

# Eligibility for Housing Choice Voucher Assistance

All information is taken from HACA's Housing Choice Voucher Program Administrative Plan.

## 1. Does the makeup of the family meet the definition of family used by HACA?

To be eligible for assistance, an applicant must qualify as a family. *Family* as defined by HUD includes, but is not limited to the following, regardless actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The PHA has the discretion to determine if any other groups of persons qualify as a family.

- *Gender Identity* means actual or perceived gender characteristics.
- *Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

### HACA Policy

A family also includes two or more individuals who are related by blood, marriage (either licensed or Texas common law), consensual sexual relationship, legal adoption or other operation of law, who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family and will be living in the same dwelling unit. Notwithstanding anything to the contrary, in order to qualify as a family in the context of a head of household with minors who are not the head of household's children, either:

- (1) A court order establishing custody, or
- (2) An affidavit from the parent, which establishes custody with the head of household, is required.
- (3) If the parent or legal guardian is deceased, their whereabouts are unknown, or they are unresponsive, the head of household must provide an affidavit declaring one of the foregoing and that the child(ren) is/are residing with him/her and also provide proof of kinship care by producing documents relating to school, TANF, Medicaid or medical records.

A family does not include:

- (1) A group of unrelated non-elderly and/or disabled persons under 62 years of age living together,
- (2) A housekeeper or live-in aide, or
- (3) foster children and/or foster adults

Each family must identify the individuals to be included in the family at the time of a pplication, and must update this information if the family's composition changes.

### **Household**

*Household* is a broader term that includes additional people who, with HACA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

**2. Is the total gross household income below the income limits for the program at that time?**

HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program.

**2014 Section 8 Income Limits**

Housing Program	Maximum Household Income for each Family Size							
	1 Person Family	2 Person Family	3 Person Family	4 Person Family	5 Person Family	6 Person Family	7 Person Family	8 Person Family
Section 8 50% of Median Family Income	\$26,400	\$30,200	\$33,950	<b>\$37,700</b>	\$40,750	\$43,750	\$46,750	\$49,800

**3. Does the family meet the criteria regarding citizenship or eligible immigration status?**

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with HACA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

**Declaration [24 CFR 5.508]**

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

## **US Citizens and Nationals**

In general, citizens and nationals are required to submit only a signed declaration as verification of their status. However, HUD regulations permit HACA to request additional documentation of their status, such as a passport.

### HACA Policy

Family members who declare citizenship or national status will be required to provide additional documentation supporting the individual's declaration of citizenship and national status.

Documents accepted included original birth certificate, original baptismal certificate, original naturalization certificate, and an unexpired INS card.

## **Eligible Noncitizens**

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with HACA's efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance. Documentation reviewed and accepted will be in accordance with the Immigration and Nationality Act.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

## **Ineligible Noncitizens**

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. HACA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

## **Mixed Families**

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

## **Ineligible Families [24 CFR 5.514(d), (e), and (f)]**

HACA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by HACA that the individual or at least one family

member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to HACA in accordance with program requirements [24 CFR 5.512(a)].

#### HACA Policy

HACA will not provide assistance to a family before the verification of at least one family member as a citizen, national or eligible noncitizen is made.

When HACA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 20 calendar days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with HACA. The informal hearing with HACA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

#### **4. Has the family disclosed all Social Security numbers and signed all required consent forms?**

The applicant and all members of the applicant's household must disclose the complete and accurate Social Security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. A detailed discussion of acceptable documentation is provided in Chapter 7 of the Administrative Plan.

*Note:* These requirements do not apply to noncitizens who do not contend eligible immigration status and existing program participants as of January 31, 2010, who have previously disclosed their SSN and HUD has determined the SSN to be valid.

#### HACA Policy

If the provided documentation is not acceptable evidence of the social security number, HACA will explain to the applicant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to HACA within 90 calendar days. The explanation and request will be documented in the applicant file. If the applicant family is otherwise eligible to participate in the program, the family will maintain its position on the waiting list for this 90 calendar day period.

If all household members have not disclosed their SSN at the time a voucher becomes available, the available voucher will be offered to the next eligible applicant family on the waiting list. At the conclusion of the 90 calendar day period and if the applicant family has still not submitted acceptable evidence of the SSN, HACA will grant the family an additional 90 calendar day period to comply with the SSN disclosure and documentation requirement if the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family.

HUD requires each adult family member, and the head of household, spouse, or co-head,

regardless of age, to sign form HUD-9886, Authorization for the Release of Information / Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 of the Administrative Plan provides detailed information concerning the consent forms and verification requirements.

HACA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

## 5. Have all adult household members passed the criminal background check?

HACA is responsible for screening family behavior and suitability for tenancy. In doing so, HACA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts that would adversely affect the health, safety or welfare of other tenants.

### HACA Policy

If any household member has engaged in or attempted any of the following criminal activities regardless of the date committed the family will be denied admission:

- capital murder
- murder/manslaughter
- kidnapping
- child molestation
- rape or crimes of a sexual nature
- incest
- gross lewdness
- arson

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past **four years**, the family will be denied admission:

- (1) Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution or use of a drug or the possession of a drug with intent to manufacture, sell distribute or use the drug [24 CFR 5.100].
- (2) Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
- (3) Illegal possession/discharge/display/carrying of firearm or illegal weapon/deadly weapon.
- (4) Assault, aggravated assault, assault by threat, stalking.
- (5) Physical violence to persons or property, or criminal activity that has as one of its elements the use, attempted use or threatened use of physical force against the person or property of another.

- (6) Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
- (7) Criminal activity that may threaten the health or safety of property owners, management staff, HACA staff, persons performing contract administration functions or other responsibilities on behalf of HACA including contractors, subcontracts or agents.
- (8) Three or more arrests or convictions of alcohol-related criminal activity, including Driving under the Influence and Public Intoxication.
- (9) Burglary of a habitation.

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the **past three years**, the family will be denied admission:

1. A pattern of abuse of alcohol, including, but not limited to, public intoxication and driving while intoxicated.
2. A pattern of fraud committed against a governmental entity.
3. A pattern of theft or fraud.
4. A pattern of organized criminal activity.
5. A pattern of prostitution.
6. A pattern (for the purposes listed above) consists of three or more incidences.

If an applicant has one offense of a Class C misdemeanor within the past four years, HACA will not deny the applicant. More than one Class C misdemeanor will be considered a pattern (for the purpose of determining eligibility) and the applicant may be subject to denial based on the nature of the offenses.

In making its decision to deny assistance, HACA will consider the factors discussed in Sections 3-III.E and 3-III.F of the Administrative Plan. Upon consideration of such factors, HACA may, on a case-by-case basis, decide not to deny assistance.

Evidence of such criminal activity includes, but is not limited to, any record of convictions, arrests or evictions for suspected drug-related or violent criminal activity of household members. A conviction for such activity will be given more weight than an arrest or an eviction.

## **6. Are any adult household members on any registered sex offender list?**

HUD requires HACA to deny assistance in the following cases:

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

### HACA Policy

If any household member is currently registered as a sex offender under any State registration requirement, regardless of whether it is for lifetime or not, the family will be denied admission.

## 7. Does the family owe a debt to HACA or any other federally assisted housing program?

All applications will be screened for preliminary eligibility before they are added to the HACA voucher waiting list. If an applicant is found to be preliminarily ineligible, their application will not be added to the program's waiting list. The following criteria shall be used to determine preliminary ineligibility.

1. An applicant is deemed preliminarily ineligible and shall be rejected and not placed on the HACA HCV waiting list if the head of household owes a move-out balance or debt to HACA which is not barred by a statute of limitations. There is a four-year statute of limitation, which ends the latter of:
  - Four years from the date the debt became delinquent, or
  - Four years from the date the final payment would have been due if a repayment agreement was signed by the former tenant.
2. An applicant is deemed preliminarily ineligible and shall be rejected and not placed on the HACA HCV waiting list if currently housed in this same program and listed as the head of household or co-head of household.

## 8. Has the family been evicted from federally assisted housing within the past 5 years (from the date the family's eligibility determination is made, not the date of application)?

HUD requires HACA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD also permits public housing authorities to adopt a policy to deny admissions or terminate assistance if any member of the family has been evicted from federally assisted housing in the last five years (24 CFR 982.552 (c) (1) (ii)). HUD also permits, but does not require, HACA to admit an otherwise-eligible family if the household member has completed HACA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

### HACA Policy

For families evicted from federally-assisted housing, HACA will deny assistance if they were evicted from federally-assisted housing in the last five years.

Also, if HACA determines that any household member is currently engaged in the use of illegal drugs. If HACA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

*Currently engaged in* is defined as any use of illegal drugs during the previous six months.

If HACA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.

#### HACA Policy

In determining reasonable cause, HACA will consider all credible evidence, including but not limited to, any record of convictions, arrests or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. HACA may, at its discretion, also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member that has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

#### HACA Policy

If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, and the family will be denied admission.

HACA complies with all Fair Housing laws. Applicants have the right to request a Reasonable Accommodation. HACA will consider all Reasonable Accommodation requests under the Fair Housing Act and Section 504 of the American Disabilities Act. Information related to the Fair Housing Act, Section 504 and Requests for Reasonable Accommodation will be included in the denial letters.

If the basis for the denial relates to family violence, the applicant may qualify for an exception under the VAWA Amendments. Information related to VAWA will be included in the denial letters.