 214.
 - Advocates should examine whether a U Visa holder fits into any other category listed in Section 214, such as victims of trafficking.
- While not explicitly listed among Section 214's categories of eligible immigrants, qualified victims of trafficking, including T Visa holders, are eligible for HUD- and RD-subsidized housing.
 - This is because persons who have made a bona fide application for a T Visa are eligible for federal benefits (including subsidized housing) to the same extent as refugees, who are an eligible 214 category.



NIWAP

VAWA Self-Petitioners

14

- VAWA self-petitioners were made eligible to receive "federal public benefits" as part of the Immigration Reform & Immigrant Responsibility Act of 1996.
- However, VAWA self-petitioners were not among the categories of eligible immigrants listed in Section 214 of the Housing & Community Development Act.
- In 2003 Congress directed HUD and the Department of Homeland Security to work together to provide VAWA self-petitioner access to 214 housing programs



NIWAP

VAWA Self-Petitioners (cont'd)

15

- HUD issued a legal memo confirming that VAWA self-petitioners have "satisfactory immigrant status" when applying for Section 214 housing.
 - Housing providers must verify immigrant status by using the SAVE system
 - Documents to verify VAWA self-petitioner's status
 - VAWA protections apply
- HUD PIH issued notice for public housing authorities on VAWA self-petitioner verification procedures.



NIWAP

HUD List of VAWA Self-Petitioners

16

- Victims with VAWA self-petition I-360 filed
 - Children included in VAWA self-petition
- VAWA cancellation of removal and VAWA suspension of deportation applicants
 - Victims' children are not included in these applications
 - Will only appear in SAVE system if have work authorization
- Victims with approved I-130 visa petitions filed by their abusive spouse or parent
 - Children included in I-130 visa application filed for victim



NIWAP

SAVE Program

17

- The SAVE Program provides immigration status information to authorized agencies providing federally funded benefits
- VAWA confidentiality: DHS does not place victims into SAVE until they receive work authorization
 - VAWA cases require housing provider to "Institute Additional Verification"
 - DHS conducts this additional verification in a VAWA confidentiality compliant manner
 - VAWA confidentiality protections apply to VAWA, Battered Spouse Waiver, T, and U visa, and abused Visa Holder Spouse work authorization applications



NIWAP

How Housing Providers Are to Complete DHS -SAVE System Online

18

- 1) Enter into SAVE the VAWA immigrant victim's:
 - Name + A# + Date of birth
- 2) System issues "Match" or "No Match" response
- 3) If "No Match" - Click "Institute Additional Verification" AND Enter in the note field either
 - "Verify VAWA Self-Petition" or "Verify I-130 Visa Petition" AND
 - Upload copy of the victim's DHS document:
 - I-360 VAWA self-petition
 - I-130 Family-based visa petition
 - I-797 Notice of Action: Used for receipt notice, prima facie determination, and approval notice



NIWAP

Directions for the SAVE Program

19

- The DHS response
 - 3-5 business days; and
 - No longer than a month
- DHS confirmation of VAWA self-petitioning status then the victim is --
 - *"Immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected"*



NIWAP

Steps When DHS Verifies Approved I-130 Visa Petition

20

- These are cases in which DHS will not have adjudicated battering or extreme cruelty as part of the DHS case
- Petitioner submitting the family-based visa petition must provide the housing provider evidence of
 - "battering or extreme cruelty"
 - DHS any credible evidence rules apply - 8 U.S.C. 1154(a)(1)(J)



NIWAP

Definition "Battering or Extreme Cruelty"

21

- Being the victim of any act or a threatened act of violence, including any forceful detention,
- Which results or threatens to result in physical or mental injury.
- Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor) or forced prostitution shall be considered acts of violence.
- Other abusive actions may also be acts of violence under this rule.
- Acts or threatened acts that, in and of themselves, may not initially appear violent may be part of an overall pattern of violence. 8 C.F.R. §204.2(c)(1).



NIWAP

Any Credible Evidence of Battery or Extreme Cruelty

22

- Affidavits/Statements of the victim, witnesses, advocates
- Medical records
- Photographs of injuries
- Helpful but not required:
 - Police reports
 - Protection orders
 - Criminal court or family court records
- "Any Credible Evidence" standard allows victims the greatest flexibility to prove abuse in the safest way possible
 - Recognizes dangers of perpetrator controlled evidence
- Specific forms of evidence cannot be required
- Housing provider decides the credibility of the evidence



NIWAP

VAWA and Immigrant Survivors

23

- VAWA's housing protections apply to survivors regardless of immigration status
- VAWA does not supersede housing program eligibility requirements
- VAWA amendment clarifying that lease bifurcations and post-lease bifurcation rights apply to tenants AND residents



NIWAP

Mixed Status Families

24

- If at least ONE member of the household has eligible immigration status, then the family can receive **prorated** assistance.
- A minor can be the eligible household member
- The non-eligible family member certifies that they do not wish to contend eligibility and can still live in the assisted unit.



NIWAP

Proration Formula

25

- **Step 1.** Determine the amount of housing assistance the household would receive if all household members were eligible, using the income paid to all household members regardless of their immigration status.
- **Step 2.** Divide the number of household members who have established eligible immigration status by the total number of household members. The fraction looks like this:

$$\frac{\text{Eligible Household Members}}{\text{Total Number of Household Members}}$$

- **Step 3.** Multiply the amount in Step 1 by the fraction in Step 2. This amount is the "prorated housing assistance." The tenant household pays the rest of the contract rent plus utilities.



Proration Example: The Smith Family

26

Jane Smith, who is a U visa holder, lives with her two minor sons, who are both U.S. citizens. They applied for a Section 8 Housing Choice Voucher.

- For a 2 Bedroom Voucher, a PHA pays \$1300 in rental subsidy to a private landlord.
- 2 eligible household members
- 3 total household members
- Subsidy = $(2/3) \times \$1300 = \mathbf{\$867}$
- 4. If the total rent for the unit is \$1300, then the family will have to pay: $\$1300 - \$867 = \mathbf{\$433}$



Other Eligibility

27

- State and local governments may have supplemental subsidies without immigration status restrictions that a family may use to obtain housing, or to fill the gap between prorated subsidy and the actual rental costs.



Challenging Denials of HUD Housing

28

- If an applicant's claimed immigration status is not verified through the USCIS, then:
 - Applicant must be notified of right to appeal the lack of verification.
 - Applicant can pursue an appeal through either the PHA or owner, or through USCIS.
 - Appeal to USCIS must be made in writing within 30 days of rejection
 - Applicant has right to hearing before an impartial individual.
 - Within 14 days of hearing, applicant must be given written decision.



Challenging Denials of RD Housing

29

- RD does not have method for appealing denials of assistance due to status.
- RD has not adopted proration formula.
- RD does not allow minors the right to establish eligibility to live in RD housing.

These are discrepancies with Section 214 that must be challenged through litigation.



Documentation & Verification

30

Section 8 Housing Choice Voucher Program Complete and return to one of the regional agencies listed on the reverse of this form.

Pre-Application for housing assistance For agency use only: Date/Time Stamp/Counter Number

Please print neatly in ink. All fields are required. Submit this form only. Incomplete, photocopies, e-scanned or hand-written applications will not be accepted. If you are already on our Section 8 waiting list your request will be updated using the information that you provide below. Due to the volume of applications received, we will not notify the result of mailed applications. We reserve the responsibility for material that is illegible or missing as a result of miscommunication by the applicant or a third party.

IMPORTANT!!
One-third of all applications are dropped from the waiting list due to unreported address changes. Do not let this happen to you. Report any change of address in writing to one of the regional agencies listed on the reverse of this form.

Head of Household Information

Printed Name: _____ Phone (include area code): _____

First Name: _____ Middle Name: _____ Last Name: _____

Address: _____ City/Town: _____ State: _____ Zip code: _____

Member Name: _____ Member Address: _____ City/Town: _____ State: _____ Zip code: _____

HUD Social Security Number Requirements

31

- HUD rules re: SSNs, 24 C.F.R. part 5, Subpart B
- For most HUD programs, every member of an applicant household **must** disclose their SSNs to be eligible for assistance. This requirement applies to:
 - Public Housing
 - Any program under Section 8 of the Housing Act of 1937
 - Section 202 Supportive Housing for the Elderly
 - Section 811 Supportive Housing for Persons with Disabilities;
 - Any program under 24 C.F.R. parts 215, 221, 236, or 290
 - Homeownership assistance



NIWAP

HUD SSN requirements (cont'd)

32

- To verify SSNs, an applicant must produce:
 - For public housing and vouchers
 - An original SSN card;
 - An original SSA-issued document containing the applicant's name and SSN; or
 - An original document issued by a federal, state, or local gov't agency containing the applicant's name and SSN
 - For HUD multifamily housing
 - SSN card or other documents showing SSN
- The housing provider transmits the applicant's name, SSN, and date of birth to HUD.
- HUD validates the SSN against the SSA's database.



NIWAP

HUD SSN Requirements (cont'd)

33

- The SSN disclosure requirements do **not** apply to applicants who do not contend eligible immigration status
 - 24 C.F.R. § 5.216; HUD Notice PIH 2012-10 (Feb. 14, 2012)
- A housing provider may **not** deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend eligible status
 - HUD Notice PIH 2012-10 (Feb. 14, 2012)



NIWAP

Rural Development SSN Requirements

34

- Rural Development (RD) does not have authority to collect SSNs from applicants to its rental housing
- However, RD regulations insist that landlords collect SSNs from their residents.
- Still, RD Form 3560-8 states that RD will NOT deny eligibility to applicants who refuse to disclose SSNs
- As a result, advocacy will likely be needed in cases where RD landlords demand SSNs from applicants



NIWAP

Does a Housing Provider Report Status to ICE?

35

- **PHAs** that "know" that someone contending eligibility for Section 8 or Public Housing programs is in the country illegally must report that information to USCIS on a quarterly basis



NIWAP

Defining "Know"

36

- "KNOW" has a very narrow definition
 - A finding of fact or conclusion of law made by the PHA as part of a formal determination that is subject to administrative review on the applicant's claim, AND the finding is supported by a determination by USCIS or the Executive Office of Immigration Review (EOIR), such as a Final Order of Deportation.
- Reporting is *not triggered by*:
 - An oral or written admission by the immigrant;
 - A worker's suspicion, assumption, or firm conviction about the person's immigration status;
 - A response from USCIS to a SAVE inquiry that fails to confirm an applicant's immigration status or that shows an immigrant status that would make the applicant ineligible; or
 - A formal finding that the person is ineligible for a benefit.



NIWAP

Emergency Shelter and Transitional Housing

37



Immigrants and Transitional Housing

38

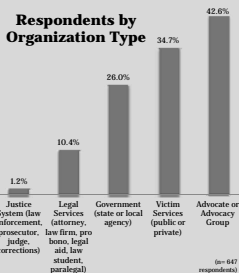
- Poll: Have you worked with an immigrant survivor turned away from transitional housing?
 - Yes
 - No
 - Not applicable
- Chat box question: What criteria are immigrant survivors being required to meet to be accepted into transitional housing programs?



NIWAP's Survey

39

- There were 647 agencies that participated as respondents in the survey including representatives from 50 states, the District of Columbia, and the Virgin Islands.
- Survey participants reported on 9,277 immigrant clients who have needed transitional housing and 12,678 who have been in emergency shelter



NIWAP Research: Reasons Immigrant Victims Turned Away from Transitional Housing

Primary Reasons Immigrant Domestic and Sexual Violence Victims Were Turned Away from Transitional Housing		
	Domestic Violence	Sexual Assault
Immigrant victim lacked the required documentation of immigration status	34.4%	99.4%
When documentation was required the program sought evidence of one of the following:		
Documentation related immigration status	84.1%	99.4%
Documentation of current employment or ability to work	56.0%	98.9%
An employment authorization document as proof of legal work authorization	52.9%	98.9%
Did not have a driver's license*	45.0%	98.8%
Program required documentation that the victim did not have	33.2%	87.0%
Immigrant applicant was undocumented	25.6%	90.0%
Immigrant victim did not meet the formal income requirements	23.7%	85.8%
The battered immigrant applicant failed to present government issued I.D.	18.3%	86.1%
They were told that the evidence presented of being self-sufficient was insufficient	9.0%	85.7%
They were not a victim of domestic violence	n/a	85.6%
They did not speak English	2.9%	3.1%



NIWAP Research: Immigrant Victim Transitional Housing Acceptance Rates

41

Type of Crime	% Accepted	# Accepted	% Denied	# Denied
Domestic Violence	47.1%	1759	52.9%	1979
Sexual Assault	5.8%	29	94.2%	466
Human Trafficking	78.5%	146	21.5%	40
Abused/Abandoned/Run Away Children	80.8%	51	19.2%	12



No Immigrant Status Requirements

42

- Undocumented immigrant survivors have a legal right to access shelter and transitional housing
- Open to all persons without regard to:
 - Immigrant status
 - Citizenship
 - Nationality
 - English language abilities



No Immigrant Status Requirements

43

- Benefits available to all immigrations include:
 - Short-term shelter or housing assistance, victim services counseling and intervention for:
 - Victims of:
 - Domestic violence
 - Sexual assault
 - Stalking
 - Dating violence
 - Human trafficking
 - Child abuse
 - Other abuse
 - Homeless
 - Runaway or homeless youth
 - Abandoned children



NIWAP

Attorney General's List of Required Services

44

- In-kind services provided at the community level
- Not based on the individual's income or resources
- Necessary to protect life or safety
- Programs covered by the Attorney General's order are open to all persons



NIWAP

HUD Stated in 2001

45

- Both emergency shelter and transitional housing are:
 - Necessary to protect life and safety
- Transitional housing is by its nature:
 - Short-term
 - A bridge toward permanent housing



NIWAP

HUD/DOJ/HHS Letter

46

- HUD, DOJ, and HHS confirmed in a joint letter that federally funded housing providers must not turn away individuals based on their immigration status from programs, services, or assistance necessary to protect life or safety
- Examples of such programs and services:
 - Short-term shelter or housing assistance
 - Crisis counseling or intervention programs
 - Medical and public health services necessary to protect life or safety



NIWAP

2016 HUD SNAPS Notice

47

- These Emergency Solutions Grant (ESG) and Continuum of Care (CoC) funded programs have **no** immigrant restrictions
 - Street Outreach Services
 - Emergency Shelter
 - Safe Haven
 - Rapid Re-Housing
- Transitional housing that meets the in-kind, community level, and life or safety tests
 - No immigration restrictions
 - **Exception:** When there are rental assistance payments made for participant *because regulations require income test*, immigration restrictions



NIWAP

Applies to Government Funded Programs

48

- Federally funded under
 - Violence Against Women Act
 - Family Violence Prevention and Services Act
 - Victims of Crime Act
 - HUD-funded
 - Emergency Solutions
 - Continuum of Care Programs



NIWAP

With Good Victim Advocacy --

49

- Many/Most immigrant survivors can prove
 - They are on a path to self-sufficiency
 - They have resided in the jurisdiction
 - They are at risk of homelessness
 - Lack of active substance abuse
 - Lack of criminal history



Evidence of Residency: Examples

50

- Victim's statement
- Postmarked mail received at a residence in the jurisdiction
- School, health, court records with address
- Copies of police reports
- Letters from neighbors, shelter, victim advocate, social worker, faith based organization staff



Evidence of Victimization or Homelessness: Examples

51

- Victim's statement
- Police reports
- Medical or court records
- U-Visa/VAWA application
- Photographs, recordings of abuse
- Protection order
- Evidence of poor rental history/evictions



Evidence of Self-Sufficiency

52

- Evidence of employment
 - Documentation of income from employment
 - Tax ID number
 - Employer's statement court form
 - Letter from employer with photo attached
- Evidence of other income
 - Child support, benefits citizen/lawful permanent resident children receive
- Evidence that taking steps toward employment
 - Filed VAWA self-petition, U visa, taking ESL classes



Other Anti-Discrimination Protections

53

- No discrimination based on:
 - Title VI/FVPSA- race, color, and national origin
 - Fair Housing Act- race, color, national origin, religion, sex, familial status, and disability
 - VAWA- race, color religion, national origin, sex, gender identity, sexual orientation, and disability
 - HUD Section 109- race, color, national origin, sex, and religion



Materials

54

- DOJ/HHS/HUD Joint Letter on Immigrant Access to Federally Funded Services Necessary to Protect Life or Safety (Aug. 5, 2016)
- HUD, SNAPs, The Personal Responsibility and Work Opportunity Act of 1996 and HUD's Homeless Assistance Programs (Aug. 16, 2016)
- HUD, Memo for Secretary Julian Castro from Tonya Robinson, Acting General Counsel re: Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980 (Dec. 15, 2016)
- HUD, Notice PIH 2017-02 (HA), Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures (Jan. 19, 2017)
- NHLP, Memo: HUD Housing Covered by Section 214
- NHLP, Federally Assisted Housing and Immigrant Eligibility (Feb. 2017) (See info packet)
- NIWAP, Brochure for Transitional Housing
- NIWAP, Fact Sheet: Immigrant Access to Emergency Shelter and Transitional Housing (Oct. 23, 2016)
- NIWAP, How to Advocate for Public and Assisted Housing for Your Battered Immigrant or Trafficking Survivor Client (Feb. 8, 2017)
- NIWAP & Legal Momentum, HUD Programs and Immigrant Eligibility, Chap. 16.2 (Feb. 8, 2017)



Upcoming Webinars

55

- HUD's Final Rule Implementing VAWA 2013
 - Wednesday, March 1, 2017, 2:00 – 3:30 ET
 - Register at
<https://attendee.gotowebinar.com/register/5330210649911549955>
- HUD Developments Impacting the Housing Rights of Survivors (date/time TBD)



For Technical Assistance, Training, and Resources

56

KARLO NG

KNG@NHLP.ORG

(415) 546-7000 EXT. 3117

[HTTP://NHLP.ORG/OVWGRANTEES](http://nhlp.org/ovwgrantees)

NIWAP TECHNICAL ASSISTANCE

NIWAP@WCL.AMERICAN.EDU

(202) 274-4457

[WWW.NIWAPLIBRARY.WCL.AMERICAN.EDU](http://www.niwaplibrary.wcl.american.edu)

This project was supported by Grant No. 2016-TA-AX-K028 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.



UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES
UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

August 5, 2016

Dear Recipients of Federal Financial Assistance:

The U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Health and Human Services (HHS), and the U.S. Department of Justice (DOJ) issue this joint letter to remind recipients of federal financial assistance that they should not withhold certain services based on immigration status when the services are necessary to protect life or safety. This is not a new policy but one we think is important to restate. Some grant recipients mistakenly believe they are not authorized to provide critical, life-saving services to certain categories of immigrants.¹ This is not the case. As explained in greater detail below, immigration status is not a bar to providing certain services necessary to protect life or safety, such as emergency shelter, short-term housing assistance including transitional housing, crisis counseling, and intervention programs.

In the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA" or "the Act"), Congress restricted immigrant access to certain public benefits, but also established a set of exceptions to these restrictions. In particular, Congress provided that the following services are excepted from restrictions on immigrant access to certain benefits:

Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with the appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

8 U.S.C. §§ 1611(b)(1)(D); 1621(b)(4).

¹ For the purposes of this document, the term "immigrants" is used to refer to all individuals who are not U.S. citizens or nationals.

In 2001, after consulting with other Federal agencies, including HUD and HHS, the Attorney General issued an Order reiterating the three-prong test established in PRWORA and specifying the types of programs, services, or assistance determined to be necessary for the protection of life or safety:

- (a) Crisis counseling and intervention programs; services and assistance relating to child protection, adult protective services, violence and abuse prevention, victims of domestic violence or other criminal activity; or treatment of mental illness or substance abuse;
- (b) Short-term shelter or housing assistance for the homeless, for victims of domestic violence, or for runaway, abused, or abandoned children;
- (c) Programs, services or assistance to help individuals during periods of heat, cold, or other adverse weather conditions;
- (d) Soup kitchens, community food banks, senior nutrition programs such as meals on wheels, and other such community nutritional services for persons requiring special assistance;
- (e) Medical and public health services (including treatment and prevention of diseases and injuries) and mental health, disability, or substance abuse assistance necessary to protect life or safety;
- (f) Activities designed to protect the life or safety of workers, children and youths, or community residents; and
- (g) Any other programs, services, or assistance necessary for the protection of life or safety.

Attorney General Order No. 2353-2001, 66 Fed. Reg. 3616 (Jan. 16, 2001).

The Attorney General Order No. 2353-2001 (“the Attorney General Order”) remains in effect, and it is important that government-funded and community-based programs, services, or assistance, as specified in the Attorney General Order, remain accessible to all eligible individuals, regardless of immigration status. For example, immigrants experiencing domestic violence or other abuse, including sexual assault, stalking, dating violence, or human trafficking, often face significant obstacles to seeking help and safety. In particular, access to emergency shelter and transitional housing are crucial to a battered immigrant’s ability to escape abuse and break the cycle of violence.

The Secretary of HUD issued a letter to all HUD funding recipients, in 2001, clarifying that transitional housing for up to two years is a type of housing assistance covered by the Attorney General Order.² Transitional housing is by its nature short-term and intended to be a step from

² The letter issued by the Secretary of HUD on January 19, 2001, to all HUD funding recipients clarifies that the Attorney General Order covered shelter and transitional housing programs for up to two years.

emergency shelter to permanent housing. HHS also issued guidance following the Attorney General Order that highlights the eligibility of battered immigrant survivors and their children for HHS-funded shelters and programs.³ Emergency shelters and transitional housing provide survivors of domestic and sexual violence the opportunity to safely make the transition to freedom from their abusers. They also help stabilize homeless families, runaway or homeless youth, and abused and abandoned children by providing basic needs and safety while they seek to rebuild their lives.

Accordingly, this letter is a reminder to recipients of federal funding that administer programs that (i) are necessary for the protection of life or safety; (ii) deliver in-kind services at the community level; and (iii) do not condition the provision of assistance, the amount of assistance, or the cost of assistance on the individual recipient's income or resources, that such programs are not subject to PRWORA's restrictions on immigrant access to public benefits and must be made available to eligible persons without regard to citizenship, nationality, or immigration status.

In addition to the exception elaborated in the Attorney General Order, PRWORA includes a number of other exceptions that require public benefits to be provided without regard to immigration status. For example, as described at 8 U.S.C. § 1611(b)(1)(A), Medicaid is available, irrespective of an individual's immigration status, for treatment of an emergency medical condition (including labor and delivery for pregnant women), if an individual otherwise meets the Medicaid eligibility requirements. Public health assistance for immunizations and for testing and treatment of symptoms of communicable diseases can also be provided without regard to an individual's immigration status. 8 U.S.C. § 1611(b)(1)(C). Also, short-term, non-cash, in-kind emergency disaster relief is available regardless of an individual's immigration status. 8 U.S.C. § 1611(b)(1)(B).

Even if a program does not meet any of the exceptions described above, PRWORA does not prohibit "qualified aliens," as defined in the Act, from receiving certain public benefits. Section 431 of PRWORA defines "qualified aliens" to include certain battered immigrants, among others.⁴ It is also important to note that there are many government-funded programs and services that are not considered "federal public benefits" or "state or local public benefits" and therefore are not limited by the restrictions on immigrant access to public benefits that were put in place by PRWORA.⁵

Letter from Andrew Cuomo, Secretary of HUD, to HUD Funds recipients (Jan. 19, 2001), *available at* http://www.vawnet.org/Assoc_Files_VAWnet/HUDLetter.pdf.

³ Domestic Violence Fact Sheet: Access to HHS-Funded Services for Immigrant Survivors of Domestic Violence, originally issued January 19, 2001, and last revised August 22, 2012, *available at* <http://www.hhs.gov/ocr/civilrights/resources/specialtopics/origin/domesticviolencefactsheet.html>.

⁴ 8 U.S.C. § 1641. Section 107(b) of the Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386 (codified at 22 U.S.C. § 7105(b)(1)), also makes victims of "a severe form of trafficking in persons" eligible for Medicaid and other benefits (if otherwise eligible) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act (INA).

⁵ For example, HHS published a list of its programs that fall under the definition of federal public benefit. *See* Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); Interpretation of "Federal Public Benefit," 63 Fed. Reg. 41,658 (Aug. 4, 1998). It also indicated the criteria by which to determine

“Benefit granting agencies” have the obligation to verify eligibility for federal, state, or local public benefits where required to do so pursuant to PRWORA.⁶ However, PRWORA includes an exemption for nonprofit charitable organizations: Title IV of the Act provides that nonprofit charitable organizations are not required under the Act to verify the immigration status of applicants for federal, state, or local public benefits. 8 U.S.C. § 1642(d).

It is critical to keep in mind that organizations or agencies that receive federal funding must not discriminate against individuals on a basis prohibited by Title VI of the Civil Rights Act of 1964 (Title VI),⁷ the Fair Housing Act,⁸ the Violence Against Women Act,⁹ the Family Violence Prevention and Services Act,¹⁰ Section 109 of Title I of the Housing and Community Development Act of 1974,¹¹ or any other applicable nondiscrimination law. Denying an individual a public benefit or treating an individual differently because of that individual’s race or national origin would violate one or more of these statutes. For example, a recipient of federal financial assistance may not deny benefits to applicants because they have ethnic surnames or origins outside the United States. Nor may the recipient single out individuals who look or sound “foreign” for closer scrutiny, or require them to provide additional documentation of

which of its over 300 federal programs do not fall under the definition of “federal public benefit.” Additionally, DOJ’s Office for Victims of Crime clarified that Victims of Crime Act (VOCA) victim compensation benefits are not federal public benefits and therefore should not be denied to anyone on the basis of immigration status. See Letter from Joye Frost, Acting Director, Office for Victims of Crime, to Cassie T. Jones, Executive Director, Alabama Crime Victims’ Compensation Commission (July 2, 2010), *available at* <http://library.niwap.org/wp-content/uploads/OJP-OVC-Letter-on-Access-to-VOCA-Victim-Compensation-7.2.2010.pdf>. And HUD has determined that benefits under the Lead Hazard Control Program are not considered federal public benefits. See U.S. Dep’t of HUD, Office of Healthy Homes and Lead Hazard Control Policy Guidance No. 2001-01 (Jan. 16, 2001). These are some examples, and not an exhaustive list, of programs that are not “federal public benefits” as defined in PRWORA.

⁶ For more information about verification and the nonprofit exemption, see Department of Justice, Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 62 Fed. Reg. 61344, 61345 (Nov. 17, 1997).

⁷ 42 U.S.C. § 2000d (prohibiting discrimination based on race, color, or national origin under any program or activity receiving Federal financial assistance).

⁸ 42 U.S.C. §§ 3601-3619 (prohibiting discrimination in housing because of race, color, national origin, religion, sex, familial status, and disability).

⁹ 42 U.S.C. § 13925(b)(13) (prohibiting discrimination based on actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability under any program receiving VAWA funding).

¹⁰ 42 U.S.C. § 10406(c)(2) (stating that programs and activities funded in whole or in part with funds made available under the Family Violence Prevention and Services Act are considered to be programs and activities receiving federal financial assistance for the purposes of applying prohibitions against discrimination on the basis of race, color, or national origin under Title VI of the Civil Rights Act); *see also* 42 U.S.C. § 10406(c)(2)(B) (prohibiting discrimination on the basis of sex or religion).

¹¹ 42 U.S.C. § 5309 (prohibiting discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD’s Community Development Block Grant Program).

citizenship or immigration status.¹² Also, because individuals might come from families with mixed immigration status, there may be some family members who are eligible for all benefits and others who are not eligible or who can receive only a more limited subset of those benefits. Therefore, benefits providers must ensure that they do not engage in practices that deter eligible family members from accessing benefits based on their national origin.¹³ Moreover, under Title VI of the Civil Rights Act of 1964, protection against national origin discrimination includes ensuring that recipients of federal financial assistance take reasonable steps to provide meaningful access to services for persons with limited English proficiency.¹⁴

HUD, HHS, and DOJ have the authority to enforce these laws and may appropriately sanction recipients who disregard federal laws, regulations, or guidance that protect the rights of individuals to gain access to emergency shelter, transitional housing, or other services as outlined above on a nondiscriminatory basis.

- For any program funded by HUD, please contact HUD's Housing Discrimination Hotline at 1-800-669-9777, TDD at 1-800-927-9275, or visit the website at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/online-complaint to report any violations of this directive.
- To report national origin discrimination in HHS programs, please contact HHS's Office for Civil Rights at 1-800-368-1019, 1-800-537-7697 (TDD), by email at ocrmail@hhs.gov, or visit the website at www.hhs.gov/ocr.
- For any programs funded under DOJ, you may contact the Office of Civil Rights at the Office of Justice Programs at 202-307-0690, 202-307-2027 (TDD), by email at askOCR@ojp.usdoj.gov, or at the website <http://ojp.gov/about/ocr/complaint.htm>.

Sincerely,



Loretta E. Lynch
Attorney General
of the United States



Sylvia M. Burwell
Secretary of Health
and Human Services



Julián Castro
Secretary of Housing
and Urban Development

¹² For more information about this, see Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 62 Fed. Reg. 61344, 61346, 61360-61361 (Nov. 17, 1997).

¹³ See, e.g., U.S. Dep't of Health & Human Services & U.S. Dep't of Agriculture, Policy Guidance Regarding Inquiries into Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, State Children's Health Insurance Program (SCHIP), Temporary Assistance for Needy Families (TANF), and Food Stamp Benefits (Tri-agency guidance), available at <http://www.hhs.gov/civil-rights/for-individuals/special-topics/national-origin/tri-agency/index.html>; 24 C.F.R. § 5.524.

¹⁴ See, e.g., Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (Aug. 11, 2000); Federal Agency Limited English Proficiency (LEP) Guidance for Recipients, available at http://www.lep.gov/guidance/guidance_index.html.



August 16, 2016

The Personal Responsibility and Work Opportunity Act of 1996 and HUD's Homeless Assistance Programs

On August 11, 2016, the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Health and Human Services (HHS), and the U.S. Department of Justice (DOJ) issued a joint letter to remind recipients of federal financial assistance that they must not withhold certain services based on immigration status when the services are necessary to protect life or safety. This guidance provides additional information to recipients of funds under HUD's Homeless Assistance Programs – the Emergency Solutions Grants (ESG) and the Continuum of Care (CoC) Programs – about how this joint letter and the Personal Responsibility and Work Opportunity Act of 1996 (“the Act”), the Act on which this letter is based, applies to assistance funded through these programs. For more information about these programs, please see 24 CFR Part 576 and 24 CFR Part 578.

In the Act, Congress restricted immigrant access to certain federal public benefits but also recognized exceptions to protect life or safety, based on a 3-part test. There are certain types of federal assistance that are not subject to the Act's restriction on access to public benefits based on immigration status. This includes activities that: (1) deliver in-kind services at the community level, (2) are necessary for the protection of life or safety, and (3) do not condition the provision of assistance on the potential program participant's income or resources. The remainder of this document covers the types of assistance funded through the ESG and CoC Programs that are covered by this life or safety exception.

HUD has determined that the following forms of assistance meet this three-part test and, therefore, are not subject to the Act's immigration-based restrictions:

- **Street Outreach Services**
- **Emergency Shelter**
- **Safe Haven**
- **Rapid Re-Housing**

Transitional housing meets the 3-part test and falls within the exception for life or safety, and therefore must be provided to persons without regard to immigration status, when the recipient or subrecipient owns or leases the building used to provide transitional housing. However, in transitional housing programs where the recipient or subrecipient provides rental assistance payments on behalf of program participants, this type of program does not fall within the life or safety exemption because the rental assistance provided is required by regulation to be based on the program participant's income and, therefore, does not meet the 3-part test.

HUD reminds nonprofit organizations that are recipients of CoC or ESG Program funds that the Act does not require nonprofit charitable organizations to verify the immigration status of applicants for federal, state, or local public benefits.¹

¹ For more information about verification and the nonprofit exemption, see Department of Justice, Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 62 Fed. Reg. 61344, 61345 (Nov. 17, 1997).



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-0500

December 15, 2016

MEMORANDUM FOR: Julián Castro, Secretary, S

FROM: Tonya Robinson, Acting General Counsel, C

A handwritten signature in black ink, appearing to read "Tonya Robinson", written over the printed name.

SUBJECT: Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980

This memorandum addresses the rights of certain noncitizens who are battered or subjected to extreme cruelty by a spouse or parent, who is an United States Citizen or lawful permanent resident (LPR), to apply for and receive assistance under Section 214 of the Housing and Community Development Act of 1980 (Section 214). HUD programs covered under Section 214 include the programs under the U.S. Housing Act of 1937 (Public Housing and Section 8 tenant-based and project-based rental assistance), as well as the Section 235 Homeownership, Section 236 Rental Assistance, Rent Supplement, Flexible Subsidy and Section 221d(3) Below Market Interest Rate Programs. This memorandum also addresses, in light of recent modifications to the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, the required process for verifying eligibility of these noncitizens for HUD's Section 214-covered multi-family programs.¹

The Violence Against Women Act of 1994 (VAWA) allows these noncitizens to self-petition for LPR status without the cooperation or knowledge of their abusive relative. These battered noncitizens are referred to as "self-petitioners." The terms "VAWA self-petitioner," "self-petitioner" or "petitioner" refer to the categories of battered noncitizens seeking VAWA-related relief described in 8 U.S.C. § 1101(a)(51), 8 U.S.C. § 1641(c), 62 Fed. Reg. 61344, 61367 (Nov. 17, 1997), and other VAWA-related petitions or applications for lawful permanent resident status. Prior to VAWA, these battered noncitizens were dependent on their abusers to obtain authorized immigration status because the abusing relative held the right to file the immigration petition on their behalf and could refuse to file or withdraw the petition at any time.

Section 214 states that, "notwithstanding any other provision of law," HUD may not make certain financial assistance available to any noncitizen unless the person falls within certain enumerated exceptions, one of which is "lawful permanent resident." Additionally, Section 214 and associated regulations at 24 CFR Part 5 provide that financial assistance from HUD cannot

¹ This clarification is consistent with HUD's Multifamily Housing Programs Handbook (HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, Appendix 2-B (2013)) and HUD's interpretation of Section 214 and its regulations at 24 CFR part 5, Subpart E. However, the DHS alternative verification process has been superseded by the changes made to the SAVE System.

be delayed, denied, reduced or terminated on the basis of immigration status while verification of eligibility or appeal of a determination as to satisfactory immigration status is pending. This memorandum clarifies that self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from Section 214-covered housing providers. It is the Office of General Counsel’s position that this interpretation of VAWA and Section 214 is consistent with Section 214 and VAWA’s objectives to enhance victim safety and to place noncitizen victims of domestic violence in the same position vis-à-vis immigration law as they would have enjoyed had they not been abused by their U.S. citizen or LPR relative.

Consistent with applicable HUD requirements implementing section 214 at 24 CFR Part 5, housing providers are required to verify noncitizen eligibility for federal financial assistance. The verification of satisfactory immigration status for Section 214-covered programs is performed by housing providers using the DHS SAVE System. Generally, the question of verification will arise in connection with self-petitioners when the self-petitioner is either an applicant for assistance, or is a member of a participating family and the abuser is removed from the family due to allegations of domestic violence.

Upon the assertion of an applicant or participant that he or she is a self-petitioner, the housing provider must use the SAVE System to verify immigration status. Evidence that an individual is a self-petitioner includes one of the following: (i) INS Form I-360 VAWA self-petition; (ii) INS Form I-130 family-based visa petition; or (iii) INS Form I-797 Notice of Action indicating (a) receipt of the I-130 or I-360 by DHS, (b) a prima facie determination, or (c) approval of the I-360 or I-130 petition by DHS. Under Section 214, once a self-petition (I-360 or I-130 Forms) or I-797 Notice is submitted to the housing provider, and until a final determination by DHS as to LPR status is actually made, including any appeal of a determination on the self-petition or LPR status, the self-petitioner’s application for financial assistance cannot be denied, and financial assistance shall not be delayed, denied, reduced or terminated on the basis of immigration status. In addition, all the other protections afforded under VAWA apply to the self-petitioner throughout the verification process.

Because we anticipate that housing providers will have several questions about the documents a self-petitioner must submit, as well as the protections afforded by VAWA, OGC has recommended, and the Office of Public and Indian Housing and the Office of Housing have agreed, to publish a notice consistent with this opinion.



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing (PIH)**

SPECIAL ATTENTION OF:

Regional Directors; State and Area Coordinators;
Public Housing Hub Directors; Program Center
Coordinators; Troubled Agency Recovery Center
Directors; Special Applications Center Director;
Administrators; Resident Management
Corporations; Public Housing Agencies

NOTICE PIH 2017-02 (HA)

Issued: January 19, 2017

This notice remains in effect until
amended, superseded or rescinded

Subject: Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures

- 1) **Purpose.** This notice explains the procedures that public housing agencies (PHAs) must follow when an applicant or resident/tenant requests admission or continued residency as a result of being a VAWA self-petitioner. VAWA self-petitioners are those who claim to be victims of “battery or extreme cruelty.” VAWA covers the following types of battery or extreme cruelty: domestic violence, dating violence, sexual assault, and stalking.
- 2) **Applicability.** This notice applies to public housing, housing choice voucher assistance (including project-based vouchers), and Section 8 Mod Rehab.
- 3) **Background.** VAWA was originally signed into law in 1994, and was most recently reauthorized in 2013. HUD issued implementing regulations for the most recent reauthorization in late 2016 (81 FR 87812). Prior to VAWA, non-citizen victims of covered crimes were dependent on the good will of their abusers to obtain the authorized immigration status necessary to receive assisted housing. Section 214 of the Housing and Community Development Act of 1980 states that HUD may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status.

HUD has determined that self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from Section 214-covered housing providers.¹ “Satisfactory immigration status” means an immigration status which does not make the individual ineligible for financial assistance. After verifying such

¹ See HUD memorandum “Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980,” dated December 15, 2016 (available at <http://library.niwap.org/wp-content/uploads/Eligibility-of-VAWA-Self-Petitioners-2016-12-14.pdf>)

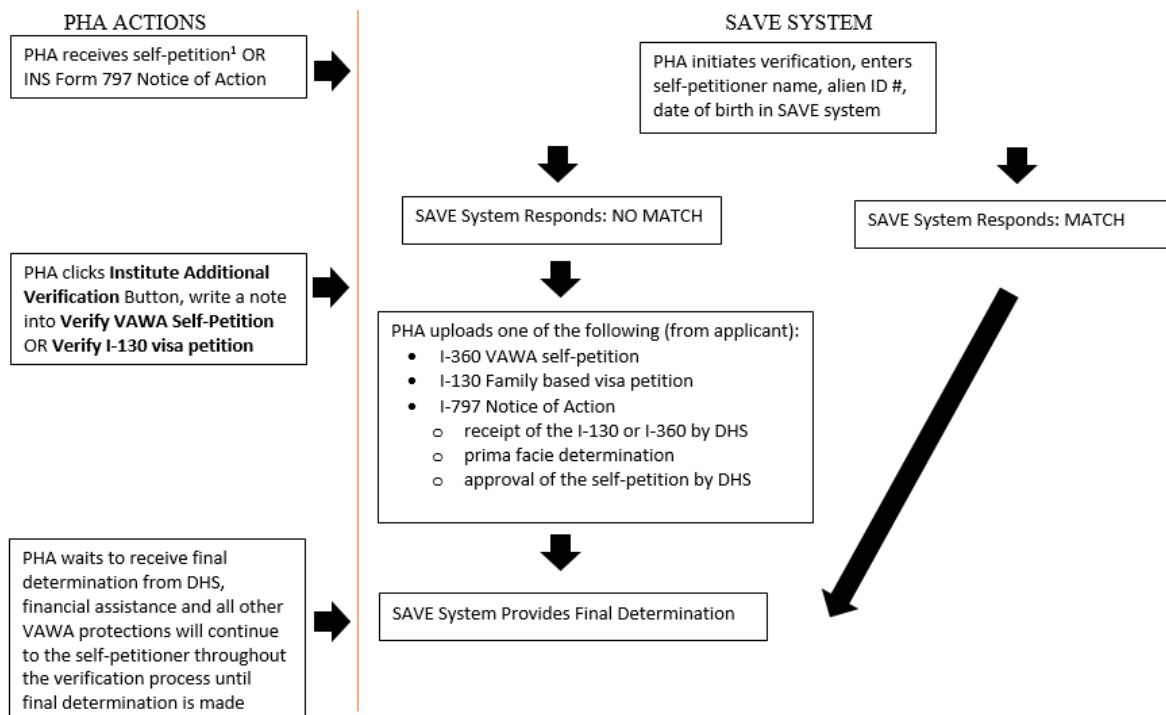
immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, PHAs will make a final determination as to the self-petitioner's eligibility for assistance.

- 4) **Applicability to other VAWA Housing Protections.** Not every noncitizen victim who has been subjected to battery or extreme cruelty will qualify under these procedures. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR. PHAs may receive a petition at any time, but submissions will most likely be related to a request for VAWA protections pursuant to 24 CFR Part 5 Subpart L (e.g. with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence, sexual assault, or stalking). See PIH 2016-09. Once a PHA receives a self-petition (INS Form I-360 or I-130) or INS Form 797, it is prohibited from requesting any additional information from the VAWA self-petitioner, other than what is required below to complete the verification.
- 5) **Procedure.** When a PHA receives a self-petition or INS Form 797 Notice of Action, the PHA must initiate verification in the SAVE System:
 1. Enter self-petitioner name, alien ID number, and date of birth in the SAVE System. The system will provide one of the following responses:
 - If the SAVE system responds with a match, no further action is necessary at this time. Skip to step 3.
 - If the SAVE system responds “no match,” the PHA must complete the following additional steps. Continue to step 2.
 2. Push the button for “Institute Additional Verification.” In the next screen, in the memo field, type “verify VAWA self-petition.” If the documentation provided by the applicant is a form I-130, type in the memo field “verify I-130.” Upload one of the following documents from applicant:
 - I-360 VAWA Self-Petition
 - I-130 Family-Based Visa Petition
 - I-797 Notice of Action

Steps undertaken by DHS:

 - receipt of I-130 or I-360
 - prima facie determination
 - approval of self-petition
 3. Wait for a final determination from the SAVE System. You will receive one of two confirmations: (1) the VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected; (2) the I-130 is verified, in which case the petitioner submitting

a family-based visa petition must provide to the PHA any evidence of “battery or extreme cruelty.” See 8 USC 1154(a)(1)(J). Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR status is made. If the final determination is to deny the VAWA self-petition or LPR petition, the PHA must alert the petitioner and take actions to terminate voucher assistance or evict the petitioner from public housing in accordance with the existing public housing requirements.



- 6) **Further Information.** For additional information related to this notice, please contact Eric Christensen, Program Analyst, Office of Policy, Program and Legislative Initiatives at 202-402-3475.

/s/_____
 Lourdes Castro Ramírez
 Principal Deputy Assistant Secretary
 for Public and Indian Housing

**MEMO: HOUSING COVERED BY SECTION 214
OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT**

I. Section 214 Applies to the Following Programs:

- a. **Public Housing** (42 U.S.C. 1437d; 24 C.F.R. pt. 5 and pts. 900-972; 24 C.F.R. pt. 966; 24 C.F.R. pt. 960): Administered by Public and Indian Housing. Public housing is owned and operated by a public housing agency.
- b. **Section 8 Housing Choice Vouchers** (42 U.S.C. 1437f; 24 C.F.R. pt. 982; 24 C.F.R. pt. 5): Administered by Public and Indian Housing. Section 8 Housing Choice vouchers are issued by a local public housing agency to low income households so they can rent apartments or homes from private landlords. The subsidy is portable; it can travel with the tenant.
- c. **Section 8 Project-Based Housing:** Administered by Multifamily Housing. Used by developers who rely on long-term Section 8 rent subsidy contracts to build or rehabilitate apartment buildings and then rent the units to lower-income households. The subsidy is not portable; it is attached to the unit. Project-Based Section 8 includes the following subcategories:
 - i. **Section 8 New Construction**
 - ii. **Section 8 Moderate Rehabilitation**
 - iii. **Section 8 Substantial Rehabilitation**
 - iv. **State Housing Finance Agency Section 8**
 - v. **Section 202 and Section 811 Projects with Section 8 Assistance**
 - vi. **Section 8 Loan Management Set-Aside**
 - vii. **Section 8 Property Disposition Set-Aside**
 - viii. **Section 8 Community Investment Demonstration Program**
 - ix. **Section 8 Moderate Rehabilitation Single Residency Occupancy (SRO) Program**
- d. **Section 236 and Rent Supplement Housing** (12 U.S.C.A. §§ 1701s, 1715z-1): These are older housing programs from the 1960s under which developers built apartment buildings for low- to moderate- income tenants with HUD insured mortgages and subsidies. Some tenants in these buildings pay market rent, while others pay below-market rents. Tenants paying below-market rent, and tenants living in units with either Rent Assistance Payment or Section 8 project-based subsidies are covered by Section 214.
- e. **Section 235 Homeownership Housing** (12 U.S.C. § 1715z; 24 C.F.R. pt. 235): Allows lower income persons to purchase their homes using a HUD insured loan with a mortgage interest subsidy. The immigrant restrictions apply only to those applicants with contracts executed on or after June 19, 1995, or to contracts refinanced or revised on or after that date for a reason other than adjusting the mortgage interest rate.
- f. **Housing Development Grants (low-income units only)** (42 U.S.C. § 1437o): HoDAG provided funds for new construction and substantial rehabilitation of affordable rental housing between 1983 and 1990. Low-income units financed with funds from the HoDAG program are covered by Section 214 but not market rate units
- g. **Section 23 Leased Housing Assistance Program** (formerly codified at 12 U.S.C. § 1421b): This program has been replaced by the Project-based Section

8 program, and most units developed under the Section 23 program have been converted to Section 8

II. Section 214 Does NOT Apply to the Following Programs:¹

- a. **Indian Housing** (24 C.F.R. § 5.504(b))
- b. **Community Development Block Grants** (42 U.S.C. §§ 5301-5320; 24 C.F.R. pt. 570): HUD provides block grants to cities, counties, and states, which can be used for housing rehabilitation and development.
- c. **HOME** (42 U.S.C. §§ 12722-12725; 24 C.F.R. pt. 92): HUD provides block grants to participating jurisdictions that can be used for development, rehabilitation, and acquisition of housing and for tenant-based assistance.
- d. **HOPWA** (42 U.S.C. §§ 12901-12912; 24 C.F.R. pt. 574 and § 574.310(e)): Block grants that can be used for development and rehabilitation of housing for persons with AIDS and HIV positive status
- e. **Section 202 Projects Without Project-Based Section 8 Assistance** (12 U.S.C. 1701q; 24 C.F.R. pt. 891): HUD provides direct loans and grants to developers for housing for the elderly. Some of these buildings or units may also be rented to people with disabilities.
- f. **Section 811 Projects Without Project-Based Section 8 Assistance** (42 U.S.C. § 8013; 24 C.F.R. pt. 891): HUD provides direct loans and grants to developers for housing for people with disabilities.
- g. **Section 221(d)(3) or Section 221(d)(5)** (12 U.S.C. §§ 1715/(d)(3), 1715/(d)(5); 24 C.F.R. pt. 221): HUD insures private loans made to developers to build multifamily housing with restricted rents.
- h. **McKinney Act Shelter and Transitional Housing Programs** (except for the Section 8 Moderate Rehabilitation Single Residency Occupancy (SRO) Program) (42 U.S.C. §§ 11,361-11,408a): HUD provides block grants to local governments and direct grants to developers to fund homeless shelters and transitional housing programs. The McKinney Act programs include:
 - i. **Shelter Plus Care** (42 U.S.C. §§ 11403-11407b; 24 C.F.R. pt. 582): A rental assistance program for people who are homeless and disabled. Rental assistance is linked to supportive services funded through other programs that tenants may be required to use.
 - ii. **Supportive Housing** (42 U.S.C. §§ 11381–11389; 24 C.F.R. pt. 583): The Supportive Housing Program provides funds for housing and/or supportive services. Eligible applicants for funding include states, local governmental units, public housing authorities, private nonprofits and community mental health centers.
- i. **Rental Rehabilitation** (42 U.S.C. § 1437o): HUD provides funds to local governments to fund local loans and grants to rehabilitate private housing, in exchange for rent restrictions.
- j. **HOPE 2** (42 U.S.C. §§ 12,871-12,880): This program allows eligible families to acquire an ownership interest in properties that are owned, held, insured or financed by HUD and other public agencies.

¹ **NOTE:** If housing funded under these programs *also* has Project-Based Section 8 or funds from another covered program, the units assisted by these programs *are* covered by Section 214.

Federally Assisted Housing and Immigrant Eligibility

HUD Programs Covered by Section 214 of the Housing and Community Development Act of 1980

- Public Housing
- Section 8 Vouchers
- Project-Based Section 8
- Section 236 Housing, with or without Rent Supplements (low-income units only)
- Section 235 Homeownership housing
- Housing Development Grants (HoDAG) (low-income units only)
- Section 23 Leased Housing Assistance Program

Eligible Immigrants

- U.S. Citizens and Nationals
- Lawful Permanent Residents (LPR)
- VAWA Self-Petitioners
- Asylees and Refugees
- Parolees
- Persons Granted Withholding of Removal/Deportation
- Qualified Victims of Trafficking
- Persons granted admission for emergent or public interest reasons
- Persons granted amnesty under the Immigration Reform and Control Act of 1986
- Immigrants eligible for registry who entered the U.S. before June 30, 1948
- Lawful U.S. residents under the Compacts of Free Association with the Marshall Islands, Micronesia, Palau and Guam
- Immigrants admitted for lawful temporary residence prior to January 1, 1982

Rural Development (RD) Programs Covered by Section 214

- Rental housing units in Section 515 and Section 514/516 development that are receiving RD Rental Assistance¹
- Section 514 Farm Labor Housing
- Section 502 Direct Homeownership Loan Program
- Section 504 Minor Rehabilitation Loan and Grant Programs for Single Family Homes
- RD Voucher Program

Eligible Immigrants

- Section 514/516: Lessee (but not household) must be U.S. Citizen or LPR²
- Section 502/504: Persons responsible for paying the loan must be U.S. Citizen or Section 214 eligible immigrant
- RD Voucher: Section 214 eligible immigrants

Programs Unrestricted by Section 214 (non-comprehensive list)

- | | |
|---------------------------------|--|
| • Low Income Housing Tax Credit | • Indian Housing |
| • Section 202 | • Rental Rehabilitation |
| • Section 811 | • McKinney-Vento/HEARTH Act Programs |
| • Section 221(d)(3) and (5) | • HOPE 2 |
| • CDBG | • Rural Housing Preservation Grants |
| • HOME | • Section 515 Rural Rental Housing Program |
| • HOPWA | • Section 538 Multifamily Loan Guarantees |

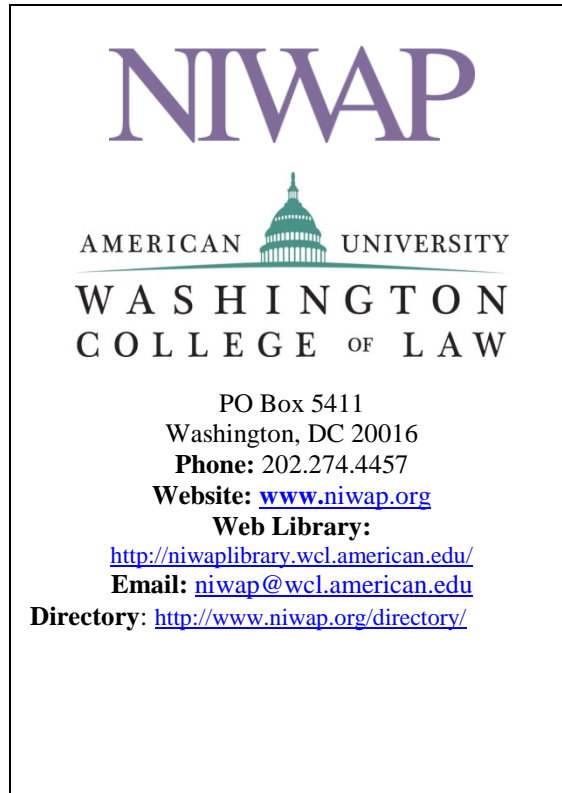
¹ RD regulations improperly extend restriction to all occupants of Section 515 Rental Housing. However, RD has indefinitely postponed the application of this requirement. 7 C.F.R. § 3560.152 note.

² RD takes position that Sections 514 and 516 are more restrictive than Section 214. There is no proration of rents.

Evidence to Meet Typical Additional Admission Criteria Imposed:

- *Residence in the city/county where the program is located*
- *Evidence of domestic violence, sexual assault, stalking, dating violence, human trafficking, child abuse or abandonment, homeless, risk of homelessness, or need for safe housing*
- *Evidence that the victim meets criteria for employment or self-sufficiency*
- *Evidence that the victim does or does not have certain conditions and/or issues*

NIWAP



The Law: Immigrants are Legally Eligible for Transitional Housing

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) explicitly declared that programs necessary to protect life and safety were to remain open to all person without regard to immigration status. In PRWORA, Congress granted the U.S. Attorney General the sole discretion to designate the programs necessary to protect life and safety that were to be open to all persons without regard to immigration or citizenship status or nationality. In August of 2016, HUD, DOJ and HHS jointly issued a letter confirming long standing federal law and policies stating that immigrants cannot be denied access to emergency shelter and transitional housing.



Bring this evidence with you when applying for transitional housing if your client possesses it:

Residence in the city/country where the program is located may include:

- ☐ Victim's statement
- ☐ Lease with the victim or with the victim's name listed as a resident
- ☐ Post-marked mail victim received at a location in the jurisdiction
- ☐ Statements from neighbors, friends, family members
- ☐ Copies of school, health care, or court records listing an address for the victim in the jurisdiction
- ☐ Car title, vehicle registration
- ☐ Copies of police reports
- ☐ Employment documents
- ☐ Letters from an emergency shelter, faith based organization, victim advocate, attorney, or social worker

Evidence of domestic violence, sexual assault, stalking, dating violence, human trafficking, child abuse or abandonment, homeless, risk of homelessness, or need for safe housing may include:

- ☐ Victim's or Witness statement
- ☐ Police reports
- ☐ Court records (protection order, custody, child abuse, criminal case, evictions)
- ☐ Medical records reflecting injuries
- ☐ U-Visa application/VAWA self-petitioner
- ☐ Photographs, recordings of abuse
- ☐ Personal texts, emails, log of abuse or incidents
- ☐ Records or letters from an advocacy organization showing the use of services
- ☐ Child protection services
- ☐ Support order as part of a protective order
- ☐ News articles or reports of arrest for abuser
- ☐ Evidence of poor rental history/evictions

Evidence that the victim meets criteria for employment or self-sufficiency may include:

Evidence of employment:

- ☐ Victim's statement about employment with current and former employers
- ☐ Letter from employer, co-workers
- ☐ Photographs of them at work
- ☐ Evidence of self-employment
- ☐ Documentation of income from employment (pay checks, bank deposits, money order purchases, copies of cash received as payment with serial numbers circled)
- ☐ Tax identification number
- ☐ Employer's statement (court form used in child support cases)
- ☐ Letter from employer with photo attached of the person who is working for them
- ☐ Copy of workplace photo ID

Evidence that the victim has income from other sources:

- ☐ Child/spousal support orders
- ☐ Other court orders
- ☐ Support from family members
- ☐ Letters of support from family or friends providing assistance
- ☐ Receives funds for: Citizen/ lawful permanent resident children (e.g. food stamps, child care, TANF)
- ☐ Receipts for paid bills or utilities
- ☐ Letter from social services establishing enough income to support children



Evidence that the victim is taking steps to prepare to work or is taking steps to improve their ability to obtain employment:

- ☐ School records reflecting courses the victim is taking
- ☐ English as a second language classes
- ☐ Training and certification courses
- ☐ Participation in victim support group
- ☐ Participation in mental health counseling
- ☐ Victim is pursuing VAWA, T or U visa relief

Evidence that the victim does or does not have any certain conditions and/or issues:

- ☐ Severe and persistent mental illness
- ☐ HIV/ AIDs (free testing centers)
- ☐ Felony criminal record
- ☐ Sex offender criminal record
- ☐ Substance abuse (over the counter tests, explain steps victim has taken to become clean/sober)
- ☐ Physical disabilities requiring accommodation
- ☐ HHS federally-funded primary care centers (migrant and public health centers open to everyone)

National Immigrant Women's Advocacy Project (NIWAP)

Fact Sheet: Immigrant Access to Emergency Shelter and Transitional Housing

Miguel Morales and Leslye E. Orloff

October 23, 2016

The Law: Immigrants are Legally Eligible for Transitional Housing

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)¹ explicitly declared that programs necessary to protect life and safety² were to remain open to all person without regard to immigration status.³ In PRWORA, Congress granted the U.S. Attorney General the sole discretion to designate the programs necessary to protect life and safety that were to be open to all persons without regard to immigration or citizenship status or nationality.⁴ In order to fall within the life and safety exception, PRWORA stated that the programs needed to meet the following requirements:

- Deliver in-kind services at the community level, including through public or private nonprofit agencies or organizations;
- Do not condition the provisions of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and
- Are necessary for the protection of life or safety.⁵

PRWORA listed "short-term housing" explicitly in the statute as an example of a program necessary to protect life and safety.⁶ Pursuant to the authority granted by Congress in PRWORA, the Attorney General issued the Final Specification of Community Programs Necessary for Protection of Life or Safety under Welfare Reform Legislation on January 16, 2001, stating that, when a program meets the PRWORA criteria, its services are available, *as a matter of federal law*, to all persons without regard to immigration status.⁷ Among the programs the Attorney General specified are to be open to all persons without regard to immigration status as necessary to protect life and safety are:

- "Crisis counseling and intervention programs; services and assistance relating to child protection, adult protective services, violence and abuse prevention, victims of domestic violence or other criminal activity... Short-term shelter or housing assistance for the homeless, for victims of domestic violence, or for runaway, abused, or abandoned children"⁸

These programs read together and separately recognize the life and safety role played by programs designed to help victims of crime and abuse and programs that are designed to prevent homelessness.

¹ Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (hereinafter "PRWORA"), Pub. L. 104-193, 110 Stat. 2105 (codified at 8 U.S.C. § 1611).

² 8 U.S.C. § 1611(b)(1)(D).

³ 8 U.S.C. § 1621(b)(2).

⁴ 8 U.S.C. §§ 1611(b)(1)(D); 1621(b)(4).

⁵ *Id.*

⁶ 8 U.S.C. § 1611(b)(1)(D).

⁷ Final Specification of Community Programs Necessary for Protection of Life or Safety under Welfare Reform Legislation (A.G. Order No. 2353-2001), 66 Fed. Reg. 3613 (Dep't of Justice Jan. 16, 2001)(Hereinafter "AG Order on Life and Safety Services") at 3616 available at <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Gov-ProtectionLifeorSafetyAG-1.16.01.pdf>.

⁸ *Id.*

The Law: HUD, HHS and DOJ Policies

U.S. Department of Housing and Urban Development and the 2016 Tri-Agency Letter

Following the issuance of the Attorney General's order, the U.S. Department of Housing and Urban Development (HUD) issued two policy directives (2001 and 2016) defining which HUD funded programs fell within the category of "short-term shelter or housing assistance" that were to be available as a matter of law to all persons without regard to immigration status:

- In 2001 HUD stated that "Both emergency shelter and transitional housing programs are necessary for the protection of life and safety. Transitional housing is by nature short-term and intended to be a step in between emergency shelter and permanent housing."⁹
- On August 5, 2016, HUD, the U.S. Department of Health and Human Services (HHS), and the U.S. Department of Justice (DOJ) issued a joint letter¹⁰ restating that federal grant recipients may not deny immigrants access to emergency shelter, and other short-term housing programs that are necessary *to protect life or safety*.¹¹ Pursuant to this policy, the following persons are legally eligible to access emergency shelter and transitional housing without regard to their immigration status, citizenships status, nationality or limited English language proficiency:¹²
 - Victims of:
 - Domestic violence¹³
 - Sexual assault¹⁴
 - Stalking¹⁵
 - Dating violence¹⁶
 - Human trafficking¹⁷
 - Child abuse¹⁸
 - Other abuse¹⁹
 - Homeless²⁰
 - Runaway or homeless youth²¹
 - Abandoned children²²

⁹ Letter from the Secretary of the U.S. Dep't of Housing and Urban Development (Jan. 19, 2001)(Hereinafter "HUD Letter 2001") at 2, *available at* <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Gov-MemoHUDTransitionalHousing-01.19.01.pdf>.

¹⁰ HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016) (Hereinafter "HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services"), *available at* https://www.hudexchange.info/resource/5123/hud-hhs-and-doj-joint-letter-regarding-immigrant-access-to-housing-and-services/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=7dca9ded6b-HUD+DOJ+HHS+JointLetter+Housing+Immigrants-8%2F11%2F16&utm_medium=email&utm_term=0_f32b935a5f-7dca9ded6b-19366061.

¹¹ AG Order on Life and Safety Services at 3615; HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 1.

¹² HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 3; *See also* Letter from the Secretary of the U.S. Dep't of Housing and Urban Development (Jan. 19, 2001) (Hereinafter "HUD Letter 2001"), *available at* <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Gov-MemoHUDTransitionalHousing-01.19.01.pdf>.

¹³ *See* HUD Letter 2001 at 2.

¹⁴ *See* HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 2.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* Furthermore, access to emergency shelter and transitional housing became available to victims of human trafficking in 2001 following passage of the Trafficking Victims Protection Act (TVPA) *See* TVPA 2000, 22 U.S.C. § 7105(b)(1)(A).

¹⁸ *See* HUD Letter 2001 at 2.

¹⁹ *See* HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 2.

²⁰ *See* HUD Letter 2001 at 2.

²¹ *See* HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 3.

²² *Id.*

HUD Guidance implementing the Joint HUD, HHS and DOJ letter states that:

“Housing and service providers must not turn away immigrants experiencing homelessness, or victims of domestic violence, or human trafficking on the basis of their immigration status, from certain housing and services, necessary for life or safety – such as street outreach, emergency shelter and short-term housing assistance including transitional housing and rapid re-housing funded through the Emergency Solutions Grants (ESG) and Continuum of Care (CoC) Programs. This letter reiterates existing laws and policies and applies those policies to programs that were not in effect when the original Attorney General Order was signed in 2001.”²³

The HUD Office of Special Needs Assistance Programs issued a memo providing further detail as to which HUD funded programs funded through ESG and CoC are open to all with no immigrant restrictions.²⁴ HUD deemed the following programs based upon HUD statutes and regulations to meet all three prongs of the PRWORA test making them programs necessary to protect life and safety open to all persons without regard to immigration status. The programs are:²⁵

- Street Outreach Services
- Emergency Shelter
- Safe Haven
- Rapid Re-Housing

In addition, HUD stated that:

“**Transitional housing** meets the 3-part test and falls within the exception for life or safety, and therefore must be provided to persons without regard to immigration status, when the recipient or sub recipient owns or leases the building used to provide transitional housing. However, in transitional housing programs where the recipient or subrecipient provides rental assistance payments on behalf of program participants, this type of program does not fall within the life or safety exemption because the rental assistance provided is required by regulation to be based on the program participant’s income and, therefore, does not meet the 3-part test.”

U.S. Department of Justice Funded Transitional Housing, Emergency Shelter, Victim Services, and Victim Assistance

The U.S. Department of Justice, Office of Victims of Crime and Office on Violence Against Women both clarified that OVW²⁶ and OVC²⁷ funded services providers are not to:

²³ HUD Guidance, HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016), available at https://www.hudexchange.info/resource/5123/hud-hhs-and-doj-joint-letter-regarding-immigrant-access-to-housing-and-services/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=7dca9ded6b-HUD+DOJ+HHS+JointLetter+Housing+Immigrants-8%2F11%2F16&utm_medium=email&utm_term=0_f32b935a5f-7dca9ded6b-19366061.

²⁴ Office of Special Needs Assistance Programs, The Personal Responsibility and Work Opportunity Act of 1996 and HUD’s Homeless Assistance Programs (August 16, 2016) (Hereinafter “PRWORA and HUD’s Homeless Assistance Programs”), available at <http://niwaplibrary.wcl.american.edu/pubs/prwora-fact-sheet>.

²⁵ *Id.*

²⁶ Bea Hanson, Principle Deputy Director, Office on Violence Against Women “Tri-Agency Letter Issued About Providing Services to Immigrants” (August 12, 2016) (Hereinafter “Tri-Agency Letter Issued About Providing Services to Immigrants”), available at <http://library.niwap.org/wp-content/uploads/Cover-letter-from-OVW-OVC.pdf>.

²⁷ Joye E. Frost, Office of Victims of Crime and Bea Hanson, Office on Violence Against Women, “Guidance about Services to Immigrant Victims of Crime” (August 16, 2016) (Hereinafter “Guidance about Services to Immigrant Victims of Crime”), available at <http://library.niwap.org/wp-content/uploads/Office-for-Victims-of-Crime-Cover-Letter-8.12.16.pdf>.

“...turn away immigrant victims, on the basis of their immigration status, from certain services necessary for life or safety – services such as emergency shelter, short-term housing assistance (including transitional housing), crisis counseling, and intervention programs.”

They further stated that:

“The Office for Victims of Crime (OVC) and the Office on Violence Against Women (OVW) know that immigrant survivors of abuse need access to vital services and assistance so that they can successfully escape abuse, find safety, and start the healing process, as well as obtain assistance to pursue special immigration remedies that Congress enacted through the Violence Against Women Act and the Trafficking Victims Protection Act.”

These letters collectively clarify that emergency shelter, transitional housing and other victim services funded by the following programs have no immigrant restrictions:

- Office on Violence Against Women – all grants and sub grants
- Office of Victims of Crime -- all grants and sub grants
- Victims of Crime Act -- all VOCA grants and sub grants funding victim assistance and victim compensation²⁸

U.S. Department of Health and Human Services Funded Emergency Shelter, Transitional Housing, and Victim Services

The U.S. Department of Health and Human Services,²⁹ following the issuance of the Tri-Agency letter, confirmed that there could be no immigrant restrictions imposed on programs and services funded by the Family Violence Prevention and Services Act (FVPSA). The FVPSA Office stated that:

“Immigration status is not a bar to providing certain services necessary to protect life or safety, such as emergency shelter, or short-term housing assistance including transitional housing, crisis counseling and intervention programs... Clearly victims of domestic violence who are immigrants need access to services and other protections to successfully escape abuse and break the cycle of violence. However, some service providers erroneously turn away immigrant victims from services necessary for life or safety, such as domestic violence shelters or transitional housing programs, on the basis of their immigration status. Other service providers are uncertain whether they can serve undocumented immigrant survivors. Over the years, the Family and Youth Services Bureau’s Family Violence Prevention and Services Program (FVPSA Program) has received requests for further guidance on this subject... These programs must be made available to eligible persons without regard to citizenship, nationality or immigration status.”

The Law: Anti-Discrimination Dispositions in the Law

Access to emergency housing and transitional housing should not be restricted based on immigration status, such restrictions may amount to discrimination under these laws or any other applicable

²⁸ Joye E. Frost, Letter to Cassie T Jones, Alabama Crime Victims Compensation Commission (July 2, 2010) (“on May 12, 2010, concluded that neither compensation nor assistance funded by VOCA Victim Compensation or Victim Assistance grants are “Federal public benefits” within the meaning of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and therefore should not be denied to an individual on the ground of status as an unqualified alien under that Act.”) (Hereinafter “Letter to Cassie T Jones, Alabama Crime Victims Compensation Commission”), available at <http://niwaplibrary.wcl.american.edu/pubs/ojp-ovc-letter-on-access-to-voca-victim-compensation-7-2-2010/>.

²⁹ MaryLouise Kelley, Division of Family Violence Prevention, Family and Youth Services Bureau, HHS, Letter to Family Violence Prevention and Services Act Grantees (August 2016) (Hereinafter “FYSB Letter to Family Violence Prevention and Services Act Grantees”), available at <http://library.niwap.org/wp-content/uploads/Dear-FVPSA-Grantee-Letter.pdf>.

nondiscrimination law.³⁰ “Denying an individual a public benefit or treating an individual differently because of that individual's race or national origin would violate one or more of these statutes.”³¹

- Title VI of the Civil Rights Act of 1964 (Title VI),³² requires that organizations or agencies that receive federal funding must not discriminate against individuals on the basis of race, color, or national origin under any program or activity receiving Federal financial assistance. Title VI protections against national origin discrimination includes ensuring that recipients of federal financial assistance take reasonable steps to provide meaningful access to services for persons with limited English proficiency.³³
- The Fair Housing Act,³⁴ prohibits discrimination in housing because of race, color, national origin, religion, sex, familial status, and disability.
- The Violence Against Women Act (VAWA),³⁵ prohibits discrimination based on actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability under any program receiving VAWA funding. VAWA also prioritized ensuring that victims from diverse communities benefitted from VAWA protections. VAWA’s underserved population definitions include victims underserved due to: geographic isolation; religion; sexual orientation; gender identity; ethnicity; race; language barriers; disabilities; alienage status; or age.³⁶
- The Family Violence Prevention and Service Act,³⁷ states that programs and activities funded in whole or in part with funds made available under the Family Prevention and Services Act are considered to be programs and activities receiving federal financial assistance for the purposes of applying prohibitions against discrimination on the basis of race, color, or national origin under Title VI of the Civil Rights Act.
- Section 109 of Title I of the Housing and Community Development Act of 1974,³⁸ prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development Block Grant Program.

Advocacy Strategies to Help Immigrant Victims’ Access Transitional Housing Programs

Both survivors and immigrants are commonly turned away from transitional housing programs. Survivors turned away include victims of domestic violence, sexual assault, dating violence, stalking, and human trafficking.

Preparing to advocate for survivors’ acceptance to transitional housing programs

- **Web Research:** Look at the website of the transitional housing program to see how they define and measure success.
- **Victim Centered Strategies:** Develop a strategy for demonstrating creative ways that your client can succeed in the transitional housing program

³⁰ See HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services at 4.

³¹ *Id.*

³² 42 U.S.C. § 2000d.

³³ *Id.* also see e.g., Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (Aug. 11, 2000), Federal Agency Limited English Proficiency (LEP) Guidance for Recipients (Hereinafter “LEP Guidance”) at 50121, available at <https://www.lep.gov/13166/eolep.pdf>.

³⁴ 42 U.S.C. §§ 3601-3619.

³⁵ 42 U.S.C. § 13925(b)(13).

³⁶ 42 U.S.C. § 13925(a)(39).

³⁷ 42 U.S.C. § 10406(c)(2); see also 42 U.S.C. § 10406(c)(2)(B) (prohibiting discrimination on the basis of sex or religion).

³⁸ 42 U.S.C. § 5309.

- What client defined outcomes can the survivor achieve while participating in the transitional housing program?
- What role will the survivor's pursuit of a U visa or VAWA immigration relief play in promoting the survivors' stability?

Accompanying the Victim Applying for Transitional Housing

- **Research the Transitional Housing Program's Funders:** Advocates and attorneys should accompany immigrant victims applying for transitional housing and should look up on the organizations website and identify who funds the transitional housing program that your immigrant victim client is applying for.
- **Know the Law and Bring it With You When Applying for Transitional Housing:** Bring the following government documents:
 - Joint Letter from the DOJ, HHS and HUD;³⁹
 - The letter from the funding agencies from which the transitional housing program receives its funding. The funding programs listed below include both direct grants from the federal funding agency and block grants to the states that are distributed by state government agencies (including e.g., STOP/VOCA/FVPSA grant administrators, housing authorities)
 - HUD Guidance, HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016)⁴⁰
 - HUD Office of Special Needs Assistance Programs, The Personal Responsibility and Work Opportunity Act of 1998 and HUD's Homeless Assistance Programs (August 16, 2016)⁴¹
 - OVW: Bea Hanson, Principle Deputy Director, Office on Violence Against Women "Tri-Agency Letter Issued About Providing Services To Immigrants" (August 12, 2016)⁴²
 - OVC: Joye E. Frost, Office of Victims of Crime and Bea Hanson, Office on Violence Against Women, "Guidance about Services to Immigrant Victims of Crime" (August 16, 2016)⁴³
 - VOCA: Joye E. Frost, Letter to Cassie T Jones, Alabama Crime Victims Compensation Commission (July 2, 2010)⁴⁴

³⁹ HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016) (Hereinafter "HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services"), available at https://www.hudexchange.info/resource/5123/hud-hhs-and-doj-joint-letter-regarding-immigrant-access-to-housing-and-services/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=7dca9ded6b-HUD+DOJ+HHS+JointLetter+Housing+Immigrants-8%2F11%2F16&utm_medium=email&utm_term=0_f32b935a5f-7dca9ded6b-19366061.

⁴⁰ HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016) (Hereinafter "HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services"), available at https://www.hudexchange.info/resource/5123/hud-hhs-and-doj-joint-letter-regarding-immigrant-access-to-housing-and-services/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=7dca9ded6b-HUD+DOJ+HHS+JointLetter+Housing+Immigrants-8%2F11%2F16&utm_medium=email&utm_term=0_f32b935a5f-7dca9ded6b-19366061.

⁴¹ Office of Special Needs Assistance Programs, The Personal Responsibility and Work Opportunity Act of 1996 and HUD's Homeless Assistance Programs (August 16, 2016) (Hereinafter "PRWORA and HUD's Homeless Assistance Programs"), available at <http://niwaplibrary.wcl.american.edu/pubs/prwora-fact-sheet>.

⁴² Bea Hanson, Principle Deputy Director, Office on Violence Against Women "Tri-Agency Letter Issued About Providing Services to Immigrants" (August 12, 2016) (Hereinafter "Tri-Agency Letter Issued About Providing Services to Immigrants"), available at <http://library.niwap.org/wp-content/uploads/Cover-letter-from-OVW-OVC.pdf>.

⁴³ Joye E. Frost, Office of Victims of Crime and Bea Hanson, Office on Violence Against Women, "Guidance about Services to Immigrant Victims of Crime" (August 16, 2016) (Hereinafter "Guidance about Services to Immigrant Victims of Crime"), available at <http://library.niwap.org/wp-content/uploads/Office-for-Victims-of-Crime-Cover-Letter-8.12.16.pdf>.

⁴⁴ Joye E. Frost, Letter to Cassie T Jones, Alabama Crime Victims Compensation Commission (July 2, 2010) ("on May 12, 2010, concluded that neither compensation nor assistance funded by VOCA Victim Compensation or Victim Assistance grants are "Federal public benefits" within the meaning of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and therefore should not be denied to an individual on the ground of status as an unqualified alien under that Act.") (Hereinafter "Letter to Cassie T Jones, Alabama Crime Victims Compensation Commission"), available at <http://niwaplibrary.wcl.american.edu/pubs/ojp-ovc-letter-on-access-to-voca-victim-compensation-7-2-2010/>.

- FVPSA/HHS: MaryLouise Kelley, Division of Family Violence Prevention, Family and Youth Services Bureau, HHS, Letter to Family Violence Prevention and Services Act Grantees (August 2016)⁴⁵
 - DOJ's Final Specification of Community Programs Necessary for Protection of Life or Safety;⁴⁶ and
 - HUD letter explaining immigrant eligibility.⁴⁷
- **Proof of Crime Victim Eligibility:** Evidence of eligibility for transitional housing as a victim of domestic violence, sexual assault, stalking, dating violence, human trafficking, child abuse, other abuser, homeless, runaway or homeless youth, abandoned children. This may include but is not limited to:
 - A protection order
 - A referral from a victim advocacy agency, police officer, prosecutor, counselor, social worker, teacher, faith based program, or community based program that has been providing assistance and support to the victim
 - A custody or divorce order with findings of domestic violence or child abuse
 - A prima facie determination in a VAWA self-petitioning case
 - An approval or wait-list approval of a VAWA self-petition, U visa, T visa, or Special Immigrant Juvenile Status (SIJS) immigration case
 - HHS certification of a trafficking victim
 - Evidence of receipt of VOCA funded crime victim assistance or compensation
 - A statement from a victim advocate who has been working with the victim
 - A statement from the victim regarding the abuse they suffered
 - Evidence of the abuse: photographs, medical records, witness statements
- **Advocate That Victim Meets OVW's Admission Criteria:** Be prepared to advocate for admission of to the transitional housing programs because your client meets the U.S. Department of Justice, Office on Violence Against Women's victim centered transitional housing eligibility criteria.⁴⁸ The applicant must be:
 - A survivor of domestic violence, sexual assault, stalking and/or dating violence who is actively fleeing and abusive relationship. In cases of non-intimate partner stalking or sexual assault this can include taking other steps to protect themselves from ongoing abuse:
 - Actively working to leave an abusive employment situation
 - Victims of campus sexual assault seeking interim measures
 - Victims of stranger, acquaintance, or landlord perpetrated sexual assault that occurred in their home are actively seeking new housing
 - Actively on a path to finding permanent housing in another location unknown to the perpetrator
 - The survivor is 18 years old or older or is a legally emancipated minor

⁴⁵ <http://library.niwap.org/wp-content/uploads/Dear-FVPSA-Grantee-Letter.pdf>.

⁴⁶ Final Specification of Community Programs Necessary for Protection of Life or Safety under Welfare Reform Legislation (A.G. Order No. 2353-2001), 66 Fed. Reg. 3613 (Dep't of Justice Jan. 16, 2001)(Hereinafter "AG Order on Life and Safety Services"), available at <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Gov-ProtectionLifeorSafetyAG-1.16.01.pdf>.

⁴⁷ Letter from the Secretary of the U.S. Dep't of Housing and Urban Development (Jan. 19, 2001)(Hereinafter "HUD Letter 2001"), available at <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Gov-MemoHUDTransitionalHousing-01.19.01.pdf>.

⁴⁸ Best Practices for Setting Eligibility Criteria in Transitional housing Programs, National Network to End Domestic Violence (NNEDV), available at: http://nnedv.org/downloads/Thousing/BestPractices_SettingEligibiltyCriteria.pdf.

- In need of housing due to fleeing, without sufficient emergency or transitional housing available;
- Willing and desiring to participate in the transitional housing programs and meet with staff on a mutually-determined schedule
- Willing to create an individualized safety plan with the assistance of the transitional housing program staff or their victim advocate working at another organization
- Able to safely live independently, without access to staff or support 24-hours per day, 7 days per week.
- **Obtain Specific Information About Alleged Funder Imposed Requirements:** If the transitional housing program is imposing admission requirements other than these ask the following questions:
 - Who are the transitional housing program's funders?
 - What, if any, requirements regarding who can be admitted to the transitional housing programs do any of their funders impose?
 - For each specific funder the program believes imposes admission limitations or requirements ask for the specific program that they believe imposes that requirement.
 - For example: If the programs states that the admission requirement is imposed by HUD, ask which funding programs within HUD requires that admission limitations be imposed.
 - If the transitional housing program tells you that the transitional housing admission restriction they are imposing in your client victim's case is required by a federal funder, ask of a copy of their federal grant award and their federal grant award number that they believe imposes this requirement.
 - Once you receive this information contact NIWAP⁴⁹ or NNEDV⁵⁰ for technical assistance in determining whether the admission criteria being imposed are being imposed as a matter of law by the federal funder. In many cases the restrictions may be imposed by the transitional housing program and writing into their federal funding application but are not required by the federal funder.

Preparation to Addressing Documentary Evidence Requirements Imposed by Transitional Housing Programs

Research Findings

In 2014 NIWAP conducted a nationwide survey⁵¹ in which 655 agencies working with immigrant victims of domestic and sexual violence participated from 53 U.S. jurisdictions reporting on 9,277 cases of immigrant victims who needed transitional housing. Of these respondents, 66% have been in emergency shelters. The survey found that when battered immigrant women sought transitional housing their success rates were as follows: ⁵²

⁴⁹ National Immigrant Women's Advocacy Project, *available at* <http://www.niwap.org/>.

⁵⁰ National Network to End Domestic Violence, *available at* <http://nnedv.org/>.

⁵¹ Meaghan Fitzpatrick, Benish Anver, David Stauffer, Krisztina Szabo, & Leslye Orloff, Access to Emergency Shelters and Transitional Housing for Battered Immigrants and Immigrant Victims of Crime (June 3, 2014), *available at* <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Tkit-TransitionalHousingReport-06.03.14.pdf>.

⁵² *Id.* at 16.

Type of Crime	% Accepted	# Accepted	% Denied	# Denied
Domestic Violence	47.1%	1759	52.9%	1979
Sexual Assault	5.8%	29	94.2%	466
Human Trafficking	78.5%	146	21.5%	40
Abused/Abandoned/Run Away Children	80.8%	51	19.2%	12

When immigrant victims were turned away, 85.9% were told by the transitional housing program why their application for transitional housing was denied. To prepare to advocate effectively to help immigrant survivors gain acceptance into transitional housing programs it is helpful to understand the reasons they are commonly denied access. For each of the reasons victims were denied access to transitional housing identified in the NIWAP survey listed below, advocates and attorneys can use the Tri-agency letter issued by HUD, DOJ and HHS and the government agency policies cited in the letter to advocate for acceptance of immigrant survivors of domestic violence and sexual assault into transitional housing programs.

Primary Reasons Immigrant Domestic and Sexual Violence Victims Were Turned Away from Transitional Housing		
Immigrant victim lacked the required documentation of immigration status	Domestic Violence	Sexual Assault
	34.4%	99.4%
When documentation was required the program sought evidence of one of the following:		
Documentation related immigration status	84.1%	99.4%
Documentation of current employment or ability to work	56.0%	98.9%
An employment authorization document as proof of legal work authorization	52.9%	98.9%
Did not have a driver's license*	45.0%	98.8%
Program required documentation that the victim did not have	33.2%	87.0%
Immigrant applicant was undocumented	25.6%	90.0%
Immigrant victim did not meet the formal income requirements	23.7%	85.8%
The battered immigrant applicant failed to present government issued I.D.	18.3%	86.1%
They were told that the evidence presented of being self-sufficient was insufficient	9.0%	85.7%
They were not a victim of domestic violence	n/a	85.6%
They did not speak English	2.9%	3.1%

* Driver's License Documentation Requirements by State Chart available at <http://library.niwap.org/wp-content/uploads/2015/pdf/PB-Chart-DocsDriversLicense.pdf> (California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maryland, New Mexico, Nevada, Puerto Rico, Utah, Vermont and Washington provide access to driver's licenses regardless of immigration status; for additional information regarding the specific laws of these states, see National Immigration Law Center, State Laws Providing Access to Driver's Licenses or Cards, Regardless of Immigration Status (June 2016) available at <https://www.nilc.org/wp-content/uploads/2015/11/drivers-license-access-table.pdf>).

Preparing to Accompany Immigrant Victims Applying for Transitional Housing

Advocates and attorneys can play an important role in advocating for successful admission of immigrant victim clients into transitional housing programs by preparing in advance to address the admission requirements research has found are commonly imposed when immigrant victims are applying for transitional housing. First, identify the agencies funders, bring government policies when applying for transitional housing, and provide proof that your client meets the OVW eligibility criteria listed above. If the program is imposing other admission requirements work with the immigrant victim to prove eligibility under those criteria as well. Since many immigrant victim applicants for transitional housing will be able to meet other admission criteria additionally imposed by the program, come prepared to prove the immigrant victim client meets those criteria, including in creative non-traditional ways.

- **Helping Victims Prepare to Meet Program Imposed Application Requirements:** In many cases immigrant survivors will be able to meet many of the transitional housing admission criteria that programs typically impose but may need to prove eligibility in non-traditional ways. In advocating for an immigrant victim of domestic violence, sexual assault, dating violence, stalking or human trafficking's admission to transitional housing the following is a list of ways victims can meet other eligibility criteria used by transitional housing programs. When accompanying immigrant victims in applying for transitional housing pay special attention to looking for evidence in the application process of criteria that may be imposed only on immigrant, limited English proficient, or foreign born applicants. Under state and federal laws transitional housing programs may not discriminate against applicants based on their national origin or English language abilities.⁵³

Common selection criteria imposed by programs fall into two categories – factors that make applicants not acceptable and factors that are required or preferred among acceptable applicants.⁵⁴ A national study on transitional housing conducted by the Urban Institute found use if the following acceptance criteria.

- Acceptance Criteria include:
 - Residence in the city/county where the program is located
 - Homelessness/risk of homelessness/domestic or sexual violence
 - Employment/Self-sufficiency criteria
 - Defined as working, being ready to work, having income or the expectation of having income.⁵⁵ This results in acceptance of both applicants with:
 - Some work history (100% of programs acceptable)
 - No work history (96% of programs acceptable)
 - Applicants may be accepted when they
 - Have severe and persistent mental illness (70% of programs acceptable)

⁵³ HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services (August 2016) (Hereinafter “HUD, HHS, and DOJ Joint Letter Regarding Access to Housing and Services”), available at https://www.hudexchange.info/resource/5123/hud-hhs-and-doj-joint-letter-regarding-immigrant-access-to-housing-and-services/?utm_source=HUD+Exchange+Mailing+List&utm_campaign=7dca9ded6b-HUD+DOJ+HHS+JointLetter+Housing+Immigrants-8%2F11%2F16&utm_medium=email&utm_term=0_f32b935a5f-7dca9ded6b-19366061.

⁵⁴ Martha R. Burt, “Characteristics of Transitional Housing for Homeless Families” (The Urban Institute; September 7, 2006) at 17, available at <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411369-Characteristics-of-Transitional-Housing-for-Homeless-Families.PDF>.

⁵⁵ *Id.*

- Have HIV/AIDS (98% of programs acceptable)
 - Felony criminal record (89% of programs acceptable)
 - Clean and sober upon entry (100% of programs acceptable)
 - Physical disabilities requiring accommodation (89% of programs acceptable)
- Not Acceptable Criteria include:
 - Active substance abuser (11% of programs acceptable)
 - Sex offender criminal record (28% of programs acceptable)
- **Evidence to Meet Typical Additional Admission Criteria Imposed:** Determine how your client can best provide evidence of the following and bring this evidence with you when applying for transitional housing if your client has this evidence.
 - *Residence in the city/county where the program is located may include:*
 - Victim's statement
 - Lease with the victim or with the victim's name listed as a resident
 - Post-marked mail victim received at a location in the jurisdiction
 - Affidavit of neighbors, friends, family members
 - Copies of school, health care or court records listing an address for the victim in the jurisdiction
 - *Evidence of domestic violence, sexual assault, stalking, dating violence, human trafficking, child abuse or abandonment, homeless, risk of homelessness, or need for safe housing may include*
 - Victim's statement
 - Witness statements
 - Court records (protection order, custody, child abuse, criminal case, evictions)
 - Medical records reflecting injuries
 - Photographs
 - Evidence of poor rental history or evictions
 - *Evidence that the victim meets criteria for employment or self-sufficiency may include:*
 - Evidence that the victim is working could include:
 - Victim's statement about employment with their current and former employers
 - Letter from employer
 - Evidence of self-employment
 - Documentation of income from employment
 - Pay checks
 - Evidence of bank deposits or money order purchases
 - Copies of cash receive as payment with the serial numbers circled to show the case reflects different payments
 - Completed financial statement (these are used to seek fee waivers in state court and immigration cases and used to document income and expenses for child support cases)
 - Evidence that the victim has income from other sources
 - Child support orders

- Spousal support orders
- Other court orders
- Support from family members
- Receives funds their citizen, lawful permanent resident, or qualified immigrant children are eligible to receive including TANF, child care, food stamps
- Evidence that the victim is taking steps to prepare to work or is taking steps to improve their ability to obtain employment
 - School records reflecting courses the victim is taking
 - English as a second language classes
 - Training and certification the victim is pursuing
 - Participation in a victim support group
 - Participation in mental health counseling to heal after victimization
 - The victim is pursuing VAWA, T or U visa immigrant relief that will once approved or wait-list approved provide the victim legal work authorization
- *Evidence that the victim does or does not have any certain conditions and/or issues*
 - For each of the factors listed below provide evidence that the victim's case and/or history does not include the factor or be prepared to discuss how that factor should not affect their acceptance into transitional housing:
 - Severe and persistent mental illness (if present, could explain that it is controlled by medication)
 - HIV/AIDs
 - Felony criminal record
 - Substance abuse (if the victim has a history of substance or alcohol abuse explain the steps the victim has taken to address this and provide evidence that they are now clean/sober)
 - Physical disabilities requiring accommodation (should not result in being denied transitional housing)
 - Sex offender criminal record

How to Advocate for Public and Assisted Housing for Your Battered Immigrant or Trafficking Survivor Client

By: Benish Anver, Alexandra Brown, and Leslye E. Orloff

June 22, 2014, Updated February 8, 2017

Although Congress intended VAWA Self-Petitioners and trafficking survivors with T visas or continued presence to have access to public and assisted housing¹, the current process to access housing is a difficult and complex one for immigrant survivors to navigate on their own.² The following immigrant clients qualify for public and assisted housing benefits:

- VAWA self-petitioners
- VAWA cancellation of removal applicants
- VAWA suspension of deportation applicants
- Immigrant spouses and children who has been subjected to battering or extreme cruelty by their U.S. citizen or lawful permanent resident spouses or parents who had an approved I-130 family based visa petition file on their behalf.

Attorneys and advocates can assist their clients through this cumbersome process by advocating for their clients with the support of detailed documentation to prove that their battered immigrant or trafficking survivor client is indeed eligible for public and assisted housing under the law. When accompanying your client, provide the following documents to the housing authorities in your area.

Government Documents to Take with You:

- A copy of 8 U.S.C. Section 1641(c) (attached);
- The 2003 Budget Bill conference language that describes how the Department of Housing and Urban Development (HUD) and the Department of Homeland Security (DHS) were to work together on facilitating access to public and assisted housing for qualified battered immigrants and trafficking survivors (attached);

¹ 8 U.S.C. § 1641(c); *see also* Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996, Pub. L. No. 104-208, 110 Stat. 3009-547 (codified as amended at 8 U.S.C. §§ 1101 et seq.) (Immigrant survivors of spousal and child abuse who receive prima facie determinations in their VAWA Self-Petitioning cases and any of their children included in their VAWA Self-Petition were made statutorily eligible to receive public and assisted housing).

² For an overview of the efforts by Congress and DHS to resolve this issue, *see* Leslye E. Orloff, *Qualified Immigrant VAWA Self-petitioners Still Waiting for Promised Housing Assistance after 18 Years*, NIWAP, (June 2, 2014)(on file with author).

This project was supported by Grant No. 2013-TA-AX-K009 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

- A copy of the letter that DHS sent to HUD in May 2005 (attached);
- A copy of the letter from HUD's General Counsel sent in December 2016 (attached).
- A copy of the Office of Public and Indian Housing's January 2017 notice (attached);

Client's Department of Homeland Security (DHS) Documents to Take with You:

- All victims who qualify for housing assistance will have one or more of the following DHS documents:
 - I-360 VAWA Self-Petition;
 - I-130 Family-Based Visa Petition;
 - I-797 Notice of Action that is:
 - Receipt of I-360
 - receipt of I-130
 - I-360 prima facie determination
 - approval of I-360 VAWA self-petition
 - approval of I-130 family-based visa petition

Housing providers must follow a different set of SAVE verification procedures for VAWA Self-Petitioners and trafficking survivors due to confidentiality requirements. Following are the procedures that housing providers should follow when conducting a SAVE verification in these cases:

- Enter the VAWA immigrant victim's name and date of birth into the SAVE system
- If the system issues an immediate no match response, click on the button "Institute Additional Verification" and write in the note field "Verify VAWA Self-Petition" or "Verify I-130 visa petition"
- Upload the documentation provided by the applicant which will be one of the following: I-360 VAWA Self-Petition, I-130 Family-based visa petition, or I-797 Notice of Action.
- If the housing provider receives confirmation, then the victim is eligible for public and assisted housing to the same extent as all other housing recipients and applications.

If you encounter further difficulty in securing public and assisted housing for your client or have questions about how to use these documents to advocate for your client, please contact the National Immigrant Women's Advocacy Project's (NIWAP) technical assistance line at (202) 274-4457 or email info@niwap.org

8 U.S.C. 1641

(a) In general

Except as otherwise provided in this chapter, the terms used in this chapter have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act [8 U.S.C. [1101\(a\)](#)].

(b) Qualified alien

For purposes of this chapter, the term “qualified alien” means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

- (1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. [1101](#) et seq.],
- (2) an alien who is granted asylum under section 208 of such Act [8 U.S.C. [1158](#)],
- (3) a refugee who is admitted to the United States under section 207 of such Act [8 U.S.C. [1157](#)],
- (4) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. [1182\(d\)\(5\)](#)] for a period of at least 1 year,
- (5) an alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. [1253](#)] (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act [8 U.S.C. [1231\(b\)\(3\)](#)] (as amended by section 305(a) of division C of Public Law 104–208),
- (6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. [1153\(a\)\(7\)](#)] as in effect prior to April 1, 1980; ^[1] or
- (7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).

(c) Treatment of certain battered aliens as qualified aliens

For purposes of this chapter, the term “qualified alien” includes—

- (1) an alien who—
 - (A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent’s family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and
 - (B) has been approved or has a petition pending which sets forth a prima facie case for—
 - (i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act [8 U.S.C. [1154\(a\)\(1\)\(A\)\(ii\)](#), (iii), (iv)],
 - (ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act [8 U.S.C. [1154\(a\)\(1\)\(B\)\(ii\)](#), (iii)],
 - (iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act [8 U.S.C. [1254\(a\)\(3\)](#)] (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).^[2]
 - (iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act [8 U.S.C. [1154\(a\)\(1\)\(A\)\(i\)](#)], or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act [8 U.S.C. [1154\(a\)\(1\)\(B\)\(i\)](#)]; ^[3]
 - (v) cancellation of removal pursuant to section 240A(b)(2) of such Act [8 U.S.C. [1229b\(b\)\(2\)](#)];
- (2) an alien—
 - (A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent’s family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and
 - (B) who meets the requirement of subparagraph (B) of paragraph (1);
- (3) an alien child who—
 - (A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent’s spouse or by a member of the spouse’s family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the

agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirement of subparagraph (B) of paragraph (1); or

(4) an alien who has been granted nonimmigrant status under section 101(a)(15)(T) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(15\)\(T\)](#)) or who has a pending application that sets forth a prima facie case for eligibility for such nonimmigrant status.

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and with the heads of such Federal agencies administering benefits as the Attorney General considers appropriate, the Attorney General shall issue guidance (in the Attorney General's sole and unreviewable discretion) for purposes of this subsection and section [1631\(f\)](#) of this title, concerning the meaning of the terms "battery" and "extreme cruelty", and the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State, or local program.

(a) In general

Except as otherwise provided in this chapter, the terms used in this chapter have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act [[8 U.S.C. 1101\(a\)](#)].

(b) Qualified alien

For purposes of this chapter, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act [[8 U.S.C. 1101](#) et seq.],

(2) an alien who is granted asylum under section 208 of such Act [[8 U.S.C. 1158](#)],

(3) a refugee who is admitted to the United States under section 207 of such Act [[8 U.S.C. 1157](#)],

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act [[8 U.S.C. 1182\(d\)\(5\)](#)] for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act [[8 U.S.C. 1253](#)] (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act [[8 U.S.C. 1231\(b\)\(3\)](#)] (as amended by section 305(a) of division C of Public Law 104–208),

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [[8 U.S.C. 1153\(a\)\(7\)](#)] as in effect prior to April 1, 1980; ^[1] or

(7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).

(c) Treatment of certain battered aliens as qualified aliens

For purposes of this chapter, the term "qualified alien" includes—

(1) an alien who—

(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) has been approved or has a petition pending which sets forth a prima facie case for—

(i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act [[8 U.S.C. 1154\(a\)\(1\)\(A\)\(ii\)](#), (iii), (iv)],

(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act [[8 U.S.C. 1154\(a\)\(1\)\(B\)\(ii\)](#), (iii)],

(iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act [[8 U.S.C. 1254\(a\)\(3\)](#)] (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).^[2]

(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act [[8 U.S.C. 1154\(a\)\(1\)\(A\)\(i\)](#)], or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act [[8 U.S.C. 1154\(a\)\(1\)\(B\)\(i\)](#)]; ^[31]

(v) cancellation of removal pursuant to section 240A(b)(2) of such Act [[8 U.S.C. 1229b\(b\)\(2\)](#)];

(2) an alien—

(A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirement of subparagraph (B) of paragraph (1);

(3) an alien child who—

(A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirement of subparagraph (B) of paragraph (1); or

(4) an alien who has been granted nonimmigrant status under section 101(a)(15)(T) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(15\)\(T\)](#)) or who has a pending application that sets forth a prima facie case for eligibility for such nonimmigrant status.

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and with the heads of such Federal agencies administering benefits as the Attorney General considers appropriate, the Attorney General shall issue guidance (in the Attorney General's sole and unreviewable discretion) for purposes of this subsection and section [1631\(f\)](#) of this title, concerning the meaning of the terms "battery" and "extreme cruelty", and the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State, or local program.

108TH CONGRESS }
1st Session

HOUSE OF REPRESENTATIVES

{ REPORT
108-10

MAKING FURTHER CONTINUING APPROPRIA-
TIONS FOR THE FISCAL YEAR 2003, AND
FOR OTHER PURPOSES

CONFERENCE REPORT

TO ACCOMPANY

H.J. Res. 2



FEBRUARY 13 (legislative day, FEBRUARY 12), 2003.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

84-817

WASHINGTON : 2003

MAKING FURTHER CONTINUING APPROPRIATIONS FOR
THE FISCAL YEAR 2003, AND FOR OTHER PURPOSES

FEBRUARY 13 (legislative day, FEBRUARY 12), 2003.—Ordered to be printed

Mr. YOUNG of Florida, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.J. Res. 2]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the joint resolution (H.J. Res. 2), “making further continuing appropriations for the fiscal year 2003, and for other purposes”, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the “Consolidated Appropriations Resolution, 2003”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this joint resolution is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. References.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES PROGRAMS APPROPRIATIONS, 2003

Title I—Agricultural Programs

Title II—Conservation Programs

Title III—Rural Development Programs

Title IV—Domestic Food Programs

Title V—Foreign Assistance and Related Programs

Title VI—Related Agencies and Food and Drug Administration

Title VII—General Provisions

Retains language proposed by the Senate amending the Federal Fire Prevention and Control Act of 1974 by recognizing Alaska Village Initiatives as an eligible grantee for assistance.

Retains language proposed by the Senate authorizing the Secretary of the Department of Homeland Security to acquire 178.5 acres in Clarke and Loudoun Counties, Virginia.

Deletes language proposed by the Senate directing a long-term health study of emergency service personnel. The conferees have instead included a similar provision as an administrative provision under FEMA.

Deletes language proposed by the Senate amending permanent law to expand eligibility for Federal housing assistance to certain groups of aliens. The conferees direct the Department to work with the Department of Justice to develop any necessary technical corrections to applicable housing statutes with respect to qualified aliens who are the victims of domestic violence and Cuban and Haitian immigrants to ensure that such statutes are consistent with the Personal Responsibility and Work Opportunity Act of 1996 and the Illegal Immigration Reform and Personal Responsibility Act of 1996.

A provision was included in the Senate bill under Division I, Transportation and Related Agencies, directing EPA to contract with the National Academy of Sciences. The conferees have included an identical provision as an administrative provision under EPA.

Includes new language amending title 31 of the United States Code regarding passenger carrier use by the NASA Administrator.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2003 recommended by the Committee of Conference, with comparisons to the fiscal year 2002 amount, the 2003 budget estimates, and the House and Senate bills for 2003 follow:

[In thousands of dollars]	
New budget (obligational) authority, fiscal year 2002	\$123,820,208
Budget estimates of new (obligational) authority, fiscal year 2003	124,979,700
House bill, fiscal year 2003	122,596,881
Senate bill, fiscal year 2003	121,925,545
Conference agreement, fiscal year 2003	121,927,337
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2002	- 1,892,871
Budget estimates of new (obligational) authority, fiscal year 2003	- 3,052,363
House bill, fiscal year 2003	- 669,544
Senate bill, fiscal year 2003	+ 1,792

DIVISION L—HOMELAND SECURITY ACT OF 2002 AMENDMENTS

In implementing this agreement, the departments and agencies affected in this division shall comply with the language and instructions set forth in the Senate explanatory statement as delineated in the CONGRESSIONAL RECORD of January 15, 2003, page S838, that are not otherwise contradicted by the committee of conference.



U.S. Citizenship
and Immigration
Services

May 5, 2005

Patricia S. Arnaudo
Director
Office of Public Housing – Management & Occupancy Division
U.S. Department of Housing and Urban Development
451 7th Street, SW, Room 4220
Washington, D.C. 20410

Dear Ms. Arnaudo:

This is in response to your request for information regarding the procedures for verification of immigration status in connection with applications for public housing made by battered immigrants.

A requirement for immigration status verification appears at 8 U.S.C. § 1642 (section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) (PRWORA), as amended by section 504 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and by section 5572 of the Balanced Budget Act of 1996. This provision requires the Attorney General to promulgate regulations requiring verification that an applicant for most federal public benefits is a “qualified alien” and is eligible to receive the benefit. Four groups of battered immigrants benefited from this expansion:

- (1) Battered immigrants filing self-petitions under the immigration provisions of the Violence Against Women Act (VAWA), and VAWA cancellation of removal and suspension of deportation applicants;
- (2) Children included as derivatives in a battered immigrant’s self-petition;
- (3) Battered immigrants who were the beneficiaries of I-130 family-based visa petitions filed by U.S. citizen or lawful permanent resident spouses or parents; and
- (4) Battered immigrant conditional or lawful permanent residents who had previously been barred from access to public benefits by deeming.

Currently, States may use the Department of Homeland Security’s automated Systemic Alien Verification for Entitlements (SAVE) system, which conducts primary verification of an individual’s immigration status, to fulfill status verification requirements. However, victims of domestic violence who have applied for or who have been approved for immigration status through the immigration provisions of VAWA may not appear in the SAVE system due to confidentiality provisions that attach to VAWA cases. These provisions prohibit DHS from releasing any

information about battered immigrants to anyone without the immigrant's consent.¹ DHS has determined that placing in the SAVE system information regarding battered immigrants who have applied for or received immigration relief through the VAWA immigration provisions puts the protection of such confidential information at risk. There are, however, limited exceptions to the confidentiality provisions, one of which expressly permits the disclosure of information to Federal, State, and local agencies providing benefits solely for making determinations of eligibility for benefits as a "qualified alien."²

To comply with the special confidentiality provisions but also enable benefit-granting agencies to verify immigration status, DHS has developed an alternative system for such verification. An agency seeking immigration status verification may fax a request for verification to DHS's Vermont Service Center, the location where self-petitions filed by battered immigrants are adjudicated. The system may be used in cases involving the following battered immigrants:

- (1) Battered immigrants filing self-petitions under the immigration provisions of the Violence Against Women Act (VAWA), and VAWA cancellation of removal and suspension of deportation applicants; and
- (2) Battered immigrants who were the beneficiaries of I-130 family-based visa petitions filed by U.S. citizen or lawful permanent resident spouses or parents.

The following are acceptable forms of documents for battered immigrants seeking immigration verification:

- Copy of I-360 Approval Notice Self-Petitioning Spouse of U.S.C. or L.P.R.;
- Copy of I-360 Establishment of Prima Facie Case; or
- Copy of I-130 Approval Notice for Petition for Alien Relative

Please note that while USCIS will be able to verify that an individual is the beneficiary of an I-130, the agency will not be able to verify that the applicant has been battered or subjected to extreme cruelty because the I-130 petition is not a vehicle through which status as a battered spouse or child is determined. Applicants who present to your agency a copy of an I-130 approval notice should present to you evidence of battery or extreme cruelty and your agency should make that determination.

I am attaching the sample form that should be used when seeking immigration status verification for battered immigrants from the Vermont Service Center. This form should be faxed on requesting agency letterhead to (802) 527-4864. Please send a separate form for the battered immigrant and each of his or her children included in his or her application. Be sure to reference the parent's case number on the child's status verification request.

¹ Section 384(a)(2) of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, codified at 8 U.S.C. § 1367. Victims of domestic violence protected by this provision are those filing self-petitions under INA § 204, applicants for a battered spouse waiver pursuant to INA § 216(c)(4)(C), and applicants for VAWA cancellation of removal, formerly INA § 244(a)(3), now INA § 240A(b)(2).

² 8 U.S.C. § 1367(b)(5).

Patricia S. Arnaudo

Page 3

An affirmative response from USCIS may mean that the applicant is a "qualified alien" for purposes of benefits under section 431 of PWRORA. Before that final determination can be made, your agency would need to determine that there is a substantial connection between the battery or extreme cruelty and the need for the benefit as cited by section 501 of IIRIRA before the applicant could be determined to be a "qualified alien."

If you have any questions or require additional information, please feel free to contact me at (202) 514-4754.

Sincerely,

Pearl B. Chang

Attachment



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing (PIH)**

SPECIAL ATTENTION OF:

Regional Directors; State and Area Coordinators;
Public Housing Hub Directors; Program Center
Coordinators; Troubled Agency Recovery Center
Directors; Special Applications Center Director;
Administrators; Resident Management
Corporations; Public Housing Agencies

NOTICE PIH 2017-02 (HA)

Issued: January 19, 2017

This notice remains in effect until
amended, superseded or rescinded

Subject: Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures

- 1) **Purpose.** This notice explains the procedures that public housing agencies (PHAs) must follow when an applicant or resident/tenant requests admission or continued residency as a result of being a VAWA self-petitioner. VAWA self-petitioners are those who claim to be victims of “battery or extreme cruelty.” VAWA covers the following types of battery or extreme cruelty: domestic violence, dating violence, sexual assault, and stalking.
- 2) **Applicability.** This notice applies to public housing, housing choice voucher assistance (including project-based vouchers), and Section 8 Mod Rehab.
- 3) **Background.** VAWA was originally signed into law in 1994, and was most recently reauthorized in 2013. HUD issued implementing regulations for the most recent reauthorization in late 2016 (81 FR 87812). Prior to VAWA, non-citizen victims of covered crimes were dependent on the good will of their abusers to obtain the authorized immigration status necessary to receive assisted housing. Section 214 of the Housing and Community Development Act of 1980 states that HUD may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status.

HUD has determined that self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from Section 214-covered housing providers.¹ “Satisfactory immigration status” means an immigration status which does not make the individual ineligible for financial assistance. After verifying such

¹ See HUD memorandum “Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980,” dated December 15, 2016 (available at <http://library.niwap.org/wp-content/uploads/Eligibility-of-VAWA-Self-Petitioners-2016-12-14.pdf>)

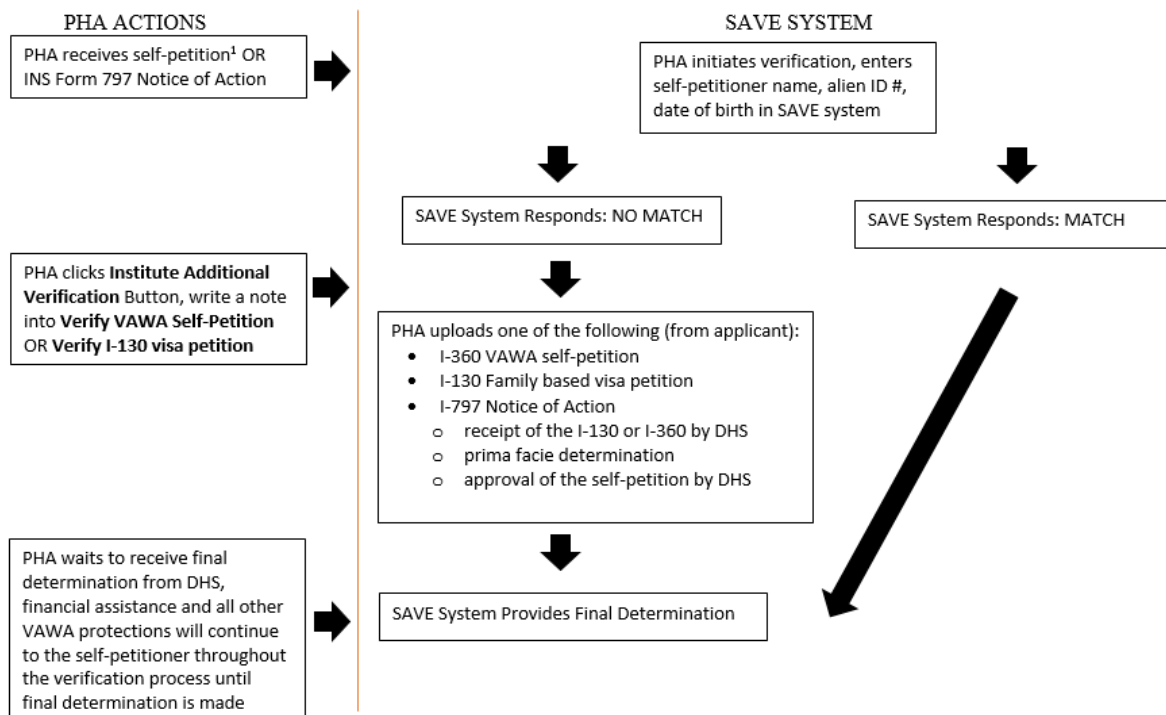
immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, PHAs will make a final determination as to the self-petitioner's eligibility for assistance.

- 4) **Applicability to other VAWA Housing Protections.** Not every noncitizen victim who has been subjected to battery or extreme cruelty will qualify under these procedures. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR. PHAs may receive a petition at any time, but submissions will most likely be related to a request for VAWA protections pursuant to 24 CFR Part 5 Subpart L (e.g. with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence, sexual assault, or stalking). See PIH 2016-09. Once a PHA receives a self-petition (INS Form I-360 or I-130) or INS Form 797, it is prohibited from requesting any additional information from the VAWA self-petitioner, other than what is required below to complete the verification.
- 5) **Procedure.** When a PHA receives a self-petition or INS Form 797 Notice of Action, the PHA must initiate verification in the SAVE System:
 1. Enter self-petitioner name, alien ID number, and date of birth in the SAVE System. The system will provide one of the following responses:
 - If the SAVE system responds with a match, no further action is necessary at this time. Skip to step 3.
 - If the SAVE system responds “no match,” the PHA must complete the following additional steps. Continue to step 2.
 2. Push the button for “Institute Additional Verification.” In the next screen, in the memo field, type “verify VAWA self-petition.” If the documentation provided by the applicant is a form I-130, type in the memo field “verify I-130.” Upload one of the following documents from applicant:
 - I-360 VAWA Self-Petition
 - I-130 Family-Based Visa Petition
 - I-797 Notice of Action

Steps undertaken by DHS:

 - receipt of I-130 or I-360
 - prima facie determination
 - approval of self-petition
 3. Wait for a final determination from the SAVE System. You will receive one of two confirmations: (1) the VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected; (2) the I-130 is verified, in which case the petitioner submitting

a family-based visa petition must provide to the PHA any evidence of “battery or extreme cruelty.” See 8 USC 1154(a)(1)(J). Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR status is made. If the final determination is to deny the VAWA self-petition or LPR petition, the PHA must alert the petitioner and take actions to terminate voucher assistance or evict the petitioner from public housing in accordance with the existing public housing requirements.



- 6) **Further Information.** For additional information related to this notice, please contact Eric Christensen, Program Analyst, Office of Policy, Program and Legislative Initiatives at 202-402-3475.

/s/
 Lourdes Castro Ramírez
 Principal Deputy Assistant Secretary
 for Public and Indian Housing



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-0500

December 15, 2016

MEMORANDUM FOR: Julián Castro, Secretary, S

FROM: Tonya Robinson, Acting General Counsel, C

A handwritten signature in black ink, appearing to read "Tonya Robinson", written over the printed name.

SUBJECT: Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980

This memorandum addresses the rights of certain noncitizens who are battered or subjected to extreme cruelty by a spouse or parent, who is an United States Citizen or lawful permanent resident (LPR), to apply for and receive assistance under Section 214 of the Housing and Community Development Act of 1980 (Section 214). HUD programs covered under Section 214 include the programs under the U.S. Housing Act of 1937 (Public Housing and Section 8 tenant-based and project-based rental assistance), as well as the Section 235 Homeownership, Section 236 Rental Assistance, Rent Supplement, Flexible Subsidy and Section 221d(3) Below Market Interest Rate Programs. This memorandum also addresses, in light of recent modifications to the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, the required process for verifying eligibility of these noncitizens for HUD's Section 214-covered multi-family programs.¹

The Violence Against Women Act of 1994 (VAWA) allows these noncitizens to self-petition for LPR status without the cooperation or knowledge of their abusive relative. These battered noncitizens are referred to as "self-petitioners." The terms "VAWA self-petitioner," "self-petitioner" or "petitioner" refer to the categories of battered noncitizens seeking VAWA-related relief described in 8 U.S.C. § 1101(a)(51), 8 U.S.C. § 1641(c), 62 Fed. Reg. 61344, 61367 (Nov. 17, 1997), and other VAWA-related petitions or applications for lawful permanent resident status. Prior to VAWA, these battered noncitizens were dependent on their abusers to obtain authorized immigration status because the abusing relative held the right to file the immigration petition on their behalf and could refuse to file or withdraw the petition at any time.

Section 214 states that, "notwithstanding any other provision of law," HUD may not make certain financial assistance available to any noncitizen unless the person falls within certain enumerated exceptions, one of which is "lawful permanent resident." Additionally, Section 214 and associated regulations at 24 CFR Part 5 provide that financial assistance from HUD cannot

¹ This clarification is consistent with HUD's Multifamily Housing Programs Handbook (HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, Appendix 2-B (2013)) and HUD's interpretation of Section 214 and its regulations at 24 CFR part 5, Subpart E. However, the DHS alternative verification process has been superseded by the changes made to the SAVE System.

be delayed, denied, reduced or terminated on the basis of immigration status while verification of eligibility or appeal of a determination as to satisfactory immigration status is pending. This memorandum clarifies that self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from Section 214-covered housing providers. It is the Office of General Counsel’s position that this interpretation of VAWA and Section 214 is consistent with Section 214 and VAWA’s objectives to enhance victim safety and to place noncitizen victims of domestic violence in the same position vis-à-vis immigration law as they would have enjoyed had they not been abused by their U.S. citizen or LPR relative.

Consistent with applicable HUD requirements implementing section 214 at 24 CFR Part 5, housing providers are required to verify noncitizen eligibility for federal financial assistance. The verification of satisfactory immigration status for Section 214-covered programs is performed by housing providers using the DHS SAVE System. Generally, the question of verification will arise in connection with self-petitioners when the self-petitioner is either an applicant for assistance, or is a member of a participating family and the abuser is removed from the family due to allegations of domestic violence.

Upon the assertion of an applicant or participant that he or she is a self-petitioner, the housing provider must use the SAVE System to verify immigration status. Evidence that an individual is a self-petitioner includes one of the following: (i) INS Form I-360 VAWA self-petition; (ii) INS Form I-130 family-based visa petition; or (iii) INS Form I-797 Notice of Action indicating (a) receipt of the I-130 or I-360 by DHS, (b) a prima facie determination, or (c) approval of the I-360 or I-130 petition by DHS. Under Section 214, once a self-petition (I-360 or I-130 Forms) or I-797 Notice is submitted to the housing provider, and until a final determination by DHS as to LPR status is actually made, including any appeal of a determination on the self-petition or LPR status, the self-petitioner’s application for financial assistance cannot be denied, and financial assistance shall not be delayed, denied, reduced or terminated on the basis of immigration status. In addition, all the other protections afforded under VAWA apply to the self-petitioner throughout the verification process.

Because we anticipate that housing providers will have several questions about the documents a self-petitioner must submit, as well as the protections afforded by VAWA, OGC has recommended, and the Office of Public and Indian Housing and the Office of Housing have agreed, to publish a notice consistent with this opinion.

HUD Programs and Immigrant Eligibility¹

February 8, 2017

By Miguel Morales and Leslye E. Orloff²

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)³ explicitly declared that programs necessary to protect life and safety⁴ were to remain open to all persons without regard to immigration status.⁵ In PRWORA, Congress granted the U.S. Attorney General the sole discretion to designate the programs necessary to protect life and safety that were to be open to all persons without regard to immigration or citizenship status or nationality.⁶

PRWORA listed “short-term housing” explicitly in the statute as an example of a program necessary to protect life and safety.⁷ Furthermore, the Attorney General issued the Final Specification of Community Programs Necessary for Protection of Life or Safety under Welfare Reform Legislation on January 16, 2001, stating that, among the programs that were to be open to all persons without regard to immigration status as necessary to protect life and safety are:

- “Crisis counseling and intervention programs; services and assistance relating to child protection, adult protective services, violence and abuse prevention, victims of domestic violence or other criminal activity...Short-term shelter or housing assistance for the homeless, for victims of domestic violence, or for runaway, abused, or abandoned children”⁸

¹ This publication is supported by Grant No. 2015-TA-AX-K043 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women. The authors would like to thank Karlo Ng of the National Housing Law Project for her assistance in reviewing this publication.

² For technical assistance regarding immigrant survivor access to emergency shelter, transitional housing, public and assisted housing, and other government funded housing programs, please contact: Karlo Ng, Staff Attorney, National Housing Law Project at kng@nhlp.org, (415) 546-7000 Ext. 3117, <http://nhlp.org/OVWgrantees> and the National Immigrant Women’s Advocacy Project (NIWAP) at niwap@wcl.american.edu, (202) 274-4457, www.niwaplibrary.wcl.american.edu

³ Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (hereinafter “PRWORA”), Pub. L. 104-193, 110 Stat. 2105 (codified at 8 U.S.C. § 1611)

⁴ 8 U.S.C. § 1611(b)(1)(D)

⁵ 8 U.S.C. § 1621(b)(2)

⁶ 8 U.S.C. §§ 1611(b)(1)(D); 1621(b)(4)

⁷ 8 U.S.C. § 1611(b)(1)(D)

⁸ *Id.*

Following the issuance of the Attorney General's order, HUD issued two policy directives (2001 and 2016) defining which HUD funded programs fell within the category of "short-term shelter or housing assistance" that were to be available as a matter of law to all persons without regard to immigration status:

- In 2001 HUD stated that "Both emergency shelter and transitional housing programs are necessary for the protection of life and safety. Transitional housing is by nature short-term intended to be a step from emergency shelter to permanent housing."⁹
- On August 5, 2016, the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Health and Human Services (HHS), and the U.S. Department of Justice (DOJ)¹⁰ issued a joint letter reminding that federal grant recipients that they may not deny immigrants access to emergency shelter, and other short-term housing programs that are necessary to protect life or safety.¹¹
- The HUD guidance implementing the above August 5, 2016 joint letter was released on August 16, 2016 by the Office of Special Needs Assistance Programs.¹²
- More recently HUD published a final rule expanding housing protections for survivors of violence, implementing the assistance established by the Violence Against Women Reauthorization Act of 2013.¹³ This final rule VAWA rule applies equally to all victims eligible for HUD funded housing programs without regard to the victim's immigration status. The VAWA rule applies to many HUD programs including, but not limited to programs covered by Section 214 of the Housing Act. Only programs listed in Section 214 of the Housing Act have immigrant restrictions.

Housing Programs Open to All Immigrants Without Immigration Restrictions

Emergency shelter, transitional housing, and several other programs funded by HUD are open to all persons including undocumented immigrants. Programs receiving federal funds either directly or through the state cannot discriminate or turn away immigrants or persons with limited English proficiency from emergency shelter and transitional housing. Immigrant victims of domestic violence, sexual assault, human trafficking, child abuse or abandonment and homeless immigrants are eligible to participate in emergency shelter and transitional housing programs funded by HUD, DOJ and HHS. The following is a list of the HUD funded programs and HUD funding streams that provide or fund shelter and transitional housing that is open to all immigrants.¹⁴ Some of these unrestricted housing programs also fund housing that exceeds duration of stay limitations for emergency shelter and transitional housing.

⁹ HUD Fund Recipients Shelter and Transitional Housing Letter (January 19, 2001) available at <http://niwaplibrary.wcl.american.edu/pubs/hud-memo-transitional-housing/>

¹⁰ HUD, HHS, and DOJ Letter Regarding Immigrant Access to Housing and Services (August 12, 2016) available with all cited documents at <http://niwaplibrary.wcl.american.edu/joint-agency-letter-shelters-transitional-housing/>

¹¹ This joint HUD, HHS, DOJ letter, all of the materials cited in it in the footnotes and all materials issued by HUD, HHS and DOJ related to this joint letter are available on the following webpage: <http://niwaplibrary.wcl.american.edu/joint-agency-letter-shelters-transitional-housing/>

¹² Office of Special Needs Housing, *The Personal Responsibility and Work Opportunity Act of 1996 and HUD's Homeless Assistance Programs*, Department of Housing and Urban Development (August 16, 2016), available at <http://niwaplibrary.wcl.american.edu/pubs/prwora-fact-sheet/>

¹³ Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs, available at: <http://portal.hud.gov/hudportal/documents/huddoc?id=5720-F-03VAWAFinRule.pdf>

¹⁴ See generally, HUD, HHS, and DOJ Letter Regarding Immigrant Access to Housing and Services (August 12, 2016) available with all cited documents at <http://niwaplibrary.wcl.american.edu/joint-agency-letter-shelters-transitional-housing/>

HUD Programs and Immigrant Eligibility

For an uncomprehensive list of federal housing programs that are not restricted by Section 214, please see the National Housing Law Project's attached chart on federally assisted housing and immigrant eligibility. (Attachment A) When an immigrant family meets program requirements for these HUD and USDA Rural Development funded programs, unless the program is subject to Section 214 restrictions, the immigrant applicant may qualify for admission.¹⁵

Program open to Immigrants without restrictions		Program Information
Continuum of Care (CoC) Program ¹⁶	http://portal.hud.gov/hudportal/HUD?src=/hudprograms/continuumofcare	Provides funding for efforts by nonprofit providers, and state and local governments to quickly re-house homeless individuals and families while minimizing the trauma and dislocation caused by homelessness; promote access to and effect utilization of mainstream programs by homeless individuals and families; and optimize self-sufficiency among individuals and families experiencing homelessness. CoC program funds can be used for projects under five program components: permanent housing, transitional housing, supportive services, homeless management information system, and homelessness prevention for CoCs designated as high-performing communities.
Emergency Solution Grants (ESG) Program	https://www.hudexchange.info/programs/esg/	Grants to support essential services related to emergency shelter and street outreach, rehabilitation and conversion of buildings to be used as emergency shelter, operation of emergency shelter, short-term and medium-term rental assistance, and housing relocation and stabilization services for individuals and families who are homeless or at risk of homelessness.
Street Outreach Services	https://www.hudexchange.info/programs/esg/esg-requirements/	Provide essential services related to reaching out to unsheltered homeless individuals and families, connecting them with emergency shelter, housing, or critical services and providing them with urgent, non-facility based care. Component services generally consists of engagement, case management, emergency health and mental health services and transportation.
Safe Haven	https://www.hudexchange.info/resource/2719/safe-haven-fact-sheet/	Safe Haven is a form of supportive housing that serves hard-to-reach homeless persons with severe mental illness who come primarily from the streets and have been unable or unwilling to participate in housing or supportive services previously.

¹⁵ If you are working with an immigrant survivor who is seeking access to a HUD or RD funded housing program, please contact the National Housing Law Project for technical assistance. For assistance, contact Karlo Ng at kng@nhlp.org; (415) 546-7000 Ext. 3117; <http://nhlp.org/OVWgrantees>.

¹⁶ A program funded through the Homeless Assistance Grants is a Section 214 program: the Single Room Occupancy (SRO) program. Since housing units for homeless individuals provided through the SRO program are developed through Section 8 Moderate Rehabilitation program and receive Section 8 rental assistance, nonqualified immigrants as defined by Section 214 are ineligible for the SRO program. Maggie McCarthy and Alison Siskin, Congressional Research Service, *Immigration: Noncitizen Eligibility for Needs-Based Housing Programs* (Dec. 8, 2015), available at <https://fas.org/sgp/crs/homesec/RL31753.pdf>

HUD Programs and Immigrant Eligibility

Rapid Re-Housing	https://www.hudexchange.info/programs/esg/esg-requirements/	Provided housing relocation and stabilization services and/or short or medium term rental assistance as necessary to help individuals or families living in shelters or in places not meant for human habitation move as quickly as possible into permanent housing and achieve stability in that housing.
------------------	---	--

Programs Open Only to Immigrants Listed in 214 of the Housing Act¹⁷

Section 214 of the Housing and Community Development Act restricts access to certain HUD programs to eligible immigrants including qualified immigrants.¹⁸ The following programs are only available to “qualified immigrants” as defined by the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA),¹⁹ VAWA self-petitioners,²⁰ and immigrants considered “eligible immigrants” under Section 214 of the Housing and Community Development Act.²¹ Additionally, the list below provides a few examples of project-based Section 8 programs, which are covered by Section 214.²²

Programs Restricted to Immigrants		Program Information
Public Housing	https://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph	Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Public housing comes in all sizes and types, from scattered single family houses to high rise apartments for elderly families. There are approximately 1.2 million households living in public housing units, managed by some 3,300 HAs.

¹⁷ For more information, see the National Housing Law Project’s memo on Housing Covered by Section 214 of the Housing and Community and Development Act, available at <http://nhlp.org/files/greenbook4/Chapter2/FN%20179%20NHL%20Memo%20Housing%20Covered%20by%20Section%20214.pdf>.

¹⁸ See 42 U.S.C. 1436(a) (2006).

¹⁹ 8 U.S.C. 1641 defines qualified immigrants to include: lawful permanent residents (conditional permanent residents), asylees, refugees, persons paroled into the United States for a period of at least one year, persons granted withholding of deportation, persons granted conditional entry, Cuban and Haitian entrants, Amerasian immigrants, victims of human trafficking who has filed for, had a prima facie determination or has been awarded a T-visa under INA § 101(a)(15)(T), 8 U.S.C. § 1101(a)(15)(T), persons who have been battered or subject to extreme cruelty by a U.S. citizen or lawful permanent resident spouse or parent, who have VAWA self-petitions or petitions for suspension of deportation or cancellation of removal pending or approved and their undocumented immigrant children listed as dependents in their VAWA self-petition application. Parents of children have been battered or subject to extreme cruelty by the other U.S. citizen or lawful permanent resident, and who have VAWA self-petitions or petitions for suspension of deportation or cancellation of removal pending or approved and their undocumented immigrant children listed as dependents in their VAWA self-petition application.

²⁰ See Access to Public and Assisted Housing VAWA Self-Petitioners <http://niwaplibrary.wcl.american.edu/access-public-assisted-housing-va-wa-self-petitioners/>

²¹ Immigrants eligible to receive housing under Section 214 are: U.S. citizens, U.S. nationals, lawful permanent residents, VAWA self-petitioners, asylees, immigrants eligible for registry who entered the U.S. before June 30, 1948, refugees, parolees, persons granted withholding of removal, Immigration Reform and Control Act 1986 Amnesty and qualified victims of human trafficking, lawful residence of the United States under the Compacts of Free Association with the Marshall Islands, Micronesia, Palau and Guam, and immigrants admitted for lawful temporary residence prior to January 1, 1982.

²² Project-based Section 8 programs include Section 8 New Construction, Section 8 Moderate Rehabilitation, Section 8 Substantial Rehabilitation, State Housing Finance Agency Section 8, Section 202 and 811 projects with Section 8 assistance, Section 8 Loan Management Set-Aside, Section 8 Community Investment Demonstration Program, and Section 8 Moderate Rehabilitation Single Residency Occupancy (SRO) Program. If you have questions about whether a unit or complex may be subsidized by project-based Section 8 or subject to Section 214 restrictions, please contact Karlo Ng, Staff Attorney, National Housing Law Project at kng@nhlp.org, (415) 546-7000 Ext. 3117, <http://nhlp.org/OVWgrantees>

HUD Programs and Immigrant Eligibility

Housing Choice Voucher Program	www.hud.gov/offices/pih/programs/hcv/about/fact_sheet.cfm	These are tenant-based vouchers that provide rental subsidies for units that are chosen by the tenants in the private market. The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects. The subsidy moves with the tenant.
Project-Based Voucher Program	https://portal.hud.gov/hudportal/HUD?src=/program/offices/public_indian_housing/programs/hcv/project	Project-based vouchers are a component of a public housing agencies (PHAs) housing choice voucher program. A PHA can attach up to 20 percent of its voucher assistance to specific housing units if the owner agrees to either rehabilitate or construct the units, or the owner agrees to set-aside a portion of the units in an existing development.
Section 8 Moderate Rehabilitation	https://portal.hud.gov/hudportal/HUD?src=/program/offices/public_indian_housing/programs/ph/modrehab	The moderate rehabilitation program provides project-based rental assistance for low income families. The program was repealed in 1991 and no new projects are authorized for development. Assistance is limited to properties previously rehabilitated pursuant to a housing assistance payments (HAP) contract between an owner and a Public Housing Agency (PHA).
Section 8 Moderate Rehabilitation Single Room Occupancy (SRO)	https://portal.hud.gov/hudportal/HUD?src=/hudprograms/sro	Assists very low-income, single, homeless individuals in obtaining decent, safe, and sanitary housing in privately owned, rehabilitated buildings. Under the SRO program, HUD enters into annual contributions contracts (ACCs) with public housing agencies (PHAs) in connection with the moderate rehabilitation of residential properties. These PHAs make Section 8 rental assistance payments to participating landlords on behalf of homeless individuals who rent the rehabilitated dwellings.
Section 202 Supportive Housing for the Elderly with Section 8 assistance	https://portal.hud.gov/hudportal/HUD?src=/program/offices/housing/mfh/progdesc/eld202	HUD provides direct loans and grants to developers for housing for people with disabilities.
Section 811 Supportive Housing for Persons with Disabilities with Section 8 assistance	https://portal.hud.gov/hudportal/HUD?src=/program/offices/housing/mfh/progdesc/disab811	Through the Section 811 Supportive Housing for Persons with Disabilities program, HUD provides funding to develop and subsidize rental housing with the availability of supportive services for very low- and extremely low-income adults with disabilities.
Section 236 Preservation Program (including Rental Assistance Payment (RAP))	https://www.hudexchange.info/programs/section-236-preservation/ ; Tenant RAP factsheet: http://www.hud.gov/offices/hsg/mfh/gendocs/factsrap.pdf ; Tenant Section 236 fact sheet: http://www.hud.gov/offices/hsg/mfh/gendocs/facts236.pdf	The objective of HUD's Section 236 Preservation initiative is to preserve the affordability of rental housing units originally developed through the Section 236 mortgage program. The Rental Assistance Program (RAP) is a rental assistance program in which the amount of rent is calculated based on the tenant's household income.

HUD Programs and Immigrant Eligibility

Section 235 Homeownership Housing	http://nhlp.org/files/greenbook4/Chapter2/FN%20179%20NHLP%20Memo%20Housing%20Covered%20by%20Section%20214.pdf	Allows lower income persons to purchase their homes using a HUD insured loan with a mortgage interest subsidy. The immigrant restrictions apply only to those applicants with contracts executed on or after June 19, 1995, or to contracts refinanced or revised on or after that date for a reason other than adjusting the mortgage interest rate.
Housing Development Grants (HoDAG) (low-income units only)	http://nhlp.org/files/greenbook4/Chapter2/FN%20179%20NHLP%20Memo%20Housing%20Covered%20by%20Section%20214.pdf	HoDAG provided funds for new construction and substantial rehabilitation of affordable rental housing between 1983 and 1990. Low-income units financed with funds from the HoDAG program are covered by Section 214 but not market rate units.
Rural Development housing programs	https://www.rd.usda.gov/programs-services/all-programs	The following Rural Development Programs have certain immigrant restrictions. Only the following immigrants qualify: <ul style="list-style-type: none"> • Section 514/516: Lessee (but not household) must be U.S. Citizen or LPR • Section 502/504: Persons responsible for paying the loan must be U.S. Citizen or Section 214 eligible immigrant. • RD Voucher: Section 214 eligible immigrants
Section 23 Leased Housing Assistance Program	https://portal.hud.gov/hudportal/HUD?src=/topics/housing_choice_voucher_program_section_8	The housing choice voucher program is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. Since housing assistance is provided on behalf of the family or individual, participants are able to find their own housing, including single-family homes, townhouses and apartments. Housing choice vouchers are administered locally by public housing agencies (PHAs). The PHAs receive federal funds from the U.S. Department of Housing and Urban Development (HUD) to administer the voucher program.

Attachment A Federally Assisted Housing and Immigrant Eligibility

HUD Programs Covered by Section 214 of the Housing and Community Development Act of 1980

- Public Housing
- Section 8 Vouchers
- Project-Based Section 8
- Section 236 Housing, with or without Rent Supplements (low-income units only)
- Section 235 Homeownership housing
- Housing Development Grants (HoDAG) (low-income units only)
- Section 23 Leased Housing Assistance Program

Eligible Immigrants

- U.S. Citizens and Nationals
- Lawful Permanent Residents (LPR)
- VAWA Self-Petitioners
- Asylees and Refugees
- Parolees
- Persons Granted Withholding of Removal/Deportation
- Qualified Victims of Trafficking
- Persons granted admission for emergent or public interest reasons
- Persons granted amnesty under the Immigration Reform and Control Act of 1986
- Immigrants eligible for registry who entered the U.S. before June 30, 1948
- Lawful U.S. residents under the Compacts of Free Association with the Marshall Islands, Micronesia, Palau and Guam
- Immigrants admitted for lawful temporary residence prior to January 1, 1982

Rural Development (RD) Programs Covered by Section 214

- Rental housing units in Section 515 and Section 514/516 development that are receiving RD Rental Assistance¹
- Section 514 Farm Labor Housing
- Section 502 Direct Homeownership Loan Program
- Section 504 Minor Rehabilitation Loan and Grant Programs for Single Family Homes
- RD Voucher Program

Eligible Immigrants

- Section 514/516: Lessee (but not household) must be U.S. Citizen or LPR²
- Section 502/504: Persons responsible for paying the loan must be U.S. Citizen or Section 214 eligible immigrant
- RD Voucher: Section 214 eligible immigrants

Programs Unrestricted by Section 214 (non-comprehensive list)

- | | |
|---------------------------------|--|
| • Low Income Housing Tax Credit | • Indian Housing |
| • Section 202 | • Rental Rehabilitation |
| • Section 811 | • McKinney-Vento/HEARTH Act Programs |
| • Section 221(d)(3) and (5) | • HOPE 2 |
| • CDBG | • Rural Housing Preservation Grants |
| • HOME | • Section 515 Rural Rental Housing Program |
| • HOPWA | • Section 538 Multifamily Loan Guarantees |

¹ RD regulations improperly extend restriction to all occupants of Section 515 Rental Housing. However, RD has indefinitely postponed the application of this requirement. 7 C.F.R. § 3560.152 note.

² RD takes position that Sections 514 and 516 are more restrictive than Section 214. There is no proration of rents.