
CHAPTER 3. ELIGIBILITY FOR ASSISTANCE AND OCCUPANCY

3-1 Introduction

- A. This chapter discusses the requirements and procedures for determining whether applicant families may participate in HUD-subsidized multifamily housing programs. Described in this chapter are steps an owner must follow to determine whether a family is eligible to receive assistance in a HUD-subsidized multifamily property and eligible to live in a specific property and unit. These activities are described in a sequential order; however, owners may deviate from this sequence based on project circumstances as long as they determine an applicant's eligibility before admitting the family to the property.
1. While this chapter provides the rules for eligibility, the processes for developing and maintaining a waiting list and correctly selecting an applicant for the next available unit are addressed in Chapter 4, Sections 3 and 4. Determining and verifying annual income, which is an eligibility requirement, is addressed in Chapter 5.
 2. Subsequent chapters in the handbook address activities that occur once an owner determines that a family is eligible for tenancy, such as leasing, recertification, terminations, billing, and reporting.
- B. This chapter is divided into three sections, each of which identifies the variations in eligibility requirements based upon type of subsidy. The three sections are as follows:
- **Section 1: Program Eligibility**, which describes the criteria by which the owner must determine whether a family is eligible to receive assistance;
 - **Section 2: Project Eligibility**, which describes the criteria by which the owner must determine whether a family is eligible to reside in a specific property (e.g., project eligibility limited to a specific population, unit size, and occupancy standards); and
 - **Section 3: Verification of Eligibility Factors**, which describes how the owner should collect information to document family composition, disability status, social security numbers (SSNs), and other factors affecting eligibility for assistance.

3-2 Key Terms

- A. There are a number of technical terms used in this chapter that have very specific definitions established by federal statute or regulations or by HUD. These terms are listed in Figure 3-1 and their definitions can be found in the Glossary to this handbook. It is important to be familiar with these definitions when reading this chapter.
- B. The terms **disability** and **persons with disabilities** are used in two contexts for civil rights protections, and for program eligibility purposes. Each use has specific definitions.
1. When used in context of protection from discrimination or improving the accessibility of housing, the civil rights-related definitions apply.
 2. When used in the context of eligibility under multifamily subsidized housing programs, the program eligibility definitions apply.

NOTE: See the Glossary for specific definitions and paragraph 2-23 for an explanation of this difference.

Figure 3-1: Key Terms

<ul style="list-style-type: none"> • Applicant • Assistance animals • Chronically mentally ill • Citizen • Developmentally disabled • Disabled family • Disabled household • Displaced family • Elderly family • Elderly person • Eligible noncitizen • *Enterprise Income Verification (EIV)* • Evidence of citizenship or eligible status • Family • Income limit • Independent student 	<ul style="list-style-type: none"> • Live-in aide • Mixed family • National • Near-elderly family • Noncitizen • Nonelderly disabled family • PAC (Project Assistance Contract) • Person with disabilities • Physical disability • PRAC (Project Rental Assistance Contract) • Prorated assistance • RAP (Rental Assistance Payment) • Remaining member of a tenant family • Rent Supplement • Section 8
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Section 1: Program Eligibility

3-3 Key Regulations

This paragraph identifies key regulatory citations pertaining to Section 1: Program Eligibility. The citations and their titles (or topics) are listed below.

A. Income Limits

- 24 CFR 5.609, and 5.653 (Annual income and income eligibility)

B. Disclosure of Social Security Numbers

- 24 CFR 5.216 Disclosure and Verification of Social Security and Employer Identification Numbers

C. Consent Forms

- 24 CFR 5.230, 5.232 (Consent by applicants and assisted participants and penalties for failing to sign consent forms)

D. Restrictions on Assistance to Noncitizens

- 24 CFR part 5, subpart E Restrictions on Assistance to Noncitizens

E. Restrictions on Eligibility of Students for Section 8 Assistance

- 24 CFR 5.612 Restrictions on assistance to students enrolled at an institution of higher education.

F. *Mandatory Use of Enterprise Income Verification System

- 24 CFR 5.233 Mandated Use of HUD's Enterprise Income Verification (EIV) System *

3-4 Eligibility Determinations – General

Owners are required to determine whether applicants are eligible to occupy the subsidized property and receive housing assistance. Eligibility is determined by federal statute and HUD regulation. For HUD programs, eligibility is only determined at move-in or at initial certification, *(e.g. when a Section 236 tenant starts receiving Section 8 assistance)* except as discussed in paragraphs 3-13, Determining Eligibility of Students for Assistance and 3-16, Determining the Eligibility of a Remaining Member of a Tenant Family. HUD's general eligibility requirements are found in HUD's regulations at 24 CFR, part 5.

3-5 Key Program Eligibility Requirements

Applicants and tenants must meet the following requirements to be eligible for occupancy and housing assistance. Subsequent paragraphs provide more detailed information about income limits, SSNs, and consent forms.

- A. The family's annual income must not exceed program income limits.
- B. *Applicants and tenants must disclose SSNs for all household members, except those who do not contend eligible immigration status, and tenants age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010, and provide verification of the complete and accurate SSN assigned to them.*
- C. All adults in each applicant family must sign a *Consent for the* Release of Information prior to receiving assistance and annually thereafter.
- D. The unit for which the family is applying must be the family's only residence.
- E. An applicant must agree to pay the rent required by the program under which the applicant will receive assistance.
- F. Only U.S. citizens or eligible noncitizens may receive assistance under Section 8, Section 236, Rent Supplement, Rental Assistance Payment (RAP), and Section 202/8 programs.
- G. All information reported by the family is subject to verification.
- H. Various subsidy or insurance programs may impose additional occupancy restrictions.

3-6 Income Limits

HUD establishes income limits and revises them annually to ensure that federal rental assistance is provided only to low-income families. This paragraph defines income limits and describes how the owner must use them to determine applicant eligibility for HUD-subsidized multifamily properties. The following paragraphs describe which schedules apply to each type of subsidy.

A. Income Eligibility

Except under limited circumstances, in order for an applicant to be eligible for occupancy, the applicant family's annual income must not exceed the applicable income limit (see paragraph 5-4 for the definition of annual income). This limit depends upon the type of subsidy and family size.

B. Establishing Income Limits

1. HUD establishes and publishes income limits for each county or Metropolitan Statistical Area (MSA) in the country. The income limits are based on the median income of the geographic area for which the limit is established. Therefore, the income limit for one city or county is likely to be very different from the income limit for another city or county.
2. Income limits are published annually and are available from the local HUD office or on-line at [*http://www.huduser.org/portal/index.html*](http://www.huduser.org/portal/index.html) .
3. Income limits are based on family size and the annual income the family receives. (Chapter 5, Exhibit 5-1 describes what is included in annual income.)

NOTE: In the case of a property with multiple buildings that are subject to different income limits, the owner may use the higher income limit for the entire property.

C. Timing of Income Eligibility Determinations

1. Owners determine income eligibility prior to approving applicants for tenancy. Owners compare the family's annual income to the appropriate income limit prior to placing an applicant on the waiting list. However, owners may wait until a unit is available to verify the applicant's income eligibility.
2. Owners are required to report the income status of each assisted tenant to HUD at least annually. Tenants whose incomes increase above the income limit continue to receive assistance so long as they qualify for assistance in paying rent under the applicable program rules. (See Chapter 5, Section 4, and Chapter 7, Section 1, for more information)

D. Program Income Limits

The income limits used to determine eligibility vary by program and are as follows: the Below Market Interest Rate (BMIR) income limit, the low-income limit, and the very low-income limit. A family's eligibility for assistance is based on the income limit applicable to the type of housing assistance the family is to receive. A family may be income-eligible for one program but have too high an income for another program.

In addition to the three income limits used to determine eligibility, there is a fourth the extremely low-income limit used for income-targeting in Section 8 projects but not for eligibility (see paragraphs 4-5, 4-15, and 4-25). These four income limits are presented in Figure 3-2.

Figure 3-2: Income Limits

All of these income limits are based on the median income for a metropolitan statistical area (MSA). This table shows the four income limits as a percentage of median income in an MSA.	
Income Limit	Median Income for the Area
BMIR income limit	95% of median income
Low-income limit	80% of median income
Very low-income limit	50% of median income
Extremely low-income limit	30% of median income

1. Section 8 Income Eligibility. Section 8 properties, depending upon the effective date of the initial Housing Assistance Payments (HAP) contract for the property, use either the low or very low-income limit.
 - a. Section 8 property owners must use the extremely low-income limit when selecting applicants to fulfill the income-targeting. (See paragraphs 4-5, 4-15, and 4-25.)
 - b. Projects with HAP contracts initially effective on or after October 1, 1981, must admit only very low-income families unless HUD has approved an exception to admit families whose incomes are above the very low-income limit.
 - c. Projects with HAP contracts initially effective prior to October 1, 1981, may admit families up to the low-income limit.

NOTE: Exceptions to income limits may be applicable under limited circumstances. See paragraph 3-7.
2. Section 236, Rent Supplement, and Rental Assistance Payment (RAP). These programs use the low-income limit to establish program eligibility.
3. Section 202 without assistance. Use the Section 236 low-income limit from the table of Income Limits for Section 221(d)(3) BMIR, Section 235 and Section 236 programs to establish program eligibility, with the following two exceptions:
 - a. Section 202 projects for which the application was filed prior to December 15, 1962 are not subject to income limits

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- b. For Section 202 projects where income limits above the low-income limit were approved by HUD prior to July 21, 1972, the approved higher income limits remain in effect for these projects.
 4. Section 202/162 with Project Assistance Contracts (Section 202 PACs). These contracts use the low-income limit.
 5. Section 202/811 with Project Rental Assistance Contracts (Section 202/811 PRACs). These assistance contracts use the very low-income limit (except properties funded in FY 1995, which use the low-income limit). Owners must receive approval from HUD Headquarters to admit families whose incomes are above the very low-income limit. (See paragraph 3-8.A.3 and 3-20.G.)
 6. Section 221(d)(3) BMIR. This program uses the BMIR income limit, which is set at 95% of the area median income.
 7. Summary. Refer to Figure 3-3 for a summary of the income limits used to determine eligibility for each program.
 8. Projects with more than one type of subsidy. In projects with a combination of subsidy types, such as Section 221(d)(3) BMIR and Section 236 projects that also have Section 8 in a portion of the property, owners must use the eligibility income limit based on the type of assistance provided to the family. For example, applicants for a Section 236 project that receive Section 8 must qualify using the applicable Section 8 income limit.

Figure 3-3: Income Limits by Program

Subsidy	Type of Income Limit
Section 8 (pre-1981)	Low, very low, and extremely low-income limit
Section 8 (post-1981)	Very low and extremely low-income limit
Section 236	Low-income limit
Rent Supplement	Low-income limit
Rental Assistance Payment (RAP)	Low-income limit
Section 202 without assistance	Low-income limit See paragraph 3-6.D.3 for exceptions
Section 202 with Section 8 Assistance	Pre-1981 Low, very low, and extremely low-income limit Post-1981 Very low and extremely low-income limit
Section 202 with Rent Supplement	Low-income limit
Section 202 PACs	Low-income limit
Section 202/811 PRACs, <u>except</u> those funded in FY1995	Very low-income limit
Section 202/811 PRACs funded in FY 1995	Low-income limit
Section 221(d)(3) BMIR	BMIR income limit

E. Income Limits and Family Size

1. Income limits vary by family size. Income limits are published based on the number of persons in the household (for example, 1 person, 2 persons, 3 persons) with increasingly higher income limits for families with more members.
2. Once the owner determines the applicable income limits based on the type of subsidy in the property, the owner must determine the appropriate limits to apply to a family based on family size. In determining the appropriate income limits, the owner must include some individuals as part of the family but exclude others.
3. When determining family size for establishing income eligibility, the owner must include all persons living in the unit except the following:

- a. Live-in aide.
- (1) A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who:
 - (a) Is determined to be essential to the care and well-being of the person(s);
 - (b) Is not obligated for the support of the person(s); and
 - (c) Would not be living in the unit except to provide the necessary supportive services.
 - (2) To qualify as a live-in aide:
 - (a) The owner must verify the need for the live-in aide. Verification that the live-in aide is needed to provide the necessary supportive services essential to the care and well-being of the person must be obtained from the person's physician, psychiatrist or other medical practitioner or health care provider. The owner must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR Part 8 to make the program accessible to and usable by the family member with a disability. The owner may verify whether the live-in aide is necessary only to the extent necessary to document that applicants or tenants who have requested a live-in aide have a disability-related need for the requested accommodation. This may include verification from the person's physician, psychiatrist or other medical practitioner or health care provider. The owner may not require applicants or tenants to provide access to confidential medical records or to submit to a physical examination. (See discussion in Chapter 2.)
 - (b) Expenses for services provided by the live-in aide, such as nursing services (dispensing of medications or providing other medical needs) and personal care (such as bathing or dressing), that are out-of-pocket expenses for the tenant and where the tenant is not reimbursed for the expenses from other sources, are considered as eligible medical expenses. Homemaker services such as housekeeping and meal preparation are not eligible medical expenses. (See Chapter 5 and Exhibit 5-3 for more information on medical expenses.)

- (c) Qualifies for occupancy only as long as the individual needing supportive services requires the aide's services and remains a tenant. The live-in aide may not qualify for continued occupancy as a remaining family member. Owners are encouraged to use a HUD-approved lease addendum that denies occupancy of the unit to a live-in aide after the tenant, for whatever reason, is no longer living in the unit. (See paragraph 6-5.A.4.g for more information.) The lease addendum should also give the owner the right to evict a live-in aide who violates any of the house rules.
 - (d) Income of a live-in aide is excluded from annual income. (See Exhibit 5-1.)
 - (e) *Must disclose and provide verification of their SSN.*
 - (f) Must meet the screening criteria discussed in Paragraph 4-7 B.5.
- (3) A relative may be considered to be a live-in aide if they meet the requirements in 1, above, especially 1(c).
- (4) An adult child is eligible to move into a Section 202/8 project after initial occupancy only if they are essential to the care or well-being of the elderly parent(s). The adult child may be considered a live-in aide if all of the requirements in 1, above, apply and there is a verified need for a live-in aide in accordance with 2(a), above. (See Paragraph 7-4.D for more discussion on adult children moving in after initial occupancy.)
- (5) An adult child is not eligible to move into a Section 202 PRAC or Section 811 PRAC after initial occupancy unless they are performing the functions of a live-in aide and are eligible to be classified as a live-in aide for eligibility purposes. (See Paragraph 7-4.E.)
- b. Guests. (See the Glossary for the definition.)
4. When determining family size for income limits, the owner must include the following individuals who are not living in the unit:
- a. Children temporarily absent due to placement in a foster home;
 - b. Children in joint custody arrangements who are present in the household 50% or more of the time;

- c. Children who are away at school but who live with the family during school recesses;
 - d. Unborn children of pregnant women.
 - e. Children who are in the process of being adopted.
 - f. Temporarily absent family members who are still considered family members. For example, the owner may consider a family member who is working in another state on assignment to be temporarily absent;
 - g. Family members in the hospital or rehabilitation facility for periods of limited or fixed duration. These persons are temporarily absent as defined in subparagraph f above; and
 - h. Persons permanently confined to a hospital or nursing home. The family decides if such persons are included when determining family size for income limits. If such persons are included, they must not be listed as the head, co-head, or spouse on the lease or in the data submitted to TRACS but may be listed as other adult family member. This is true even when the confined person is the spouse of the person who is or will become the head. If the family chooses to include the permanently confined person as a member of the household, the owner must include income received by these persons in calculating family income. See paragraph 5-6.D.
5. When determining income eligibility, the owner must count the income of family members only.

F. Determining the Applicable Income Limit and Eligibility for Assistance

1. After determining family size, the owner must calculate the family's annual income as described in Chapter 5, Section 1.
2. After determining family income, the owner must compare the family's annual income to the appropriate income limit for the program and family size.
3. Income-eligible families must have annual income that is less than or equal to the income limit for the family size.
4. Income-eligible families must also need the assistance. The amount the family would be required to pay using the applicable HUD rent formula must be less than the gross rent for the unit or market rent for Section 236 projects.

NOTE: This requirement does not apply to Section 202 PRACs or Section 811 PRACs.

5. **IMPORTANT:** A household does not need to have income to be eligible for assisted housing programs that provide rental assistance through an assistance contract (i.e., Section 8, Rent Supplement, RAP, Section 202 PAC, Section 202 PRAC or Section 811 PRAC).

3-7 Exceptions to the Income Limits in Section 8 Projects

A. Post-1981 Universe

On October 1, 1981, a law became effective limiting income eligibility for Section 8 assistance. At properties with Section 8 contracts effective on or after that date, only families at or below the very low-income limit are eligible for assistance. Under certain circumstances, the owner may request an exception to the very low-income limits. For this universe of properties, HUD has 15% exception authority, which it allocates on a nationwide basis. Exceptions are described in subparagraph D below.

B. Pre-1981 Universe

In this universe of properties, the law restricts occupancy by families that are other than very low-income to 25% of overall occupancy. Properties with Section 8 contracts effective prior to October 1, 1981, may admit applicants with incomes up to the low-income limit. HUD Headquarters is tracking the 25% restriction on a nationwide basis. The owner does not need to request an exception to admit low-income families to these properties.

C. Eligible In-Place Tenants (Exceptions to the income limits that do not require HUD approval)

In Section 8 properties where fewer than 100% of the units have Section 8 subsidy, some in-place, low-income tenants not receiving Section 8 may be eligible for assistance without HUD approval for an exception to the very low-income limit. This policy is permitted so that families will not be displaced when the circumstances are not the fault of the tenant. Owners may allocate Section 8 assistance to in-place, low-income families only under any of these conditions:

1. The tenant is being converted from RAP or Rent Supplement to Section 8.
2. The tenant is eligible to receive Section 8 in conjunction with the sale of a HUD-owned project,
3. The tenant is paying more than 30% of income toward rent, and is at or below the low-income limit (80% of median income).

D. Exceptions to the Income Limits for Post-1981 Properties Requiring HUD Approval

1. Conditions for exceptions. HUD will consider exceptions to the very low-income limit in a post-1981 property only under certain conditions.

- a. If very low-income applicants on the waiting list are substantially fewer than the number of units in the project, the owner must market the units to attract very low-income families.
 - b. Requests for exceptions may fall into two categories: *individual tenant* exceptions for an individual family and *project or unit* exceptions for a specific number of units or for an entire property.
2. Individual tenant exceptions. HUD will consider approving owner requests for individual tenant exceptions under the following circumstances:
- a. An in-place tenant would be displaced as a result of substantial rehabilitation under the Section 8 program; or
 - b. A family is displaced by a Rental Rehabilitation Demonstration project or by rehabilitation or development assisted under Section 17 of the Housing Act of 1937.
3. Project or unit exceptions. HUD will consider approving owner requests under the following circumstances:
- a. A project is financed by a State housing finance agency (HFA). The HFA published a policy before October 1, 1981, requiring some of the Section 8 units to be leased to families whose incomes exceed the very low-income limit; the HFA has enforced, and will continue to enforce, that policy.
 - b. The project is financed under Section 11(b) of the Housing Act of 1937 or under Section 103 of the Internal Revenue Code, and the very low-income limit would make it impossible for the owner to comply with financing documents. The bondholders or mortgage must have been enforcing, and must intend to continue enforcing, the income mix requirements of those documents.
 - c. During development processing, a local government approved a project on the condition that some of the Section 8 units be leased to low-income families with incomes above the very low-income limit. The local government must have submitted this requirement in writing to HUD, and the owner must have been enforcing it since the date of initial occupancy.
 - d. All or some of the units in the project were intended for a particular occupant group (e.g., persons with disabilities or elderly persons), and there are not enough very low-income applicants in that group.
 - e. A project's current waiting list and the owner's marketing efforts will not provide enough very low-income applicants to fill current or imminent vacancies, and at least one of the following conditions exists:

- (1) A mortgage default is likely if HUD does not grant an exception because rental income and any Section 8 vacancy payments do not cover the project's essential operating costs and mortgage payments.
 - (2) Market studies and rental history show that the very low-income population is too small to provide enough applicants to sustain project occupancy.
4. The existence of one of these situations does not entitle an owner to an exception. HUD has no obligation to grant any exceptions.
5. HUD will review exceptions granted to owners at regular intervals. HUD may withdraw permission to exercise those exceptions for program applicants any time that exceptions are not being used or after a periodic review, based on the findings of the review.

E. Procedures for Requesting and Using Exceptions to the Very Low-Income Limit in Post-1981 Section 8 Properties

1. Owners of post-1981 properties must submit a written request for an exception to the very low-income limit, with certification and documentation as specified in Exhibit 3-1, to the HUD Field Office.
 - a. The HUD Field Office makes the final decision on requests for exceptions.
 - b. In cases where HUD is not the Contract Administrator, the Contract Administrator must gather and submit all documentation with its recommendation to the HUD Field Office. The HUD Field Office makes the final decision on requests for exceptions.
 - c. If HUD determines that the criterion for any permitted exception has not been met, its letter to the owner will specify the reasons for its decision and advise the owner that an appeal may be considered if additional documentation is submitted to the HUD Multifamily HUB Director within 30 days. If the request is denied after submission of additional information, there are no further avenues of appeal.
2. When using exceptions, owners must adhere to the following:
 - a. Owners may not reuse individual tenant exceptions if the tenant for whom the exception was granted moves out or stops receiving Section 8 assistance.
 - b. Owners may reuse project or unit exceptions, however, until the HUD Field Office recalls them, or the timeframe permitting exceptions expires.

F. **Exceptions to Section 8 Income Targeting Requirements**

1. As discussed in paragraph 4-5, owners with Section 8 units are required to ensure that during a fiscal year at least 40% of the units that become available, together with initial certifications of in-place tenants, serve extremely low-income families. If an owner has actively marketed available units to extremely low-income families and has been unable to achieve the 40% target for admissions and initial certifications, the owner is permitted to rent to other eligible families after a reasonable marketing period has expired.
2. The owner must maintain complete records of the marketing efforts targeted to extremely low-income families, and must demonstrate that reasonable efforts were made to fill available units with extremely low-income families. The owner must also demonstrate that an ongoing effort to meet the 40% requirement is being made.
3. HUD and/or the Contract Administrator will monitor compliance with this requirement.

3-8 **Admitting Over-Income Applicants**

This paragraph describes the circumstances under which a property owner may admit families that do not meet income limits. The exceptions are listed by program.

A. **Section 8, Section 202/8, Section 202 PAC, Section 202 PRAC and Section 811 PRAC Units**

If the owner is temporarily unable to lease all units to income eligible families, he may admit applicants with incomes that exceed the applicable program income limits with prior written HUD approval. The owner must request HUD approval as follows:

1. For units with Section 8 assistance, the request must be submitted to the Field Office in accordance with the procedures above in paragraph 3-7.
2. For units with Section 202/8 or Section 202 PAC assistance, the owner must submit the information specified in Situation #6 of Exhibit 3-1 to the Field Office. (See paragraph 3-20.G.)
3. For Section 202 or Section 811 PRAC units, the owner must submit the information specified in Situation #6 of Exhibit 3-1 to the Field Office. The Field Office will forward the waiver request with a recommendation to HUD Headquarters for the final decision on the approval. (See paragraph 3-20.G)
4. For Section 202/8, Section 202 PAC, Section 202 PRAC and Section 811 PRAC, also see paragraph 3-20.G for a discussion of waiver requests for approval to rent to families that are not elderly or disabled.

B. BMIR Units

The owner must not admit income-ineligible applicants without prior written HUD approval. Any ineligible families that are admitted must pay market rent.

C. Section 236, Rent Supplement, and RAP Units

1. In some situations, owners may admit families with incomes that exceed the applicable program income limits to Section 236, Rent Supplement, or RAP units without HUD approval if there are no income-eligible applicants available and fewer than 10% of the units are already occupied by tenants paying market rent.
2. Any ineligible families that are admitted must pay market rent.

Example – Admission of Market Rent Applicants

- Brookside Gardens is a 100-unit Section 236 project. Currently 92 tenants pay basic rent, 5 tenants pay market rent, and 3 units are vacant. The owner may fill the 3 vacant units with tenants paying market rent if there are no income-eligible applicants available and the owner has taken all reasonable steps to attract eligible families.
- Shady Grove is a 100-unit Section 236 project where 88 current tenants pay basic rent and 10 tenants pay market rent. The owner must fill the 2 current vacancies with income-eligible tenants.

3. The owner must obtain HUD's approval to admit over-income applicants who pay market rent if at least 10% of the units authorized under the interest reduction subsidy are already occupied by tenants paying market rent.
4. For determining the 10% of units described in subparagraphs 2 and 3 above, a unit is defined as follows:
 - a. For properties with Rent Supplement or RAP, units include only those units covered by the RAP or Rent Supplement contract.
 - b. For Section 236 properties, units include all units in the project.
5. Before admitting any ineligible applicants, the owner must take the following steps:
 - a. Admit all available eligible applicants, unless there is good cause for denying assistance.

- b. Take all reasonable steps to attract eligible families, including using marketing activities most likely to attract eligible applicants and marketing outside the community or immediate area.
- c. Place in the file of any ineligible tenant who is admitted, a written certification indicating that the requirements in subparagraphs a and b above have been completed.

D. Admission of Police Officers or Security Personnel in Section 8 Properties

- 1. For the purpose of deterring crime in and around the property, owners may lease a Section 8 unit to a police officer or security personnel who is over the income limits. Security personnel is defined as a qualified security professional with adequate training and experience to provide security services for project residents.
- 2. To be eligible, the police officer or security personnel must be employed full-time (at least 35 hours per week) by a governmental unit or private employer and be compensated by their employer for providing policing or security services.
- 3. Owners must submit a written plan to their HUD Field Office or Contract Administrator for authorization to lease to over-income police or security personnel. The plan must include:
 - a. A description of the existing social and physical conditions of the property and its surrounding area, and the benefits police or security would bring to the community and property;
 - b. The number of units in the property;
 - c. A detailed assessment of the criminal activities and how the safety of the tenants and security of the project is affected;
 - d. The qualifications of the police or security personnel and length of residency;
 - e. A description of how the owner proposes to check the background and qualifications of any security personnel who will reside in the project;
 - f. Disclosure of any family relationship between the police officer or security personnel and the owner. The owner includes all principals or other interested parties;
 - g. A description of the proposed rent, the current contract rent to the unit, the owner's annual maintenance cost for the unit and the amount of any other compensation by the owner to the resident

police or security personnel. See paragraph 5-27 for guidance on establishing rent; and

- h. Owner or authorized agent signature.
- 4. Police officers and other security personnel that reside in subsidized units are subject to the same screening criteria as other applicants.
- 5. The owner may use the applicable model lease with an added provision that states that the right of occupancy is dependent on continued employment as a police officer or security personnel. (See paragraph 6-12 C for more information)
- 6. HUD or the Contract Administrator should notify the owners of approval or rejection within 30 days of submission. Unless there are extenuating circumstances, the local HUD Office should approve no more than 1% (or one unit if the property is less than 100 units) of the assisted units on the property for leasing to police or security personnel.

3-9 Disclosure of Social Security Numbers

All applicant and tenant household members must disclose and provide verification of the complete and accurate SSN assigned to them except for those individuals who do not contend eligible immigration status or tenants who were age 62 or older as of January 31, 2010, and whose initial determination of eligibility was begun before January 31, 2010. This paragraph explains the requirements and responsibilities of applicants or tenants to supply owners with this information, the responsibility of owners to obtain this information, and the consequences for failure to provide the information.

A. Key Requirements

- 1. *Applicants and tenants must disclose and provide verification of the complete and accurate SSN assigned to each household member. Failure to disclose and provide documentation and verification of SSNs will result in an applicant not being admitted or a tenant household's tenancy being terminated.
- 2. Exceptions to disclosure of SSN:
 - a. Individuals who do not contend eligible immigration status.
 - (1) **Mixed Families:** For projects where the restriction on assistance to noncitizens applies and where individuals are required to declare their citizenship status, proration of assistance or screening for mixed families must continue to be followed. In these instances, the owner will have the tenant's Citizenship Declaration on file whereby the individual did not contend eligible immigration status to support the individual not being subject to the requirements to disclose and provide verification of a SSN.

- (2) For Section 221(d)(3) BMIR, Section 202 PAC, Section 202 PRAC and Section 811 PRAC properties, the restriction on providing assistance to noncitizens does not apply. At these properties, individuals who do not contend eligible immigration status must sign a certification, containing the penalty of perjury clause, certifying to that effect. The certification will support the individual not being subject to the requirements to disclose or provide verification of a SSN. The certification must be retained in the tenant file.

(See Paragraphs 3-12.N, O and P for more information on mixed families and proration of assistance)

- b. Individuals age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010.
 - (1) The exception status for these individuals is retained even if there is a break in his or her participation in a HUD assisted program.
 - (2) When determining the eligibility of an individual who meets the exception requirements for SSN disclosure and verification, documentation must be obtained that verifies the applicant's exemption status. A certification from the tenant is not acceptable verification of the exemption status. This documentation must be retained in the tenant file.*

***Example:**

- Mary Smith does not have a SSN. Mary does not have to disclose or provide verification of a SSN because she was 73 years old as of January 31, 2010, and her initial eligibility for HUD's rental assistance program was determined when she moved into Hillside Apartments on February 1, 2009 (initial eligibility was determined prior to January 31, 2010).
- Mary moved out of Hillside Apartments on April 10, 2010 and moved in with her daughter who was not receiving HUD's rental assistance.
- Mary then applied at Jones Village, another HUD subsidized apartment complex, on November 5, 2010. Because Mary's initial eligibility to receive HUD's rental assistance was begun prior to January 31, 2010 (February 1, 2009), Mary is not required to meet the SSN disclosure and verification requirements as long as the owner can verify Mary's initial eligibility date at Hillside Apartments was begun prior to January 31, 2010.*

B. Required Documentation

*Applicants and tenants must provide adequate documentation to verify the complete and accurate SSNs assigned to all household members. Adequate documentation means a social security card issued by the Social Security Administration (SSA), an original document issued by a federal or state government agency, which contains the name and SSN of the individual along with identifying information of the individual, or other acceptable evidence of the SSN listed in Appendix 3. *

C. Provisions for *Applicants Disclosure and/or* Documentation of Social Security Numbers

*An applicant may not be admitted until SSNs for all household members have been disclosed and verification provided.

1. If all household members have not disclosed and/or provided verification of their SSNs at the time a unit becomes available, the next eligible applicant must be offered the available unit.

2. The applicant who has not disclosed and provided verification of SSNs for all household members must disclose and provide verification of SSNs for all household members to the owner within 90 days from the date they are first offered an available unit.*
3. If the owner has determined that the applicant is otherwise eligible for admission into the property, and the only outstanding verification is that of *disclosing and providing verification of* the SSN, the applicant may retain his or her place on the waiting list for the *90*-day period during which the applicant is trying to obtain documentation.
4. After *90* days, if the applicant has been unable to supply the required SSN *and verification* documentation, the applicant should be determined ineligible and removed from the waiting list (see paragraph 4-20 A).

D. *Circumstances When Tenants Must Provide SSNs

1. SSNs Not Previously Disclosed and/or Verified. SSNs must be disclosed and verification provided for any household member(s) who have not previously disclosed a SSN as of January 31, 2010, at the time of the next interim or annual recertification except for those individuals who do not contend eligible immigration status or tenants who are age 62 or older as of January 31, 2010, and whose initial determination of eligibility was begun before January 31, 2010.
2. Invalid SSN Disclosed. The head of household must be notified when the EIV Pre-screening Report or the Failed Verification Report (Failed the SSA Identity Test) in EIV identifies that a household member has provided an invalid SSN. Discrepancies identified in the SSN disclosed must be resolved and the correct SSN disclosed, verified and transmitted to TRACS. See Chapter 9, Enterprise Income Verification (EIV).
3. Assignment of a New SSN. If a tenant or any member of a tenant's household is or has been assigned a new SSN, the SSN must be disclosed and verification provided to the owner at:
 - a. The time of receipt of the new SSN; or
 - b. The next interim or regularly scheduled recertification; or
 - c. Such earlier time as specified by the owner.
4. Adding a New Household Member:
 - a. Age Six or Older or Under the Age of Six With an Assigned SSN.

When adding a new household member who is age six or older, or is under the age of six and has a SSN, the tenant must disclose and provide verification of the SSN of the individual to be added to the household. This SSN must be provided to the owner at:

- (1) The time of the request, or
- (2) At the time the recertification that includes the new household member is processed.

b. Under the Age of Six Without an Assigned SSN.

- (1) The tenant must disclose and provide verification of the new household member's SSN within 90 calendar days of the child being added to the household.
- (2) The owner must grant an extension of one additional 90-day period, if the owner, in its discretion, determines that the tenant's failure to comply is due to circumstances that could not have been foreseen and were outside the control of the tenant, e.g., delay in processing by SSA, natural disaster, fire, death in family, etc)
- (3) During the period that the owner is awaiting disclosure and verification of the SSN, the child is included as part of the household and shall be entitled to all of the benefits of being a household member, including the dependent deduction.
- (4) A TRACS ID will be assigned to the child until the time the SSN is provided. At the time of the disclosure of the SSN, an interim recertification must be processed changing the child's TRACS ID to the child's verified SSN.
- (5) If, upon expiration of the provided time period, the tenant fails to disclose and provide verification of the SSN, the tenant and the tenant's household are subject to termination of tenancy. The owner shall follow the guidance in Paragraph 8-13.A.6 to terminate the household's tenancy.*

3-10 Residence Criteria

A. Key Requirement

Assisted tenants must have only one residence and receive assistance only in that unit. This rule is meant to ensure that the government pays assistance on only one unit for a family and provides assistance to as many eligible families as possible with available funding.

B. Sole Residence Requirement

1. A family is eligible for assistance only if the unit will be the family's only residence.

2. The owner must not provide assistance to applicants who will maintain a residence in addition to the HUD-assisted unit.
3. *Owners must use the EIV Existing Tenant Search when screening applicants in order to search for applicants who may be receiving assistance at another location. See Chapter 9, Enterprise Income Verification (EIV).*

C. **Prohibition Against Double Subsidies**

Under no circumstances may any tenant benefit from more than one of the following subsidies: Rent Supplement, RAP, Section 202 PAC, Section 202 PRAC or Section 811 PRAC, project-based Section 8 housing assistance, including Section 202/8, *or any Public and Indian Housing (PIH) rental assistance programs.*

1. Tenants must not receive assistance for two units at the same time.
2. Tenants must not benefit from Housing Choice Voucher assistance in a unit already assisted through project-based Section 8, Rent Supplement, RAP, Section 202 PAC or Section 202 PRAC and Section 811 PRAC.
3. This prohibition does not prevent a person who is currently receiving assistance from applying for an assisted unit in another property. The assisted tenancy in the unit being vacated must end the day before the subsidy begins in the new unit.
4. * Owners must use the EIV Multiple Subsidy Report to search for tenants who may be receiving assistance at more than one location or under more than one HUD rental assistance program. See Chapter 9, Enterprise Income Verification (EIV),*

3-11 **Consent and Verification Forms**

A. **Key Requirements**

Adult members of a family must sign consent forms and, as necessary, verification documents, so that the owner can verify sources of family income and family size. The owner must consider a family ineligible if the adult members refuse to sign applicable consent and verification forms. See Chapter 5, Section 3, for additional detailed information on these forms.

1. All members of an applicant or tenant family who are at least 18 years of age and each family head, spouse *or co-head*, regardless of age, must sign *and date* the HUD-required consent forms (form HUD-9887, *Notice and Consent for the Release of Information to HUD and to a PHA* and form HUD-9887-A, *Applicant's/Tenant's Consent to the Release of Information Verification by Owners of Information Supplied by Individuals Who Apply for Housing Assistance*) *at the initial certification and each

recertification*. All adults regardless of whether they report income must sign *and date* these forms.

2. *A current form HUD-9887:
 - a. Must be on file before owners access the EIV employment and income information for a tenant.
 - b. Does not have to be on file to use the EIV Verification Reports. This includes the Existing Tenant Search for applicants.*
3. All adult members of an applicant or tenant family must sign individual verification forms authorizing the owner to verify family income and other applicable eligibility factors (e.g., disability status).
4. Consent and verification forms protect the rights and privacy of tenants and applicants by allowing them to have control over any information collected about them. See **Appendix 6** for sample formats.
5. Owners must comply with the provisions of the federal Privacy Act as well as any state or local laws relating to confidentiality.

B. Who Must Sign Consent and Verification Forms

Consent forms must be signed by:

1. The head of household (regardless of age);
2. The spouse or co-head of household (regardless of age); and
3. Any other family member who is 18 years old or older.

***NOTE:** The owner cannot use the EIV Income Reports for a tenant who turns 18 between recertifications until the tenant has signed the form, even though employment or income will be reported in EIV. The owner must address, in their Policies and Procedures, notification requirements and timeframes for tenants who turn 18 between annual recertifications to sign the consent forms, if requiring the forms to be signed other than at recertification.*

C. Provisions for Refusal to Sign

If the applicant or tenant, or any adult member of the applicant's or tenant's family, does not sign and submit the consent form as required in 24 CFR 5.230, the following statements apply:

1. The owner must deny assistance and admission to the applicant; or
2. The owner must terminate assistance to the *family* (see paragraph 8-5 regarding terminations).

3-12 Restriction on Assistance to Noncitizens

A. Overview

By law, only U.S. citizens and eligible noncitizens may benefit from federal rental assistance. Compliance with these rules ensures that only eligible families receive subsidy. These requirements apply to families making application to the property, families on the waiting list, and tenants. This paragraph describes the procedures owners must use to determine applicant eligibility based on citizenship/immigration status.

NOTE: See Chapters 4, 7, and 8 for other citizenship and eligible immigration status requirements. (Denial of assistance is addressed in paragraph 4-31, changes in subsidy are addressed in paragraph 7-11, and termination of assistance is addressed in paragraph 8-7.)

B. Key Requirements

1. Assistance in subsidized housing is restricted to the following:
 - a. U.S. citizens or nationals; and
 - b. Noncitizens that have eligible immigration status.
2. All applicants for assistance must be given notice of the requirement to submit evidence of citizenship or eligible immigration status at the time of application. The entity responsible for receiving the documentation, where possible, must arrange to provide the notice in a language that is understood by the individual if the person is not proficient in English. (See Exhibits 3-3 and 3-4 for a sample notice and its accompanying Family Summary Sheet.)
3. All family members, regardless of age, must declare their citizenship or immigration status. (See Exhibit 3-5 for a Sample Citizenship Declaration. Noncitizens (except those age 62 and older) must sign a Verification Consent Form (see Sample Verification Consent Form in Exhibit 3-6) and submit documentation of their status or sign a declaration that they do not claim to have eligible status. Noncitizens age 62 and older must sign a declaration of eligible immigration status and provide a proof of age document. U.S. citizens must sign a declaration of citizenship. Owners may establish a policy of requiring additional proof of citizenship for those declaring to be U.S. citizens or nationals.
4. A mixed family—a family with one or more ineligible family members and one or more eligible family members—may receive prorated assistance, continued assistance, or a temporary deferral of termination of assistance. See subparagraphs O, P and Q below for the requirements that must be met for a mixed family to be eligible for assistance.
5. Applicants who hold a noncitizen student visa are ineligible for assistance, as are any noncitizen family members living with the student. For

noncitizen students with a citizen spouse or citizen children, see the rules in paragraph 3-12 R.2 below.

C. Administration of Restriction on Assistance to Noncitizen

Owners are responsible for administering the restriction on assistance to noncitizens in accordance with regulations. When administering the restriction, the owner must treat all applicants equally, applying the same noncitizen rule procedures without regard to race, color, national origin, sex, religion, disability, or familial status, and must comply with the nondiscrimination requirements described in Chapter 2 of this handbook.

D. Protection from Liability for Project Owners

HUD will not take any compliance, disallowance, penalty, or other regulatory action against an owner with respect to any error in the owner's determination of eligibility for assistance based on citizenship or immigration status when:

1. The owner established eligibility based upon verification of eligible immigration status through the verification system described in regulations and this handbook;
2. The owner provided an opportunity for the family to submit evidence in accordance with regulations and this handbook;
3. The owner waited for completion of the Department of Homeland Security's (DHS') verification of immigration status in accordance with regulations and this handbook;
4. The owner waited for completion of the DHS appeal process provided in accordance with regulations and this handbook, if applicable; and
5. The owner provided an informal meeting in accordance with regulations and this handbook, if applicable.

E. Reviewing a Family's Citizenship/Immigration Status

Owners generally consider citizenship/immigration status once for each family, but they must do so more frequently if immigration status or family composition is likely to change (e.g., when a family member applies for a change in immigration status). (See Sample Owner's Summary of Family in Exhibit 3-7 for tracking applicants' declarations and the owner's verification.)

1. Owners determine the applicant's citizenship or immigration status during the initial eligibility determination, prior to move-in.
2. As part of the annual or interim recertification process, owners must determine the citizenship/immigration status of tenants from whom the owner has not previously collected the proper documentation or whose documentation suggested that their status was likely to change.

3. If the status of a family member in a mixed family changes from ineligible to eligible, the family may request an interim recertification.
4. The required evidence of citizenship/immigration status for any new family member must be submitted at the first interim or regular recertification after the person moves to the unit.

F. Applicability

The restriction on assistance to noncitizens applies to all properties covered by this handbook except the following:

1. Section 221(d)(3) BMIR properties;
2. Section 202 PAC;
3. Section 202 PRAC; and
4. Section 811 PRAC.
5. Section 202 projects with units not receiving assistance under the Rent Supplement or Section 8 programs.

G. Notification to Applicants

1. Owners must give each applicant, at the time of application, notification of the requirement either to submit evidence of citizenship or eligible immigration status or to choose not to claim eligible status. A sample notice is included in Exhibit 3-3. The notification must do as follows:
 - a. State that financial assistance is contingent on submission and verification of citizenship or eligible immigration status;
 - b. Describe the type of evidence that must be submitted;
 - c. Give the time period in which evidence must be submitted; and
 - d. State that assistance may be prorated, denied, or terminated if any or all family members are determined ineligible for assistance.
2. Owners may notify families that they are eligible for assistance, or for partial assistance, as a mixed family. A sample notification of the verification results and the family's eligibility status is included in Exhibits 3-10 and 3-11.
3. Owners must notify families in writing if they are found to be ineligible based upon citizenship/immigration status in accordance with requirements described in paragraph 4-31. The sample notification of the results of verification on noncitizen status included in Exhibits 3-8 and 3-9 includes appropriate language.

H. **Owner Preparation to Collect Documentation of Citizenship/Immigration Status**

Owners are required to verify with the DHS the validity of documents provided by applicants. To do so, owners must:

1. Provide to the Multifamily Systematic Alien Verification for Entitlements (SAVE) Administrator at HUD Headquarters the complete name, address and contact information of the owner, or management agent acting on the owner's behalf, and a list of their project numbers and/or contract numbers.
2. Upon receipt of the access code, user ID and temporary password from the Multifamily SAVE Administrator, the owner is able to access the SAVE system at <https://www.vis-dhs.com/> *or through the EIV system* and use the automated, web-based SAVE system to obtain primary, and in many instances, secondary verification.
3. Multiple users can use a single computer, but since the program is web-based, SAVE can be accessed from any computer that has internet access.
4. If the owner does not have internet access, it will be necessary to verify immigration status using the paper process. A completed Document Verification Request, Form G-845S, and photocopies of the immigration documentation must be mailed to the local immigration office to receive verification of validity of the documents.

I. **Required Documentation of Citizenship/Immigration Status**

1. The owner must obtain the following documentation for each family member regardless of age:
 - a. From U.S. citizens, a signed declaration of citizenship. Owners may require verification of the declaration by requiring presentation of a U.S. birth certificate or U.S. passport.
 - b. From noncitizens 62 years and older, a signed declaration of eligible noncitizen status and proof of age;
 - c. From noncitizens under the age of 62 claiming eligible status:
 - (1) A signed declaration of eligible immigration status;
 - (2) A signed consent form; and
 - (3) One of the DHS-approved documents listed in Figure 3-4.
2. Noncitizens not claiming eligible immigration status may elect to sign a statement that they acknowledge their ineligibility for assistance. *This

statement is in addition to their declaring their citizenship status on the Citizenship Declaration form (see Exhibit 3-5).*

Figure 3-4: Acceptable DHS Documents

- Form I-551, **Permanent Resident Card**.
- Form I-94, *Arrival-Departure Record* annotated with one of the following:
 - ◆ Admitted as a Refugee Pursuant to Section 207 ;
 - ◆ Section 208 or Asylum ;
 - ◆ Section 243(h) or Deportation stayed by Attorney General ; or
 - ◆ Paroled Pursuant to Section 212(d)(5) of the INA.
- Form I-94, *Arrival-Departure Record* (with no annotation) accompanied by one of the following:
 - ◆ A final court decision granting asylum (but only if no appeal is taken);
 - ◆ A letter from an DHS asylum officer granting asylum (if application was filed on or after October 1, 1990) or from an DHS district director granting asylum (application filed was before October 1, 1990);
 - ◆ A court decision granting withholding of deportation; or
 - ◆ A letter from an asylum officer granting withholding of deportation (if application was filed on or after October 1, 1990).
- A receipt issued by the DHS indicating that an application for issuance of a replacement document in one of the above-listed categories has been made and that the applicant's entitlement to the document has been verified.
- Other acceptable evidence. If other documents are determined by the DHS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*.

J. Timeframes for Submitting Evidence of Citizenship/Immigration Status to the Owner

1. Applicants must submit required documentation of citizenship/immigration status no later than the date the owner initiates verification of other eligibility factors. Because of the prohibition against delaying assistance to obtain verification of citizenship/immigration status, owners are advised to implement procedures to verify eligible immigration status in advance of other verification efforts.

2. If the applicant cannot supply the documentation within the owner's specified timeframe, the owner may grant the applicant an extension of not more than 30 days, but only if the applicant certifies that the documentation is temporarily unavailable and additional time is needed to collect and submit the required documentation. Although the extension period may not exceed 30 days, the owner may establish a shorter extension period based on the circumstances of the individual case.
3. The owner must inform the applicant in writing if an extension request is granted or denied. If the request is granted, the owner must include the new deadline for submitting the documentation. If the request is denied, the owner must state the reasons for the denial in the written response. When granting or rejecting extensions owners must treat applicants consistently.

K. Prohibition Against Delay of Assistance

1. Owners may not delay the family's assistance if the family submitted its immigration documentation in a timely manner but the DHS verification or appeals process has not been completed.
 - a. If a unit is available, the family has come to the top of the waiting list, and at least one member of the family has been determined to be eligible, the owner must offer the family a unit. The owner must provide assistance to the family member determined to be eligible and to those family members that submitted their immigration documents on time. If any family members did not provide the required immigration documentation, then the assistance for the family must be prorated.
 - b. Because of the prohibition against delaying assistance to family members who have provided the required immigration documentation in a timely manner, owners are advised to implement procedures to verify eligible immigration status in advance of other verification efforts.
 - c. Owners continue to provide assistance to those family members who submitted their immigration documentation in a timely manner until their immigration status has been verified.

Example – DHS Verification Process Delayed

John and Mary Yu brought in the immigration documents for John and for their two daughters immediately upon the owner's request. Citizenship for Mary had already been determined when they first applied for assistance. John's brother, who will live with them, has not yet been able to locate his papers. The SAVE system could not provide primary verification on the Yus, and secondary verification had to be requested.

The Yus were the fourth family on the waiting list for a 3-bedroom unit, but their name has come to the top of the list more rapidly than expected. First, there were two unexpected move-outs; then, two of the families above the Yus declined the units offered.

The owner must offer the Yus the available 3-bedroom unit. The owner will provide prorated assistance based on Mary being eligible, John and the two daughters having submitted their required immigration documentation in a timely manner and John's brother not having submitted his required immigration documentation. The prorated assistance will be 4/5 of full assistance. If the immigration documentation collected later indicates that any family members are not eligible, the assistance will be prorated providing assistance only for the eligible family members. If the owner receives the secondary verification information back from DHS and learns that the two daughters are eligible non-citizens but John is not an eligible non-citizen, the owner must process an interim recertification removing assistance for John. John's brother still has not submitted any immigration documentation. The prorated assistance will now be 3/5 of full assistance. The owner must give the family the required 30-day notice of increase in their rent.

If, however, the owner receives the secondary verification information back from DHS and learns that the two daughters and John are eligible non-citizens and John's brother submits his immigration documentation and is determined to be an eligible non-citizen, the owner will process an interim recertification providing full assistance to the family.

2. Once the owner has determined the citizenship/immigration status of a family assisted prior to completion of the verification or appeal process, the owner must do as follows:
 - a. Provide full assistance to a family that has established the eligibility of all of its members;
 - b. Offer continued prorated assistance to a mixed family, or temporary deferral of termination of assistance (See subparagraph Q for eligibility requirements) if the family does not accept the offer of prorated assistance; or
 - c. Offer temporary deferral of termination of assistance to an ineligible family. At the end of the deferral period the family must either pay market rent or vacate the unit.

(Mixed families are defined in subparagraph N below, and prorated assistance is described in subparagraph P. Temporary deferral of termination of assistance is addressed in subparagraph Q.)

L. Verifying Information on Immigration Status

Owners must verify the validity of documents provided by applicants or tenants. The personal computer method provides automated status verification when the information is contained in the Alien Status Verification Index (ASVI) database. It also automates the paper secondary verification process, which eliminates in most instances the completion of the paper Form G-845S. If the owner is unable to obtain the results using the automated primary and secondary verification method, the owner must attempt to obtain results using the secondary verification paper process.

1. Primary verification.
 - a. Owners must conduct primary verification of eligible immigration status only for persons claiming eligible immigration status.
 - b. Owners must conduct primary verification through the SAVE web-based program, DHS' automated system. After obtaining an access code, user ID and temporary password from the Multifamily SAVE Administrator at HUD Headquarters (see subparagraph H above), owners can access SAVE with a personal computer at <https://www.vis-dhs.com/> or *through the EIV system.*
 - c. After accessing the ASVI database, the owner enters the required data fields. The personal computer system will display one of the following messages for immigration status confirmation on the screen.
 - (1) Lawful Permanent Resident
 - (2) Temporary Resident
 - (3) Conditional Resident
 - (4) Asylee
 - (5) Refugee
 - (6) Cuban\Haitian Entrant
 - (7) Conditional Entrant
2. Secondary verification. If the message institute secondary verification is displayed on the screen, the manual verification process must be used.

- a. Within 10 days of receiving an Institute Secondary Verification response, the owner must prepare DHS Form G-845S, *Document Verification Request*. The owner must send DHS Form G-845S and photocopies of the DHS documents submitted by the applicant to the DHS office serving the property's jurisdiction. DHS Form G 845S is provided in Exhibit 4-2. Instructions for completing and mailing the DHS Form G 845S are found in Appendix 2-B of this handbook. This information is taken from DHS' current Systematic Alien Verification for Entitlements (SAVE) Program Instructions Manual and should be used until such time as the instruction manual is updated by DHS and included in its entirety in Appendix 2-A.
- b. The DHS will return to the owner a copy of DHS Form G-845S indicating the results of the automated and manual search.

M. **Appealing Determinations of Ineligibility**

1. The owner must notify the family in writing as soon as possible if the secondary verification process returns a negative result. A sample notice to the family is included in Exhibits 3-10 and 3-11. The sample notice describes the tenant or applicant family's options. The family has 30 days from receipt of the notice to choose which option to follow. See paragraph 4-31 for additional information on denying assistance based upon ineligible immigration status.
2. The family may appeal the owner's decision directly to the DHS. The family must send a copy of the appeal directly to the owner. The DHS should respond to the appeal within 30 days.
 - a. If the DHS decision results in a positive determination of eligibility, the owner can provide the family with housing assistance.
 - b. If the DHS decision results in a negative determination of eligibility, the family has 30 days to request a hearing with the owner.

N. **Mixed Families**

1. A mixed family is one whose members include citizens and eligible immigrants as well as noncitizens without eligible immigration status.
2. Mixed families that were in occupancy and received full assistance prior to the verification of citizenship/immigration status may be eligible for one of three types of assistance.
 - a. Continued assistance if the family was receiving assistance prior to June 19, 1995 (see subparagraph O below);
 - b. Prorated assistance (see subparagraph P below); or

c. Temporary deferral of termination of assistance (see subparagraph Q below).

3. Applicant families that are mixed are eligible only for prorated assistance.

O. Continued Assistance

1. A mixed family who was receiving assistance on June 19, 1995, is entitled to continue receiving the same level of assistance if the following apply:

a. The family head, spouse, or co-head was a citizen or had eligible immigration status; and

b. The family did not include any members who did not have eligible immigration status, except for the head, spouse, parents of the head of household, parents of the spouse, or children of the head or spouse.

2. Eligibility for continued assistance must have been established prior to November 29, 1996.

3. If, after November 29, 1996, anyone is added to a family, including a head of household, spouse, parents of the head of household or spouse, or children of the head of household or spouse, the family is not eligible for continued assistance at the full level, but may receive prorated assistance (see subparagraph P below).

P. Prorated Assistance

If a family is eligible for prorated assistance and is not receiving continued assistance, and if the termination of the family's assistance is not temporarily deferred, the amount of assistance the family receives is adjusted based on the number of family members who are eligible compared with the total number of family members. The prorated assistance is calculated by multiplying a family's full assistance by a fraction.

NOTE: See Exhibits 3-12, 3-13, and 3-14 for more information on proration procedures regarding the restriction of assistance to noncitizens.

1. Section 8. For Section 8 assistance programs, the number of eligible people in the family divided by the total number of persons in the family determines the fraction. Then, this fraction is multiplied by the full assistance payment. The reduced assistance payment results in a revised tenant rent for the family.

Example – Section 8 or Rent Supplement Prorated Rent

Family A has four persons. Three are citizens, and one does not have eligible immigration status. The gross rent for the unit is \$500. The family's Total Tenant Payment (TTP) is \$100.

Gross rent	\$500
TTP	<u>-\$100</u>
Section 8 assistance	\$400
Fraction is	
<u>Number of eligible family members</u>	<u>3</u>
Total number of family members	4
Prorated assistance	$\$400 \times 3/4 = \300
Tenant rent increase (assistance less prorated assistance payment)	$\$400 - \$300 = \$100$
New family rent (TTP + tenant rent increase)	$\$100 + \$100 = \$200$

**Example – Section 8 Prorated Rent
(with utility allowance)**

Family B has five persons. Three are citizens, and two do not have eligible immigration status. The contract rent for the unit is \$500. The utility allowance is \$30. The family's TTP is \$100.

Contract rent	\$500
Utility allowance	<u>+\$30</u>
Gross rent	\$530
TTP	<u>-\$100</u>
Section 8 Assistance	\$430
Fraction is	
<u>Number of eligible family members</u>	<u>3</u>
Total number of family members	5
Prorated assistance	$\$430 \times 3/5 = \258
Increase in TTP (assistance less prorated assistance)	$\$430 - \$258 = \$172$
New tenant rent (TTP + increase utility allowance = tenant rent)	$\$100 + \$172 - \$30 = \242

2. Rent Supplement. The Rent Supplement paid on the family's behalf is the amount they would otherwise be entitled to, multiplied by the fraction for which the numerator is the number of eligible people in the family and the denominator is the total number of people in the family.
3. Section 236. For Section 236 properties, the fraction is the number of ineligible persons over the total number in the family. The proration increases the rent the family is otherwise paying by an amount equal to the difference between the market rent and the rent the family would otherwise pay, multiplied by the fraction.
4. Section 236 with RAP, Rent Supplement, or Section 8 LMSA. If a property receives a combination of Section 236 with RAP, Rent Supplement, or Section 8 LMSA assistance, the owner must prorate both the Section 236 portion of the assistance and the RAP, Rent Supplement, or Section 8 assistance payment. The owner determines the new prorated rent by calculating the difference between market rent and basic rent multiplied by the fraction of ineligible family members. To determine the family's rent increase, the owner adds this total to the assistance payment multiplied by the same fraction of ineligible family.

Example – Project-Based Subsidy (Section 236) Programs

Family C has four persons and currently pays the 236 basic rent. Three are citizens, and one does not have eligible immigrant status.

Basic rent \$300

Market rent \$500

Fraction is

$$\frac{\text{Number of ineligible family members}}{\text{Total number of family members}} = \frac{1}{4}$$

Rent increase $\$500 - \$300 = \$200 \times 1/4 = \50

New prorated rent $\$300 + \$50 = \$350$

Q. Temporary Deferral of Termination of Assistance

1. Families that were receiving assistance on June 19, 1995 under one of the programs covered by the non-citizen rules are eligible for temporary deferral of termination of assistance. If the following applies:
 - a. Family has no eligible members; or

-
- b. Mixed family qualifies for prorated assistance (and does not qualify for continued assistance) and chooses not to accept the partial assistance.
 2. The deferral allows the family time to find other suitable housing before HUD terminates assistance. During the deferral period, the family continues to receive its current level of assistance.
 3. The initial deferral period is for six months and may be extended for an additional six-month period, not to exceed 18 months.
 - a. At the beginning of each deferral period, the owner must inform the family of its ineligibility for financial assistance and offer the family information concerning, and referrals to assist in finding, other affordable housing.

NOTE: If the family receiving assistance on June 19, 1995 includes a refugee under section 207 of the Immigration and Nationality Act, or an individual seeking asylum under section 208 of that Act, a deferral can be given to the family and there is no time limitation on the deferral period. The 18 month deferral limitation does not apply.

**Example – Project-Based and Individual Tenant Subsidy Programs
Prorated Rent**

Family D has four persons. Three are eligible immigrants, and one has elected not to contest ineligible status. The family's TTP is \$200. The gross rent for the family is the Section 236 basic rent, which is \$300. The market rent is \$500.

Market rent	\$500
Basic rent	\$300
TTP	\$200
Assistance payment	\$100
Fraction is	
<u>Number of ineligible persons</u>	<u>1</u>
Total number of family members	4
Section 236 calculation	
Project-based subsidy (market rent less basic rent)	\$500 - \$300 = \$200
Project-based subsidy times fraction	\$200 x ¼ = \$50

**RAP, Rent Supplement, or Section 8
Calculation**

Assistance payment times fraction	\$100 x ¼ = \$25
New tenant rent (TTP + Section 236 proration + tenant based subsidy proration)	\$200 + \$50 + \$25 = \$275

- b. Before the end of each deferral period, the owner must determine whether affordable housing is available to the family and whether to extend the deferral of termination of assistance.
- (1) To extend a deferral period, an owner must determine that no affordable housing is available. The owner must inform the family of the owner's determination at least 60 days before the current deferral period expires. The owner's determination should be based on the following:
- A vacancy rate of less than 5% for affordable housing of the appropriate unit size in the housing market for the area in which the housing is located;
 - The local jurisdiction's Consolidated Plan, if applicable;
 - Availability of affordable housing in the market area; and

- Evidence of the family's efforts to obtain affordable housing in the area.
- (2) To terminate assistance, the owner must determine that affordable housing is available, or that the maximum deferral period has been reached.
 - (3) If eligible for prorated assistance, the family may request and begin to receive prorated assistance at the end of the deferral period.
 - (4) Affordable housing for the purpose of temporary deferral of assistance is housing that:
 - Is not substandard;
 - Is the appropriate size for the family; and
 - Can be rented by the family for an amount less than or equal to 125% of the family's total tenant payment (TTP), including utilities.

R. Prohibition of Assistance to Noncitizen Students

Noncitizen students and their noncitizen families may not receive assistance. Noncitizen students are not eligible for continuation of assistance, prorated assistance, or temporary deferral of termination of assistance.

1. A noncitizen student is defined as an individual who is as follows:
 - a. A resident of another country to which the individual intends to return;
 - b. A bona fide student pursuing a course of study in the United States; and
 - c. A person admitted to the United States solely for the purpose of pursuing a course of study as indicated on an F-1 or M-1 student visa.
2. This prohibition applies to the noncitizen student's noncitizen spouse and children. However, spouses and children who are citizens may receive assistance. For example, a family that includes a noncitizen student married to a U.S. citizen is a mixed family.

3-13 Determining Eligibility of Students for Assistance

A. Eligibility of Students for Section 8 Assistance

1. Owners must determine a student's eligibility for Section 8 assistance at move-in, annual recertification, initial certification (when an in-place tenant begins receiving Section 8), and at the time of an interim recertification if one of the family composition changes reported is that a household member is enrolled as a student.
2. Section 8 assistance shall not be provided to any individual who:
 - a. Is enrolled as either a part-time or full-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential; *and*
 - b. Is under the age of 24; *and*
 - c. Is not married; *and*
 - d. Is not a veteran of the United States Military; *and*
 - e. Does not have a dependent child; *and*
 - f. Is not a person with disabilities, as such term is defined in 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)) and was not receiving section 8 assistance as of November 30, 2005. (See Definition E in Figure 3-6); *and*
 - g. Is not living with his or her parents who are receiving Section 8 assistance; and
 - h. Is not individually eligible to receive Section 8 assistance *or* has parents (the parents individually or jointly) who are not income eligible to receive Section 8 assistance. (See paragraph 3-33 for verifying parents eligibility.)

***NOTE:** Unless the student can demonstrate his or her independence from parents, the student must be eligible to receive Section 8 assistance **and** the parents (individually or jointly) must be eligible to receive Section 8 assistance in order for the tenant to receive Section 8 assistance.*
3. For a student to be eligible independent of his or her parents (where the income of the parents is not relevant), the student must demonstrate the absence of, or his or her independence from, parents. While owners may use additional criteria for determining the student's independence from parents, owners must use, and the student must meet, at a minimum **all** of the following criteria to be eligible for Section 8 assistance. The student must:

- a. Be of legal contract age under state law;
 - b. Have established a household separate from parents or legal guardians for at least one year prior to application for occupancy, **or**, meet the U.S. Department of Education's definition of an independent student. (See the Glossary for definition of Independent Student);
 - c. Not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations; and
 - d. Obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided.
4. Any financial assistance a student receives (1) under the Higher Education Act of 1965, (2) from private sources, or (3) from an institution of higher education that is in excess of amounts received for tuition is included in annual income, except if the student is over the age of 23 with dependent children or if the student is living with his or her parents who are receiving Section 8 assistance. (See Glossary for expanded definition of Student Financial Assistance.)
 5. If an ineligible student is a member of an existing household receiving Section 8 assistance, the assistance for the household will not be prorated but will be terminated in accordance with the guidance in paragraph 8-6 A.

NOTE: An owner cannot evict or require an ineligible student to move from a unit as long as the student is in compliance with the terms of the lease.

Example:

A household is made up of two students living together and who are currently receiving Section 8 assistance. The household is made up of:

- one student who is 22 years old, is head of household, and has a dependent child
- another student who is the co-head and who does not meet the eligibility requirements in paragraph 3-13 A.2.

In order for the household to be eligible for Section 8 assistance, each individual student must meet the student eligibility requirements.

In this example, the 22-year old student is eligible because he or she has a dependent child. However, since it has been determined that the other student is ineligible, the household is not eligible to receive Section 8 assistance, and the assistance for the household must be terminated in accordance with program guidance. The household's rent will be increased to the applicable rent for the unit (contract, basic, market), as long as the ineligible student remains in the unit.

If the ineligible student moves out of the unit, the remaining household members may again be eligible for Section 8 assistance, if available. If the household composition no longer qualifies the household for the unit size, the household may be required to move to an appropriate size unit when one is available, or, with the approval of the owner, the household may move in another eligible person as a member of the household and remain in their same unit. The owner cannot evict or require the ineligible student to move, as long as the student is in compliance with the terms of the lease.

B. Eligibility of Students for Other Assistance Programs

1. This paragraph applies to the Rent Supplement, RAP, Section 221(d)(3) BMIR, Section 236, Section 202 PAC, Section 202 PRAC or Section 811 PRAC programs.
2. Owners must determine a student's eligibility for assistance at move-in, initial or annual recertification, and at the time of an interim recertification if one of the changes reported is that a household member is enrolled as a student, at an institution of higher education.
3. The student must meet **all** of the following criteria to be eligible. The student must:
 - a. Be of legal contract age under state law;
 - b. Have established a household separate from parents or legal guardians for at least one year prior to application for occupancy,
or
 - c. Meet the U.S. Department of Education's definition of an independent student. (See the Glossary for definition of Independent Student);