

13.3 CITIZENSHIP/ELIGIBLE IMMIGRANT STATUS (§5.506)

To be eligible for Federal housing assistance, at least one member of the household must be a U.S. citizen or have a qualifying immigration status. The eligible person does not have to be the person completing the application and the eligible person is not required to be an adult. A family in which some family members have eligible immigration status, and some do not contend eligible immigration status, is called a mixed-status family/household. Mixed-status families/households receive prorated assistance based on the percentage of family/household members who qualify for assistance. An ineligible adult applying for benefits on behalf of an eligible person will be included as an ineligible household member.

13.3.1 Qualifying Immigration Statuses

An individual who is not a U.S. citizen or national who is a resident of the U.S. and has any of the following immigration statuses is eligible for assistance:

- A non-citizen lawfully admitted for permanent residence as an immigrant (includes special agricultural workers granted lawful temporary resident status and noncitizens that indicate they have satisfactory immigration status, such as VAWA self-petitioners, whose verification of eligibility or appeal of a determination as to permanent residence is pending with DHS).
- A non-citizen who entered the United States before 1/1/72 (or such later date as enacted by law) and:
 - Has continuously maintained residence in the U.S. since then; and
 - Is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General.
- A non-citizen who is lawfully present in the United States as a result of:
 - Refugee status, including:
 - 1) Those granted Temporary Protective Status (TPS) under the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) (section 207 of the Immigration and Nationality Act (INA)) – these families have a “T” visa; or
 - 2) The granting of asylum (which has not been terminated (section 208); or
 - 3) The granting of conditional entry (section 203 (a)(7)) prior to 4/1/80 because of persecution or fear on account of race, religion, or political opinion, or because of being uprooted by catastrophic national calamity.
- A non-citizen who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for

emergent reasons or reasons deemed strictly in the public interest (section 221(d)(5)) (e.g., parole status).

- A non-citizen who is lawfully present in the United States as a result of the Attorney General's' withholding deportation (section 243(h)) (threat to life or freedom).
- A non-citizen lawfully admitted for temporary or permanent residence (245A) (amnesty granted).
- An alien who is lawfully residing in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: Provided, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.

13.3.2 Documentation of Citizenship or Immigration Status

For each family member who contends that he or she is a U.S. citizen or a noncitizen with eligible immigration status, the family must submit to GHA a written declaration, signed under the penalty of perjury, declaring whether he or she is a U.S. citizen or a noncitizen with eligible immigration status⁸. For children, the declaration must be signed by an adult residing in the assisted dwelling unit who is responsible for the child⁹.

If one or more members of a family elect not to contend that they have eligible immigration status, and other members of the family establish their citizenship or eligible immigration status, the family may be eligible for prorated assistance despite the fact that no declaration or documentation of eligible status is submitted for one or more members of the family. The family, however, must identify in writing to GHA, the family

member (or members) who will elect not to contend that he or she has eligible immigration status¹⁰.

13.3.2.1 Evidence of Citizenship or Eligible Immigration Status¹¹

Each family member claiming program eligibility, regardless of age, must submit the following evidence to GHA:

- (1) For U.S. citizens or U.S. nationals, the evidence consists of a signed declaration of U.S. citizenship or U.S. nationality. The

responsible entity may request verification of the declaration by requiring presentation of a United States passport or other appropriate documentation, as specified in HUD guidance.

(2) For noncitizens who are 62 years of age or older or who will be 62 years of age or older and receiving assistance under a Section 214 covered program on September 30, 1996 or applying for assistance on or after that date, the evidence consists of:

- (i) A signed declaration of eligible immigration status; and
- (ii) Proof of age document.

(3) For all other noncitizens, the evidence consists of:

- (i) A signed declaration of eligible immigration status;
- (ii) One of the INS documents referred to in §5.510; and
- (iii) A signed verification consent form.

Documentation must be submitted by the time of the eligibility determination. Once documents have been submitted and verified for an individual, citizenship documentation for that individual will not need to be collected again. Household members who do not provide the required evidence of citizenship or eligible immigration status will be considered ineligible.

13.3.2.2 Extensions

GHA must provide an extension of up to 30 days to submit evidence of eligible status if the family/household submits the declaration of eligible immigration status and certifies that the family needs more time because the required evidence is temporarily unavailable. To obtain an extension, the family/household must also certify that prompt and diligent efforts will be undertaken to obtain the evidence.

Upon determining if the extension request meets the requirements, GHA must inform the family, in writing, whether its request for a time extension has been granted or denied. If

granted, the notice must state the specific period of the extension. If the extension request is denied, the notice must explain the reasons for the denial.

13.3.3 Verification of Eligible Immigration Status

GHA is required to verify eligible immigration status of at least one household member through the U.S. Citizenship and Immigration Service (CIS). GHA may not admit any individual prior to receiving the required documentation described in Section 5.3.2.1. above.

13.3.3.1 Primary Verification Method

GHA will conduct primary verification of eligible immigration status for at least one household member through the CIS automated system, Systematic Alien Verification for Entitlements (SAVE).

13.3.3.1 Secondary verification method

If the primary verification system does not confirm eligible immigration status for at least one household member, or if the primary verification system verifies immigration status that is ineligible for assistance GHA must attempt secondary verification by requesting a manual record check by CIS within 10 days of receiving results of the primary verification. To request secondary verification, the GHA will forward photocopies of the original required documents with the form G-845S Document Verification Request or such other form specified by the.

If secondary verification fails, GHA must notify the family/household in writing to include:

- A statement that financial assistance will be denied or terminated and the justification;
- Notification that the family may be eligible for prorated assistance if it is a mixed- status family;
- In the case of a currently assisted household, the procedures for requesting proration of assistance;
- The right to appeal the results of the secondary verification to the CIS and how to appeal; and
- The right to request an informal hearing from the GHA in lieu of or after a CIS appeal

13.3.3.2 CIS Appeals Process

GHA must notify the family in writing if the secondary verification process does not confirm eligible immigration status for at least one household member. The notice must indicate whether assistance will be delayed, denied, or terminated and inform the family of the right to file an appeal with the CIS.

If the family wants to exercise its right of appeal with the CIS, the family must submit a written request for an appeal to the CIS within 30 days of the date of the GHA notification. The family must also take the following steps:

- Include with the appeal request a cover letter and any support documentation as well as a copy of the verification request form (CIS Form G-845S) which was submitted by GHA for the secondary verification request;
- Provide GHA with a copy of the request for appeal with the CIS

and proof of mailing (e.g., USPS Certified Mail ©, a service that provides the sender with a mailing receipt); and

- Provide any additional documentation that the CIS may request.

Within 30 days the CIS must render its decision to the family and forward a copy to GHA (or provide notice of the reasons for any delay).

13.3.3.3 Delay, Denial, or Termination of Assistance

GHA will not delay, deny, or terminate assistance to an applicant or participant on the basis of ineligible immigration status of a family member if any of the following circumstances apply:

- At least one person in the household is a U.S. citizen or an eligible noncitizen who has been verified by CIS;
- The family has submitted the required documents to GHA in a timely manner, but the primary and secondary verification processes has not been completed;
- The family member whom the GHA has not determined eligible moves out of the household;
- The CIS appeals process has not been completed;
- Assistance is prorated, and the family is not receiving assistance for the family member(s) whose eligible immigration status has not been verified; or
- For a program participant, the informal hearing process

is not complete. Assistance must be denied or terminated

when:

- The family has not submitted the declaration of citizenship or eligible immigration status for at least one household member and appropriate documentation by the specified deadline or any extension;
- The family has submitted required documentation, but CIS primary and secondary verification do not verify immigration status and the family does not pursue CIS or GHA appeal;
- The family has submitted required documentation, but CIS primary and secondary verification do not verify immigration status, and CIS or GHA appeal is pursued but decision(s) are rendered against the family; or
- GHA determines that a family has knowingly permitted an ineligible person to live in the assisted unit. In this case, GHA must terminate assistance for at least 24 months. This does not apply if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.

For information regarding verification of citizenship status, see Chapter 13.12 for details and Exhibit 1 for document types.