

Rental Housing Programs

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

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Rental housing programs provide...

- **Public housing.** Apartments owned by local public housing authorities that tenants typically rent for a maximum of 30 percent of adjusted 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 adjusted household income for rent.
- **Section 8 vouchers.** Issued by public housing authorities to eligible households to rent apartments or houses 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 adjusted household 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 that are financed and subsidized 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 with a 1 percent mortgage.
- **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 units with limited subsidies.
- **Section 542 vouchers.** Issued to residents of Section 515 housing who face displacement from

Section 515 RHS Rental Housing developments where the owner has prepaid the RHS loan.

- **Low-Income Housing Tax Credit (LIHTC) housing.** Privately owned apartments whose owners receive tax benefits in return for renting some or all the units at more affordable rates to eligible tenants. Rents are capped at 30 to 60 percent of the area's median income. LIHTC is administered by the Internal Revenue Service and state housing finance agencies.

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. 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 immigration status, so long as these programs do not consider income in determining eligibility.

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

Rental Housing Programs	
ELIGIBLE IMMIGRANTS	INELIGIBLE IMMIGRANTS
HUD Public Housing and Section 8 Programs	HUD Public Housing and Section 8 Programs
Lawful permanent residents (LPRs) Lawful temporary residents under the general amnesty program created by the Immigration Reform and Control Act of 1986 Refugees, asylees, and persons granted withholding of deportation/removal Victims of trafficking Parolees Citizens of Micronesia, the Marshall Islands, and Palau Qualified battered immigrants Cuban/Haitian entrants are arguably eligible for these programs and have been granted access to public housing in some jurisdictions	Immigrants not listed as eligible
Rural Housing Programs	Rural Housing Programs
Section 515 rural rental housing: All immigrants, regardless of immigration status, unless the RHS issues new regulations Section 514/516 Farm Labor Housing: LPRs (immigration status requirement applies only to head of household) Section 542 voucher program LPRs	Section 515 rural rental housing: None, unless the RHS issues new regulations Section 514/516 Farm Labor Housing: Families in which the head of household is neither a citizen nor an LPR Section 542 voucher program Families in which the head of household is neither a citizen nor an LPR
Federal Tax Credit (LIHTC) Housing	Federal Tax Credit (LIHTC) Housing
All immigrants, regardless of immigration status	None

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.

NOTE: Public housing agencies are not required to report to the U.S. Department of Homeland Security except in extremely rare circumstances, outlined at 65 Fed. Reg. 58301 (Sep. 28, 2000). 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. You can find your local housing authority at:
https://www.hud.gov/program_offices/public_indian_housing/pha/contacts
- generally, for Section 8 project-based housing, RHS rental and farm labor housing, and LIHTC housing, visit the manager's office for each development. You can search for HUD Multifamily housing at:
<https://apps.hud.gov/apps/section8/index.cfm>
- contact HUD, RHS, or a legal services office to find out where else to apply

The laws governing housing programs appear at:

Public housing and Section 8 – 42 U.S.C. §§ 1437, *et seq.*, 13661-13664; 24 C.F.R. §§ 5.500, *et seq.*, 880.101, *et seq.*, 960.201, *et seq.*, 982.1, *et seq.*; RHS Housing programs – 42 U.S.C. §§ 1471, 1484, 1485, 1486, 1490a, 1490r, 7 C.F.R Part 3560, 82 Fed. Reg. 21972 (May 11, 2017). LIHTC housing – 26 U.S.C. § 42, 26 C.F.R. §§ 1.42-0, *et seq.* Immigrant eligibility – 42 U.S.C. § 1436a, 24 C.F.R. §§ 5.500, *et seq.* (public housing and Section 8), 42 U.S.C. §§ 1484(f)(3) and 1486(g)(4) (Section 514/516

farm labor housing), 7 C.F.R. § 3560.152 (Section 515 housing, *but see* footnote “Effective Date” at end of Section 3560.152 (delaying indefinitely implementation of citizenship and LPR requirement for Section 515 housing only)), 3560.11 (definition of farm laborer applies to Section 514/516 farm labor housing), 82 Fed. Reg. 21972 (May 11, 2017) (RHS Voucher program). *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 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/>