

# Rental Housing Programs

## Public housing, Section 8, rural housing, and low-income tax credit housing

LAST UPDATED: October 2005\*

### Rental housing programs provide...

- **Public housing.** Apartments owned by local public housing authorities that tenants typically rent for a maximum of 30 percent of household income. Local housing authorities administer this program under rules set out by the U.S. Department of Housing and Urban Development (HUD).
- **Project-based Section 8 housing.** Apartments owned by private landlords who receive subsidies from HUD on behalf of eligible tenants. Tenants typically pay 30 percent of their income for rent.
- **Section 8 vouchers.** Issued by public housing authorities to eligible households to rent apartments or homes from private landlords. The voucher guarantees a payment to the landlord from the local housing authority for the difference between the maximum subsidy and the tenant household's share, usually 30 percent of income. The rent for the unit may exceed the maximum subsidy. Local housing authorities administer this program under HUD rules.
- **Section 515 rural rental housing.** Apartments in rural areas served by the Rural Housing Service (RHS) under the U.S. Department of Agriculture. The apartments are owned by private landlords who receive subsidies from RHS on behalf of eligible tenants. Residents in heavily subsidized units typically pay 30 percent of household income for rent. Residents in minimally subsidized units pay rent based on the cost of operating the complex.
- **Section 514/516 farm labor housing.** Apartments built specifically for farmworkers and their families, and owned by private or public landlords who receive subsidies from the RHS on behalf of eligible tenants. Tenants pay 30 percent of household income if the units are heavily subsidized or a flat rent in nonsubsidized units.
- **Low Income Housing Tax Credit (LIHTC) housing.** Apartments owned by private landlords who receive tax benefits in return for renting some or all the units to eligible tenants. All the units have flat rents

that are regulated under the LIHTC program, which is administered by the Internal Revenue Service.

### Individuals or households qualify if...

- generally, their household income is less than 80 percent of the area's median income for families of the same size. (However, the LIHTC program has higher income limits, and the RHS Section 514/516 farm labor housing program has no income limits. For public housing, project-based Section 8 housing, and the voucher program, there are preferences for families with incomes below 30 percent of the area median income.)
- family size matches an available unit.
- they are good tenants and, for units with flat rents,
- have sufficient income to pay their portion of the rent.
- (in some cases) they meet special building requirements, such as being a senior, a person with disabilities, or a current or retired farmworker.

### Special considerations for immigrants and their families

- Receipt of housing assistance is not considered in "public charge" determinations.
- HUD-funded programs that provide emergency shelter and transitional housing (for up to two years) are available to all immigrants, regardless of status.

### HUD public housing and Section 8 programs

- At least one person in the household must be eligible, based on his or her immigration status, to reside in the housing (the eligible person may be a minor child).
- Household members ineligible for housing assistance based on their immigration status may live in an assisted unit, but the household's subsidy will be prorated, resulting in a higher rent.
- Immigration documents will be verified for current tenants and new applicants, but not for household members who do not claim eligibility based on immigration status.

*\* This chapter was revised in the following ways in January 2017: The information in the first column of the table on p. 2 was slightly revised ("Abused immigrants" and "Cuban/Haitian entrants..." were made separate items in the list under "HUD Public Housing and Section 8 Programs"), and three bulleted items were added under a new heading, "Additional materials," on p. 3.*

<b>Rental Housing Programs</b>	
<b>ELIGIBLE IMMIGRANTS</b>	<b>INELIGIBLE IMMIGRANTS</b>
<b>HUD Public Housing and Section 8 Programs</b>	<b>HUD Public Housing and Section 8 Programs</b>
<b>Lawful permanent residents (LPRs)</b> <b>Lawful temporary residents</b> under the general amnesty program created by the Immigration Reform and Control Act of 1986 <b>Refugees</b> , asylees, and persons granted withholding of deportation/removal <b>Victims of trafficking</b> <b>Parolees</b> Citizens of <b>Micronesia</b> , the <b>Marshall Islands</b> , and <b>Palau</b> <b>Abused immigrants</b> <b>Cuban/Haitian entrants</b> are arguably eligible for these programs and have been granted access to public housing in some jurisdictions	Immigrants not listed as eligible
<b>Rural Housing Programs</b>	<b>Rural Housing Programs</b>
Section 515 rural rental housing: <b>All immigrants</b> , regardless of immigration status, unless the RHS issues new regulations Section 514/516 Farm Labor Housing: <b>LPRs</b> (immigration status requirement applies only to head of household)	Section 515 rural rental housing: <b>None</b> , unless the RHS issues new regulations Section 514/516 Farm Labor Housing: Families in which the head of household <b>is neither</b> a citizen nor an LPR
<b>Tax Credit (LIHTC) Housing</b>	<b>Tax Credit (LIHTC) Housing</b>
<b>All immigrants</b> , regardless of immigration status	<b>None</b>

**NOTE:** Federal housing programs do not require reporting to the INS except in the rare circumstances outlined on page 184. Immigrants in households with eligible members need not reveal the precise immigration status that makes them ineligible—they can simply indicate that they do not claim to be eligible based on immigration status.

**IMPORTANT:** Households with ineligible family members that were receiving assistance before June 19, 1995, may continue to reside in the housing and receive subsidies without proration as long as:

- the household head or his or her spouse is eligible, and
- the ineligible members are either the children or parents of the household head or spouse, and
- any other household members (such as uncles, aunts, nieces, nephews, and cousins) are eligible, and

- the household was determined eligible for assistance without proration before November 29, 1996.

**RHS Section 514/516 farm labor housing**

- Households are eligible for RHS Section 514/516 farm labor housing as long as the tenant signing the lease is an agricultural worker and a citizen or lawful permanent resident.

**To apply, a person should...**

- for public housing and Section 8 vouchers, contact the local housing authority.
- generally, for Section 8 project-based housing, RHS rental and farm labor housing, and LIHTC housing, visit the manager’s office for each development.
- contact HUD, RHS, or a legal services office to find out where else to apply.

### The laws governing housing programs appear at:

42 U.S.C. §§ 1401, et seq., 24 C.F.R. §§ 5.500, et seq., 880.101, et seq., 960.201, et seq., 982.1, et seq. (public housing and section 8), 42 U.S.C. §§ 1471, 1484-1486, 7 C.F.R. §§ 1930.101, et seq., 1944.151, et seq. (RHS housing), 26 U.S.C. § 42, 26 C.F.R. §§ 1.42-0, et seq. (LIHTC housing); immigrant eligibility at 42 U.S.C. § 1436a, 24 C.F.R. §§ 5.500, et seq. (public housing and section 8), 42 U.S.C. §§ 1471 (section 515 rural rental housing and section 514/516 farm labor housing), 1484(f)(3) and 1486(g)(4) (section 514/516 farm labor housing), 7 C.F.R. § 1944.153 (section 514/516 farm labor housing); see also “Eligibility Restrictions on Noncitizens: Inapplicability of Welfare Reform Act Restrictions on Federal Means-Tested Public Benefits,” 65 Fed Reg. 49,994-95 (Aug. 16, 2000) (no HUD programs fall within the category of “federal means-tested public benefits”). **Important case:** *Yolano Donnelly Tenant Ass’n v. Pierce*, No. CIV S 86-0846 MLS (E.D. Cal. Sept. 18, 1986).

### Additional materials:

- HUD notice PIH 2017-02 (HA) (“Subject: Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures,” Jan. 19, 2017): <https://www.hud.gov/sites/documents/17-02PIHN.PDF>
- HUD memo (“Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980,” Dec. 14, 2016): <http://library.niwap.org/wp-content/uploads/Eligibility-of-VAWA-Self-Petitioners-2016-12-14.pdf>
- HUD, HHS, DOJ joint letter regarding immigrant access to housing and services (Aug. 5, 2016) and other resources): <http://niwaplibrary.wcl.american.edu/joint-agency-letter-shelters-transitional-housing/>