

Submitted via www.regulations.gov

April 20, 2026

Regulations Division
Office of the General Counsel, Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Submitted via www.regulations.gov

**Re: HUD’s Mixed Status Rulemaking
Docket No. FR-6524-P-01, RIN 2501-AE16 Comments in Response to Proposed
Rulemaking: Housing and Community Development Act of 1980: Verification of
Eligible Status**

Dear Secretary Turner:

The National Immigration Project submits the following comment in opposition to the U.S. Department of Housing and Urban Development’s (“HUD”) proposed rule—changing the requirements for “verification of eligible status” under Section 214 of the Housing and Community Development Act of 1980—published in the Federal Register on February 20, 2026 (RIN 2501-AE16; HUD Docket No. FR-6124-P-01). Through this comment, we express our strong opposition to the NPRM which punishes low-income families, demonizes noncitizens, and will result in increased homelessness.

The National Immigration Project is a national nonprofit membership organization that provides support, referrals, and legal and technical assistance to attorneys, community organizations, families, and advocates seeking to advance the rights of noncitizens. The National Immigration Project fights for dignity and due process for immigrants and their families through federal litigation, advocacy, and community organizing. We believe that housing is a basic right and no one should have to choose between keeping their housing and living with their family members. The National Immigration Project strongly opposes this proposed rule.

I. The Proposed Rule Contravenes the Clear Language of the Statute

42 U.S.C. § 1436a(a) restricts federal housing subsidies to U.S. citizens, lawful permanent residents, and other noncitizens whose presence in the United States is authorized by the federal government. However, the language of the statute could not be clearer—as long as one member

of the household has an immigration status authorizing the receipt of housing assistance, the family is eligible to receive this assistance, but on a pro-rated basis:

If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the applicable Secretary shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family. 42 U.S.C. § 1436a(b)(1).

The proposed rule would directly contravene the language of the statute. The legislative history of 42 U.S.C. § 1436a(b)(2) reveals that Congress intended to keep families together, with the statute designed to serve the dual goals of obeying the law and preserving “the sanctity of the family.”¹ The preamble to the rule claims, with no evidence, that the meaning of the pro-rated statutory language was only to provide assistance until the documentation requirements could be verified. 91 Federal Register 8151, 8155 (Feb. 20, 2026). But that reading is belied by the plain language of the statute and the agency’s interpretation of the rule which has been in effect for over 30 years.

The proposed rule will lead to families separating rather than being forced into homelessness. There are estimates that this proposed rule may lead to the break up of families for over 80,000 people, the majority of whom are U.S. citizens.² The first Trump administration used family separation as a weapon to deter immigration to the United States.³ Victims of that policy are still suffering the ongoing effects of the trauma of those separations.⁴

This rule is similarly designed to instill fear in families that include immigrant family members. Families will understandably fear turning any immigration information over to a federal government that has targeted noncitizens who comply with federal rules and policies.⁵ The proposed rule seeks to implement the current administration’s dual goals of punishing

¹ 133 Cong. Rec. S18615 (daily ed. Dec. 21, 1987) (statement of Sen. Armstrong) available at <https://www.govinfo.gov/content/pkg/GPO-CRECB-1987-pt26/pdf/GPO-CRECB-1987-pt26-1-2.pdf>.

² Erik Gartland & Sonya Acosta, Administration Plan Targeting Immigrants Would Take Away Rental Assistance, Create New Barriers, Center on Budget and Policy Priorities (Dec. 12, 2025), <https://www.cbpp.org/sites/default/files/12-12-25hou.pdf>.

³ Irwin Redlener, Stephen Miller’s dystopian dream: Government-sanctioned child abuse, THE HILL, Mar. 03, 2026, <https://thehill.com/opinion/immigration/5763190-child-detention-abuse-immigration/>. (“Miller, the infamous architect of the 2018 family separation policy that removed some 5,500 children from their parents, was candid then about his reasoning when he said the separations would ‘the separations would “prove to be a migration deterrent.””)

⁴ Leila Rafei, ACLU, Family Separation, Two Years After Ms. L (Feb. 26, 2020) <https://www.aclu.org/news/immigrants-rights/family-separation-two-years-after-ms-l>. (“During her separation from her son, [one individual] was in such distress that part of her face would become paralyzed for days at a time. She has since been reunited with her son, but due to the trauma of separation, she won’t leave her house unaccompanied.”).

⁵ Maanvi Singh and Will Craft, As deportations ramp up, immigrants increasingly fear Ice check-ins: ‘All bets are off’, THE GUARDIAN, Apr. 6, 2025, <https://www.theguardian.com/us-news/2025/apr/06/deportations-immigrants-ice-trump>.

immigrants and slashing benefits, including permanent housing subsidies, for low-income Americans.⁶ Families, including those with U.S. citizens should not be forced to forgo their stable housing to remain with family members whose immigration status is not secure. Forcing them to do so undermines the very purpose of the statute—to provide stable housing to vulnerable Americans.

II. The Proposed Rule’s Verification Requirements Are Designed to Limit Access to Housing Assistance

The proposed rule also imposes new documentation requirements on applicants and recipients of HUD financial assistance which will limit access to housing assistance. Currently, U.S. citizen applicants for HUD funding must submit a declaration that they are U.S. citizens. 24 CFR 5.508(c). Noncitizens with qualified immigration status must submit documentation proving that they have qualified immigration status. 24 CFR 5.508(b). Under the proposed rule, all household members will have to agree to have their information verified through the Systematic Alien Verification for Entitlements, (SAVE) system and potentially to submit documentation about immigration status. 91 Fed. Reg. 8155.

The proposed rule does not cite any evidence or statistical data that this change is necessary. Indeed, the preamble to the rule “assumes that, for the purposes of the preamble discussion as well as the Regulatory Impact Analysis, there are relatively few noncitizens who falsely declare citizenship under its current rules because individuals who are not eligible citizens or noncitizens have the opportunity to elect ‘do not contend.’” 91 Fed. Reg. 8152, n. 14. Thus, not only is there no evidence in the preamble to the rule that there is any significant fraud in the program whereby non-U.S. citizens have falsely claimed citizenship to obtain housing assistance, the preamble confirms that the current system of allowing noncitizens to be excluded from the housing grant, has served its purpose of preventing fraudulent claims to citizenship.

Likewise, there is no justification to now require U.S. citizens to submit to the SAVE system or provide proof of their immigration status. In fact, the preamble estimates that 99% of U.S. citizens or nationals have already verified their immigration status. 91 Fed. Reg. 8164. The requirement to agree to have information checked through SAVE, or submit proof of U.S. citizenship may lead to low-income citizens losing their housing subsidy. The SAVE system is notoriously inaccurate and has been used to remove eligible voters, especially naturalized citizens, from voter registration rolls.⁷ Under the proposed rule, those who are not verified under SAVE would have to present further documentation of their status. According to the University of Maryland Center for Democracy and Civil Engagement, which published a study in the context of voter identification laws, “[o]ver 9% of voting-age citizens, or 21.3 million people, cannot readily access documentary proof of citizenship (DPOC), either because they do not have

⁶ Katherine Hapgood, Trump administration policy change makes deep cuts to homeless permanent housing program, POLITICO, Nov. 13, 2025, <https://www.politico.com/news/2025/11/13/trump-cuts-homeless-housing-program-00650758>.

⁷ Jen Fifield and Zach Despart, A federal tool to check voter citizenship keeps making mistakes. It led to confusion in Texas., THE TEXAS TRIBUNE, Feb. 13, 2026, <https://www.texastribune.org/2026/02/13/save-voter-citizenship-tool-mistakes-confusion/>. (“As a result, SAVE has made persistent mistakes, particularly in assessing the status of people born outside the U.S...”).

it at all or because they could not access it easily if needed.”⁸ And almost 2% of U.S. citizens have no access to proof of citizenship, with people of color being disproportionately affected by laws requiring proof of citizenship.⁹

The proposed rule will also change a requirement that exempted HUD residents over 62 years old from supplying documentary evidence of immigration status. 91 Fed. Reg. 8155. Studies have found in the context of voter registration restrictions, that over 14% of American citizens over 80 years old lack proof of U.S. citizenship.¹⁰

This administration has broken down long-standing confidentiality rules, and prioritized information sharing between agencies.¹¹ As a result, of its cruel focus on “mass deportation” this information sharing has led to noncitizens who have filed income tax returns in the past being fearful of filing taxes now.¹² As one professor noted, “It’s sending the message to undocumented immigrants and mixed-status families that being in the shadows is safer.”¹³ Under this administration, any requirement to give more information about immigration status is likely to be met with reluctance and fear.

This administration has breached established norms by arresting and detaining: noncitizens attending immigration court hearings,¹⁴ noncitizens married to U.S. citizens and eligible to apply for lawful permanent residence,¹⁵ and even U.S. citizens.¹⁶ As a result, many qualified noncitizens may be afraid of sharing their documentation with HUD for fear that doing so may lead to their information being shared with the Department of Homeland Security for potential enforcement action.

Conclusion

In closing, the National Immigration Project strongly opposes this NPRM which would force families that include noncitizens who do not qualify for HUD assistance to choose between their

⁸ Jillian Andres Rothschild, et al., University of Maryland Center for Democracy and Civil Engagement, Who Lacks ID in America Today? An Exploration of Voter ID Access, Barriers, and Knowledge, at 6 (June 2024) <https://fairelectionscenter.org/wp-content/uploads/2025/02/Voter-ID-survey-Key-Results-June-2024.pdf>.

⁹ *Id.*

¹⁰ Institute for Responsive Government, The SAVE Act: How a Proof of Citizenship Requirement Would Impact Elections (Jan. 30, 2025) <https://responsivegov.org/research/the-save-act-how-a-proof-of-citizenship-requirement-would-impact-elections/#:~:text=Married%20women%2C%20the%20elderly%2C%20young,Hispanic%20voters.>

¹¹ Executive Order, Stopping Waste, Fraud, and Abuse by Eliminating Information Silos (Mar. 20, 2025) <https://www.whitehouse.gov/presidential-actions/2025/03/stopping-waste-fraud-and-abuse-by-eliminating-information-silos/>.

¹² Miriam Jordan and Andrew Duehren, Immigrants Are Scared to File Taxes. It Could Cost the U.S. Billions, THE NEW YORK TIMES, Apr. 14, 2026, <https://www.nytimes.com/2026/04/14/us/undocumented-immigrants-ice-tax-returns-irs.html?searchResultPosition=1>.

¹³ *Id.*, quoting Louis DeSipio, a political scientist at the University of California, Irvine.

¹⁴ Laila Khan, As ICE Courthouse Arrests Continue, Few Immigration Courts Resist Pushing Cases Into Expedited Removal, American Immigration Council (Nov. 20, 2025)

¹⁵ Miriam Jordan, ICE Agents Detain Newlywed Spouse of Soldier Training to Deploy, THE NEW YORK TIMES, Apr. 5, 2026, <https://www.nytimes.com/2026/04/05/us/ice-detains-military-wife-soldier-deployment.html>.

¹⁶ Ernesto Londoño, ICE Arrest of Man in His Underwear on Frigid Day Prompts Investigation, THE NEW YORK TIMES, Apr. 13, 2026, <https://www.nytimes.com/2026/04/13/us/ice-minnesota-arrest-immigration-investigation.html?searchResultPosition=4>.

family and being housed. It is wrong for the federal government to force people to choose between these two fundamental rights.

Please do not hesitate to contact Victoria Neilson at victoria@nipnlg.org if you have any questions or need any further information. Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Victoria Neilson". The signature is fluid and cursive, with the first name "Victoria" and last name "Neilson" clearly distinguishable.

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