

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing and Housing

NOTICE: PIH 2001-27 (HA)

Special Attention of:

All Secretary's Representatives;

Public Housing Office Directors; Multifamily

Hub and Program Center Directors;

Community Builders; Public Housing Agencies;

Resident Management Corporations (RMCs);

Project Managers; Contract Administrators and Owners

Issued: August 3, 2001

Expires: August 31, 2002

SUBJECT: Implementation of Public Law 106-504 regarding the eligibility of the citizens of the Freely Associated States for federally assisted housing

Purpose

The purpose of this Notice is to provide implementation guidance on Public Law 106-504, enacted November 13, 2000, regarding the eligibility of the citizens of the Republic of the Marshall Islands, Republic of Palau, and the Federated States of Micronesia (collectively referred to as the "Freely Associated States" or "FAS") for federally assisted housing.

Background

Public Law 106-504

Section 3(b) of Public Law 106-504, enacted November 13, 2000, amends Section 214 (a) of the Housing and Community Development Act of 1980 (USC 1436a(a)) to provide that an alien who is a lawful resident in the United States and its territories and its 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 and Palau (collectively referred to as "the Freely Associated States"(FAS)) is eligible for financial assistance while the applicable section is in effect. For purposes of this provision, the term financial assistance means financial assistance made available pursuant to the United States Housing Act of 1937, Section 235, or 236 of the National Housing Act, the Direct Loan Program under Section 502 of the Housing Act of 1949 or Section 502(c) (5) (D), 504, 521(a)(2)(A) or 542 of such Act, Subtitle A of Title III of the Cranston-Gonzales National Affordable Housing Act or Section 101 of the Housing and Urban Development Act of 1965.

Housing programs affected by this law include: public housing and Section 8 Housing Assistance Programs, including the Housing Choice Voucher Program, the Section 8 Moderate Rehabilitation Program, the Project Based Voucher Program, the Section 235 Program, the Section 236 Program and the Rent Supplement Program. It is not applicable to programs under the Native American Housing Assistance and Self Determination Act.

March 9, 2001, Information Bulletin

On March 9, 2001, the Department distributed an information bulletin to all public housing agencies under the jurisdiction of HUD's San Francisco office which provided initial guidance on implementation of this law. This information bulletin clarified that FAS citizens whose residence in the United States is permitted under section 141 of the Compact are now eligible to receive housing assistance. The bulletin also explained that rent should not be prorated (in accordance with 24 CFR 5.520) if all members of a household are eligible for assistance. Finally, the bulletin urged PHAs to honor an affected family's request for an interim re-examination of income, so that such families would not have to continue to pay a prorated rent until their annual re-examination.

Implementation Guidance

This Notice provides some additional guidance on the implementation of the law.

- **PHAs and Owners must consider certain FAS citizens (e.g., those who reside in the U.S. and its territories pursuant to section 141 of the Compact) as eligible applicants for federal housing assistance.**

Because certain FAS citizens are now eligible for federal housing assistance, PHAs and Owners must accept a FAS citizen's application for housing (provided that the waiting list is not closed or otherwise restricted).

It is important to note that this provision applies to PHAs and Owners in Guam. Notwithstanding the provision of the law regarding preferences in Guam, if a PHA or project owner in Guam has an open waiting list, it must accept applications from eligible FAS citizens.

- **PHAs and Owners must notify all affected families of the eligibility changes made by the November 13th law.**

PHAs and Owners must notify in writing all affected families and advise that as a result of Public Law 106-504, FAS citizens whose residence in the United States is permitted under section 141 of the Compact are now eligible to receive housing assistance.

Families in occupancy affected by the eligibility change include mixed families (as defined at 24 CFR 5.504) who are receiving prorated assistance because one or more members is a FAS citizen. Such families should no longer be considered a mixed family for assistance purposes, but now must be treated as an eligible family, if the family's eligibility, pursuant to section 141 of the Compact, is verified.

Other affected families include housing choice voucher holders presently searching for a unit, families currently on the waiting list for assisted housing, families who, since November 13, 2000, were determined to be ineligible for housing assistance because of citizenship status, and families who have moved out after November 13, 2000, because of citizenship status.

Since the law was passed in November 2000 and PHAs in the jurisdiction where this change will have the greatest impact were notified (via a HUD information bulletin) in March 2001, it is important that PHAs and Owners notify families in occupancy within forty five days of the issue date of this Notice, if they have not already done so.

- **PHAs and Owners must conduct an interim re-examination of income for any family that requests a re-examination as a result of the new provisions.**

PHAs are further advised to conduct interim re-examinations and make any adjustments to rent as soon as possible, in accordance with 24 CFR 960.257 (for families in public housing), 24 CFR 982.516 (for participants in the tenant-based and project-based housing choice voucher program) and 24 CFR 882.515 (for participants in the section 8 moderate rehabilitation program). Owners are advised to conduct interim re-examinations and make any adjustments to rent as soon as possible, in accordance with 24 CFR 5.657 (for Section 8 project-based assistance programs), 24 CFR 236.760 (for the Section 236 program) or 24 CFR 200.1302 (for the Rent Supplement Program; cross-references all of part 215.55(b)).

Although Owners and PHAs outside of the jurisdiction of HUD's San Francisco Office did not receive a copy of the Information Bulletin, any adjustments to rent should be made retroactive to at least March 9, 2001, since this is the date the Department first advised most affected PHAs of the new provisions. PHAs and Owners should respond quickly to families' requests for interim re-examinations, so that affected families are not unnecessarily further burdened by proration of rent.

Rulemaking

Because Section 3(b)(3) of Public Law 106-504 includes a preference provision applicable only to Guam that raises a number of issues regarding the admission of FAS citizens to federally assisted housing within Guam, the Department plans to begin rulemaking. An interim regulation will address this outstanding issue, by clarifying the conditions on the admission of eligible FAS citizens to federally assisted housing within Guam.

Contact Person

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