



Department of Housing and Urban Development  
Public and Indian Housing

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Special Attention:  
All Public Housing Agencies  
and Indian Housing Authorities;  
Public Housing Office Directors;  
Administrators, Offices  
of Native American Programs

**Notice PIH 96-80 (HA)**

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Cross References: Guidebook 7465.7

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Subject: Applicability of Section 214 to Citizens of the Freely Associated States

1. Background. Section 214 of the Housing and Community Development Act of 1980 (HCDA Act of 1980) prohibits the Secretary of HUD from making financial assistance available to persons other than United States citizens, nationals, or certain categories of eligible noncitizens either applying to or benefiting from specified HUD housing assistance programs.
2. Requirement. HUD regulations require noncitizens provide evidence of eligible immigration status in the form of documents issued by the Immigration and Naturalization Service (INS); and eligible immigration status is then verified by INS. Citizens of the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands (collectively referred to as "the Freely Associated States") may, however, lawfully reside and work in the United States without having to comply with certain passport, visa and labor certification requirements. Therefore, even though legally admitted for residence anywhere in the United States, the District of Columbia, the Territory of Guam (Guam), the Commonwealth of the Northern Mariana Islands (CNMI), the commonwealth of Puerto Rico and American Samoa, these noncitizens may not possess the INS documents which will qualify them for HUD financial assistance under Section 214 of the HCDA Act of 1980.
3. Applicability. This Notice is applicable to the public and Indian rental housing programs and to the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation Programs. The information is applicable primarily to citizens of the Freely Associated States residing in Guam and CNMI. It is also applicable to non-U.S. citizens who reside in all other geographic areas where financial assistance under the U.S. Housing Act of 1937 is available.
4. Department of Justice Legal Opinion. After receiving several inquiries regarding the provision of assistance to citizens of the Freely Associated States, HUD asked the U.S. Department of Justice (DOJ) for an opinion as to whether section 214 of the HCDA Act of 1980 precludes the Secretary from making HUD financial assistance available for housing purposes for the benefit of citizens of the Freely Associated States lawfully resident in Guam and the CNMI pursuant to a Compact of Free Association with the United States. In a March 7, 1995, opinion letter, H. Jefferson Powell, Deputy Assistant Attorney General, Office of Legal Counsel, DOJ, concluded that section 214 prevents the Secretary from providing such assistance.

5. Instructions. Public and Indian housing agencies must treat citizens of the Freely Associated States residing in the United States, the Commonwealths of Northern Mariana Islands and Puerto Rico, and its territories and possessions as noncitizens ineligible to receive financial assistance under the United States Housing Act of 1937 unless they can meet one of the six qualifying exceptions set forth in subsection (a) of section 214 of the HCDAct of 1980.
  
5. Rights and Privileges of Noncitizens. It should be noted, however, that citizens of the Freely Associated States have the same rights and privileges that are available to other noncitizen families which are composed of either eligible and non-eligible members or all non-eligible members. In particular, the following situations may be pertinent:
  - a. For a Participant in occupancy on June 19, 1995 AND:
    - (1) the head or spouse is eligible and the family includes no non-eligible members other than head or spouse, or parents or children of the head or spouse, the family is eligible for Continued Assistance.
    - (2) if a mixed family, other than in 5.a(1) above, the family is eligible for Temporary Deferral of Assistance or Prorated Assistance.
    - (3) there are no eligible members, the family is eligible for Temporary Deferral of Assistance.
  - b. For a Participant in occupancy after June 19, 1995 AND:
    - (1) if a mixed family, the family is eligible for Prorated Assistance.
    - (2) there are no eligible members, the family is NOT eligible for benefits.
  - c. For an Applicant on or after June 19, 1995 AND:
    - (1) if a mixed family, the family is eligible for Prorated Assistance.
    - (2) there are no eligible members, the family is NOT eligible for benefits.
  - d. For a noncitizen student applicant or participant AND:
    - (1) living alone, the individual is not eligible for financial assistance.
    - (2) living with accompanying immigrant spouse and/or children, the student is not eligible for financial assistance.
    - (3) living with an accompanying eligible immigrant spouse or children, the family is eligible for Prorated Assistance (i.e., the same assistance available to mixed families paragraphs in 5.a(2) and 5.b(1) above).

/s/ \_\_\_\_\_  
Kevin Emanuel Marchman  
Acting Assistant Secretary