

# HEARTLAND ALLIANCE

July 9, 2019

Office of General Counsel, Rules Docket Clerk  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW, Room 10276  
Washington, DC 20410-0500

Re: HUD Docket No. FR-6124-P-01, RIN 2501-AD89 Comments in Response to Proposed Rulemaking: Housing and Community Development Act of 1980: Verification of Eligible Status

Dear Sir/Madam:

Thank you for the opportunity to respond to the Department of Housing and Urban Development's (HUD) proposed rule regarding changes to "verification of eligible status," published in the Federal Register on May 10, 2019 (RIN 2501-AD89; HUD Docket No. FR-6124-P-01). This proposed rule would cause serious harm to thousands of Heartland Alliance participants and millions of immigrants and native-born family members of immigrants living in Illinois and across the country. Immigration has defined our nation and Illinois in particular. Today, one in seven Illinois residents are immigrants and one in eight are U.S. citizens with at least one immigrant parent.<sup>1</sup> Immigrants in Illinois are vital to local economies and communities and make our country stronger. The verification of eligible status rule will deeply harm immigrant communities and native-born residents alike. Heartland Alliance strongly opposes this proposed rule. We urge that this rule be withdrawn in its entirety and believe that HUD's long-standing regulations should remain in effect.

[Heartland Alliance](#) is a 130-year-old human rights organization that stands with individuals who are most marginalized, including those seeking refuge and safety in the United States. At Heartland Alliance, we believe society is better for everyone when all of us can participate, prosper, and reach our full potential. Headquartered in Chicago, IL, Heartland Alliance works in over 100 communities nationwide, operates in 12 countries across the globe, and serves 400,000 individuals each year.

Heartland Alliance operates [dozens of direct service programs](#) in the areas of housing, healthcare, jobs, and justice. The intersection of immigration, housing, and homelessness, however, is an area in which we have particular expertise. In the area of immigration, Heartland Alliance is a national leader through the [National Immigrant Justice Center](#), a legal aid and advocacy program dedicated to ensuring human rights protections and access to justice for all immigrants, refugees, and asylum seekers. We provide refugee resettlement

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<sup>1</sup> American Immigration Council, *Immigrants in Illinois*, [https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants\\_in\\_illinois.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_in_illinois.pdf) (2017)

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services and counseling to foreign-born survivors of torture. We provide comprehensive health care services to immigrant families, asylum seekers, and refugees. We also operate a multi-state [Freedom from Trafficking \(FFT\) Program](#) that provides comprehensive services to foreign nationals who are survivors of trafficking and their family members, including helping these individuals obtain housing.

We also have deep experience in the housing and homelessness sectors, both as a service provider and as a low-income housing developer and property manager. Across our programs, we manage thousands of supportive and affordable housing units that offer safe and stable housing to families, veterans, and persons with disabilities or other serious health concerns—many of whom are immigrants and all of whom are experiencing or at risk of homelessness. Both [Heartland Alliance Health](#) and [Heartland Human Care Services](#) are integral parts of the homeless service system across the region and work closely with local housing authorities to provide case management and supports to residents. We leverage this critical experience through [Heartland Housing](#), our housing development arm, as well. Heartland Housing has developed almost 2,000 units of affordable housing and owns and operates almost 1,000 units. These units serve various populations and have multiple layers of HUD funding and local subsidies applied to make them affordable.

As a service provider and property manager, we see the danger this proposed rule represents. Although HUD contends that the proposed rule is a means of addressing the waitlist crisis faced by a majority of Public Housing Authorities nationwide,<sup>2</sup> Heartland Alliance recognizes that the proposed rule is a part of the current administration's coordinated attack on immigrant families.<sup>3</sup> Similar to other advocates across the country, Heartland Alliance shares the concern that millions of U.S. households struggle to find affordable housing in the ongoing nationwide housing crisis, but blaming struggling immigrant families will not fix the problem. Indeed, HUD's own analysis of the proposed rule concludes that fewer, not more, families are likely to receive assistance as a result of the rule.<sup>4</sup> The real issue is the lack of sufficient funding to ensure that every individual and family, regardless of immigration status, has access to one of the most basic of human rights: a safe place to call home.

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<sup>2</sup> Washington Post, *Trump Proposal Would Evict Undocumented Immigrants from Public Housing*, [https://www.washingtonpost.com/business/2019/04/18/trump-proposal-would-evict-undocumented-immigrants-public-housing/?utm\\_term=.c6fd40565b83](https://www.washingtonpost.com/business/2019/04/18/trump-proposal-would-evict-undocumented-immigrants-public-housing/?utm_term=.c6fd40565b83) (Apr. 18, 2019).

<sup>3</sup> See, e.g., National Immigration Law Center, *Understanding Trump's Muslim Bans*, <https://www.nilc.org/issues/immigration-enforcement/understanding-the-muslim-bans/> (updated March 8, 2019); The New York Times, *Trump Administration Aims to Sharply Restrict New Green Cards for Those on Public Aid*, <https://www.nytimes.com/2018/09/22/us/politics/immigrants-green-card-public-aid.html> (Sept. 22, 2018); Washington Post, *Pentagon Will Shift an Additional \$1.5 Billion to Help Fund Trump's Border Wall*, [https://www.washingtonpost.com/national-security/2019/05/10/pentagon-will-shift-an-additional-billion-help-fund-trumps-border-wall/?utm\\_term=.37360e7cda10](https://www.washingtonpost.com/national-security/2019/05/10/pentagon-will-shift-an-additional-billion-help-fund-trumps-border-wall/?utm_term=.37360e7cda10) (May 10, 2019); Reuters, *Exclusive: Trump Administration Proposal Would Make It Easier to Deport Immigrants Who Use Public Benefits*, <https://www.nytimes.com/reuters/2019/05/03/us/politics/03reuters-usa-immigration-benefits-exclusive.html> (May 3, 2019).

<sup>4</sup> HUD, *Regulatory Impact Analysis, Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01 (April 15, 2019).

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## **I. The Proposed Rule Will Hurt Tens of Thousands of Immigrant Families, Including Many Citizen Children.**

The proposed rule threatens to undermine the well-being of low-income U.S. citizens, immigrants, and their families by placing tens of thousands of immigrant families at risk of homelessness. The rule would force mixed status families to make an impossible decision: either break up to allow eligible family members to continue receiving housing assistance, or forgo housing subsidies so that the families can stay together. HUD estimates that 55,000 children will be displaced and at-risk of homelessness as a result of implementation of this rule.

Family separations undermine family stability and lead to toxic stress, trauma, and attachment issues in children. Even a temporary separation has an enormous negative impact on the health and educational attainment of these children later in life, and many parents struggle to restore the parent-child bond once it has been disrupted by a separation.<sup>5</sup> However, because 70 percent of mixed status families currently receiving HUD assistance are composed of eligible children and at least one ineligible parent, it is likely that these families will forgo the subsidies to avoid separation. Indeed, HUD’s own regulatory impact analysis of the rule states that the agency “expects that fear of the family being separated would lead to prompt evacuation by most mixed households, whether that fear is justified.”<sup>6</sup> Therefore, this rule would effectively evict as many as 108,000 individuals in mixed status families—in which nearly three out of four are eligible for assistance—from public housing, Section 8, and other programs covered by the proposed rule.<sup>7</sup> These mass evictions and departures from housing assistance will cause increased rates of unstable housing and literal homelessness among this population, leading to devastating and long-term effects.

The negative impacts of eviction, housing instability, and homelessness are well-documented. People who are evicted from their homes—or even threatened with eviction—are more likely to experience health problems such as depression, anxiety, and high blood pressure than people with stable housing.<sup>8</sup> Eviction and other forms of housing instability, such as having to move frequently, are particularly harmful for children, meaning that these rule changes would hurt the overall well-being of many children living in mixed status families. Research has shown that economic and housing instability impedes children’s cognitive development, leading to poorer

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<sup>5</sup> BMJ Paediatrics Open, *Impact of Punitive Immigration Policies, Parent-Child Separation and Child Detention on the Mental Health and Development of Children*, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6173255/> (2018).

<sup>6</sup> HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01, at 7 (Apr. 15, 2019).

<sup>7</sup> *Id.* at 8.

<sup>8</sup> Children’s Health Watch Blog, *The Hidden Health Crisis of Eviction*, <http://childrenshealthwatch.org/the-hidden-health-crisis-of-eviction/> (Oct. 5, 2018).

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life outcomes as adults.<sup>9</sup> Housing instability is directly correlated to decreases in student retention rates and contributes to homeless students' high suspension rates, school turnover, truancy, and expulsions, limiting students' opportunity to obtain the education they need to succeed later in life.<sup>10</sup> Moreover, because education is linked to positive health outcomes and longer lifespans,<sup>11</sup> creating housing instability in children's lives can have immediate and negative health impacts and also lead to poorer health across their life course. Among adults, experiencing housing instability or homelessness can lead to loss of employment or act as [a significant barrier to work](#), can cause individuals to experience increased hospital visits, and can dramatically increase the risk of an acute episode of a behavioral health condition, such as relapse of a substance use disorder.<sup>12</sup> Taken together, these outcomes will not only hurt families while they struggle to find housing in the short term, but will also lead to reduced opportunities and increased health problems for these families in the long term.<sup>13</sup>

## **II. The Proposed Rule Will Exacerbate Barriers to Housing Faced by Immigrant Families**

Moreover, it is imperative to recognize that many immigrants, including those who will be impacted by this rule, already face significant barriers to obtaining and maintaining safe, affordable housing.<sup>14</sup> For example, research shows that immigrants and their families struggle to find housing they can afford.<sup>15</sup> Compared to U.S. citizens, immigrant families are more likely to have higher housing costs, are more likely to face housing cost burdens, and are more likely to report difficulty paying for housing.<sup>16</sup> Many of these additional burdens are attributable to the fact that immigrants disproportionately live in states with high housing costs.<sup>17</sup> Heartland

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<sup>9</sup> The Urban Institute, *The Negative Effects of Instability on Child Development: A Research Synthesis*, <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF> (2013).

<sup>10</sup> See, e.g., Mai Abdul Rahman, *The Demographic Profile of Black Homeless High School Students Residing in the District of Columbia Shelters and the Factors that Influence their Education* (Ph.D. dissertation, Howard University), available at <http://gradworks.umi.com/3639463.pdf> (citations omitted) (March 2014).

<sup>11</sup> Robert Wood Johnson Foundation, *An Examination of the Many Ways in Which Education Can Influence Health, Including How Educational Attainment Affects Health Across Generations and the Social and Economic Advantages it Represents*, <https://www.rwjf.org/en/library/research/2011/05/education-matters-for-health.html> (Apr. 1, 2011).

<sup>12</sup> See, e.g., Center on Budget and Policy Priorities, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, <https://www.cbpp.org/research/research-shows-housing-vouchers-reduce-hardship-and-provide-platform-for-longterm-gains> (October 7, 2015); Children's Defense Fund, *Reducing Child Poverty in the US: Costs and Impacts of Policies Proposed by the Children's Defense Fund*, <http://www.childrensdefense.org/library/PovertyReport/assets/ReducingChildPovertyintheUSCostsandImpactsofPoliciesProposedbytheChildrensDefenseFund.pdf> (Jan. 2015).

<sup>13</sup> Pediatrics, *Unstable Housing and Caregiver and Child Health in Renter Families*, <http://pediatrics.aappublications.org/content/141/2/e20172199> (2018).

<sup>14</sup> Pratt Center for Community Development, *Confronting the Housing Squeeze: Challenges Facing Immigrant Tenants, and what New York Can Do*, <https://prattcenter.net/research/confronting-housing-squeeze-challenges-facing-immigrant-tenants-and-what-new-york-can-do> (2018).

<sup>15</sup> Robert Wood Johnson Foundation, *Living In America*, <https://www.rwjf.org/en/library/research/2006/08/living-in-america.html> (2006).

<sup>16</sup> Race & Social Problems, *Who Has Housing Affordability Problems? Disparities in Housing Cost Burden by Race, Nativity and Legal Status in Los Angeles*, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3784340/pdf/nihms440365.pdf> (2013).

<sup>17</sup> See, e.g. CalMatters, *Fleeing War-Torn Homes for Crippling Rents—California Housing Costs Creating Harsh Reality for Refugees*, <https://www.scp.org/news/2018/07/19/84848/fleeing-war-torn-homes-for-crippling-rents-how-cal/> (July 19, 2018).

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Alliance's experience working to connect low-income immigrant families to safe, affordable housing affirms that the high cost of housing in Chicago is a significant barrier; as one Heartland Alliance staffer noted, "Just to find housing is hard, affordable or not. Chicago does not have lots of affordable housing." The research bears this out. According to a [2019 report](#) from DePaul University that draws from the most up-to-date data, affordable housing in the City of Chicago and Cook County, IL, is on the decline and has been for several years. The demand for affordable housing far outweighs the supply. In 2017, 81 percent of households in Cook County earning between 30 and 50 percent Area Median Income (AMI) (\$20,521 to \$34,201) and 87.8 percent of households earning less than 30 percent AMI (\$20,521) were rent-burdened, meaning they spend more than 30 percent of their incomes towards rent. Among those households earning less than 30 percent AMI, nearly three quarters spent *more than half* of their income on rent. Clearly, there is not enough affordable housing to go around for all individuals who need it, including immigrant families.

In addition to the issue of housing affordability, Heartland Alliance staff emphasize that many landlords do not want to work with immigrant populations, making it even more difficult to connect these families to housing. Heartland Alliance staff state that in their experience, immigrants may also face issues with standard rental requirements such as credit checks, because they have not had the opportunity to build credit within the United States. Finally, among more marginalized immigrant populations, such as those who are survivors of trafficking, many individuals may lack photo identification or have had other important documents confiscated by the trafficker. Lack of documentation can be a significant barrier even to accessing shelter, and may make it impossible to obtain rental housing. Approximately nine out of 10 of the survivors of trafficking that Heartland Alliance serves lack any documents when Heartland Alliance first engages with them—yet the number one need for immigrant survivors is housing. This proposed rule will only introduce additional burdens to immigrant individuals and families who already face significant hurdles in securing affordable housing, placing thousands of people at risk of homelessness. The proposed rule does not take into account these unique hardships and costs faced by immigrants in the U.S. housing market, and the rule should be withdrawn until HUD completes an in-depth study of these issues.

### **III. The Proposed Rule Will Cause Confusion for Existing U.S. Citizen Residents and Create Unnecessary Administrative Complexity for Housing Providers**

While it is clear that the proposed rule is a direct attack on immigrants and citizens in mixed status households, these families are not the only group that will be harmed if the rule is finalized. In addition to attacking mixed status families, the proposed rule creates red tape that threatens housing security for 9.5 million U.S. citizens currently receiving HUD assistance and all future U.S. citizens seeking these benefits. The rule would require that all who declare they

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are U.S. citizens under penalty of perjury provide evidence of their citizenship, a practice that has proven to be burdensome, costly, and unnecessary to protect program integrity.<sup>18</sup>

Currently, to establish eligibility to access Section 214 housing assistance, U.S. citizens need to provide a declaration signed under penalty of perjury of their citizenship or nationality status. The proposed rule would require that these individuals also provide documentary proof of citizenship or nationality, such as a birth certificate, which can be extremely difficult for certain segments of the population. Requiring individuals to prove their citizenship in order to retain or obtain HUD assistance will likely have a deeply inequitable impact on people of color and, due to historical inequities, especially among Black people.

As a result of racist and discriminatory practices, many poor Black women who gave birth in the south in the mid-20<sup>th</sup> century were denied entrance to hospitals, and the birth of these children often went unrecorded.<sup>19</sup> Between 1915 and 1970, more than 7 million Black people—including these young children—left the Jim Crow south and headed north as part of the Great Migration.<sup>20</sup> As a result, many older generations of Black people who were born in the south and then migrated north with their families find it difficult, if not impossible, to obtain a birth certificate or other identifying documents. This issue may be particularly prevalent in Chicago, where the Black population doubled as a result of the Great Migration. In addition, the largest mixed methods study ever conducted on race and homelessness found that people of color—and Black people in particular—are dramatically more likely than White people to experience homelessness.<sup>21</sup> As discussed in greater detail below, experiencing homelessness further compounds issues related to obtaining identifying documentation and records.

Lack of citizenship documentation impacts a number of other populations as well. One survey from 2006 showed that as many as seven percent of citizens did not have citizen documentation readily available.<sup>22</sup> In addition to the challenges faced by Black citizens, obtaining such documentation can be particularly difficult for U.S. citizens over the age of 50, other citizens of color, citizens with disabilities, and citizens with low incomes—the very

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<sup>18</sup> Housing and Community Development Act of 1980: Verification of Eligible Status, 84 Fed. Reg. 20,589, 20,592 (proposed May 10, 2019) (to be codified at 24 C.F.R. part 5); Center on Budget and Policy Priorities, *New Medicaid Citizenship Documentation Requirement is Taking a Toll: States Report Enrollment Is Down and Administrative Costs Are Up*, <https://www.cbpp.org/research/new-medicaid-citizenship-documentation-requirement-is-taking-a-toll-states-report> (Mar. 13, 2007).

<sup>19</sup> The Philadelphia Inquirer, *For Many Americans, Obtaining a Birth Certificate Proves Challenging*, [https://www.inquirer.com/philly/news/20140327\\_For\\_many\\_Americans\\_obtaining\\_a\\_birth\\_certificate\\_proves\\_challenging.htm#uwK0lz8kfrCapqX6.99](https://www.inquirer.com/philly/news/20140327_For_many_Americans_obtaining_a_birth_certificate_proves_challenging.htm#uwK0lz8kfrCapqX6.99) (March 27, 2014)

<sup>20</sup> Public Broadcasting Service (wttw), *DuSable to Obama: Chicago's Black Metropolis*, <https://interactive.wttw.com/dusable-to-obama/the-great-migration> (n.d.)

<sup>21</sup> Center for Social Innovation, *SPARC: Phase One Study Findings*, <https://center4si.com/wp-content/uploads/2018/03/SPARC-Phase-1-Findings-March-20181.pdf> (March 2018)

<sup>22</sup> Brennan Center for Justice, *Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification*, [http://www.brennancenter.org/sites/default/files/legacy/d/download\\_file\\_39242.pdf](http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf) (Nov. 2006).

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individuals who are likely to participate in Heartland Alliance programming. That same survey suggests that:

- At least 12 percent of citizens earning less than \$25,000 a year do not have proof of citizenship;
- Many people who do have documentation have birth certificates or IDs that don't reflect their current name or address, such as people who changed their name; and
- 18 percent of citizens over the age 65 do not have a photo ID.

For those who are unable to produce the required documents within the required time period under the proposed HUD rule, they will lose their housing assistance, and many will be evicted from their homes. A significant share could become homeless. The figures above suggest that hundreds of thousands of U.S. citizens could experience these harsh consequences under the proposed rule.

The proposed rule places additional documentation burdens on 120,000 noncitizen seniors as well, by requiring noncitizens 62 years old or older to provide documentation of their immigration status.<sup>23</sup> Presently, these noncitizen seniors are required to submit a signed declaration of their eligible immigration status and proof of age. Many immigrant seniors will struggle in the same way as citizen seniors to produce this documentation, including struggling to get to government offices to replace lost records, coming up with the funds to replace these records, and or never having been issued a birth certificate in the first place.<sup>24</sup> HUD has not accounted for these concerns in the proposed rule, and should address these issues before finalizing the rule.

The proposed documentation requirements will be particularly burdensome for recipients of rental assistance who were formerly homeless, as well as for people experiencing homelessness who could be assisted by Section 214 programs in the future. People experiencing homelessness often lose important documents such as photo identification, birth certificates, and social security cards because they have no safe places to store them.<sup>25</sup> Adding more documentation requirements creates more barriers to housing for those who need it most, and could cause many people who have gained stability through rental assistance to return to homelessness. We have seen through our programs how difficult it is for those who are unstably housed to provide documentation. Challenges in providing birth

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<sup>23</sup> Housing and Community Development Act of 1980: Verification of Eligible Status, 84 Fed. Reg. 20,589, 20,592 (proposed May 10, 2019) (to be codified at 24 C.F.R. part 5).

<sup>24</sup> NPR, *For Older Voters, Getting the Right ID Can Be Especially Tough*, <https://www.npr.org/2018/09/07/644648955/for-older-voters-getting-the-right-id-can-be-especially-tough> (Sept. 7, 2018).

<sup>25</sup> National Center on Homelessness & Poverty, *Photo Identification Barriers Faced by Homeless Persons: The Impact of September 11*, [https://nlchp.org/wp-content/uploads/2018/10/ID\\_Barriers.pdf](https://nlchp.org/wp-content/uploads/2018/10/ID_Barriers.pdf) (April 2004).

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certificates and corresponding through the mail routinely disrupts care for formerly homeless individuals, be that through inappropriate cancellation of health care benefits, difficulties corresponding with landlords, or losing important mail. Heartland participants sometimes spend months attempting to obtain documentation, which often involves having to locate and travel to different public system offices, navigate unfamiliar bureaucracies, and pay fees to receive documents. This proposed rule could lead many of the formerly homeless residents we serve, most of whom are citizens, to lose their housing simply due to unnecessary paperwork requirements.

Furthermore, this rule could prevent formerly homeless individuals from moving into more mainstream housing resources covered under Section 214. Many Heartland Alliance participants fall into this category. For example, Heartland Human Care Services leverages HUD Continuum of Care (CoC) funds to provide rapid re-housing and permanent supportive housing to hundreds of participants each year who are experiencing or at high risk of homelessness. Although the Heartland participants in these programs would not be immediately subject to the proposed rule, for some participants, transitioning to a Section 214 program is a key next step to achieve their housing and economic stability goals. Were these participants unable to access Section 214 programming as a result of the proposed rule, they run the risk of returning to unstable housing or homelessness.

Finally, housing providers and landlords will be significantly burdened by the rule. Public housing agencies, private property owners, and managers would be responsible for collecting the documents that “prove” the citizenship status of the over nine million individuals already receiving HUD assistance (who have attested to being citizens under penalty of perjury) as well as citizenship documentation of future applicants for housing assistance. Housing providers would also need to collect status documentation from the 120,000 elderly immigrants who would be impacted by the proposed rule. All of these requirements will place a significant cost burden on housing authorities and other subsidized housing providers that are completely unaccounted for in the rule.

As a low-income housing developer and property manager, Heartland Alliance already has experience managing some of the administrative burdens associated with having to collect documentation from our housing residents. That said, this proposed rule has the potential to seed confusion among our staff, residents, and Heartland participants overall. We may be required to update forms, post notices, and train staff in understanding administrative changes, all of which will divert our attention and resources away from our work to help Heartland participants quickly move into safe, stable homes. Moreover, Heartland Alliance staff noted that smaller housing providers or independent landlords will probably have a very steep learning curve related to collecting and managing sensitive documentation. The additional cost and administrative burden of having to do so could mean that other Chicago-area affordable

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housing providers or private landlords will simply stop participating in these programs, further decreasing the affordable housing supply.

HUD has failed to take into account the added costs and burdens of these new documentation requirements on individuals, housing providers, and local housing markets, and should do its due diligence by performing a comprehensive study on these impacts prior to finalizing the proposed rule.

#### **IV. The Proposed Rule Will Reduce the Availability of Affordable Housing Units and Further Burden the Homeless Service System**

The proposed rule will reduce the number of families that receive federally subsidized assistance. Secretary Carson stated that HUD has promulgated the proposed rule in an effort to address the waitlist crisis for subsidized housing faced by most Public Housing Authorities nationwide.<sup>26</sup> It is true that there is a public housing and Section 8 waitlist crisis; there are currently 3 million individuals on voucher waitlists around the country and an additional 6 million individuals who would like to be on these waitlists.<sup>27</sup> However, the proposed rule would worsen this crisis—by HUD’s own assessment, the proposed rule will likely lead to a *decrease* in the number of assisted families. According to HUD, if the agency were to replace the 25,000 mixed status families currently receiving HUD assistance with households comprised of members who are all eligible, this transition would cost HUD from \$372 million to \$437 million annually.<sup>28</sup>

To pay for these new costs of the proposed rule,<sup>29</sup> HUD has surmised that the likeliest scenario would be that HUD would have to reduce the quantity and quality of assisted housing in response to higher costs. In this case, the transfer would be from assisted households who experience a decline in assistance (in whole or in part) to the replacement households. With part of the budget being redirected to cover the increase in subsidy, there could be fewer households served under the housing choice vouchers program.<sup>30</sup>

HUD’s own economic analysis shows that the proposed rule will not only fail to achieve its stated goals of addressing the subsidized housing waitlist crisis, but will in fact exacerbate this

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<sup>26</sup> Washington Post, *Trump Proposal Would Evict Undocumented Immigrants From Public Housing*, [https://www.washingtonpost.com/business/2019/04/18/trump-proposal-would-evict-undocumented-immigrants-public-housing/?utm\\_term=.f68fec836d53](https://www.washingtonpost.com/business/2019/04/18/trump-proposal-would-evict-undocumented-immigrants-public-housing/?utm_term=.f68fec836d53) (Apr. 18, 2019).

<sup>27</sup> Center on Budget and Policy Priorities, *Housing Vouchers Work: Huge Demand, Insufficient Funding for Housing Vouchers Means Long Waits*, <https://www.cbpp.org/blog/housing-vouchers-work-huge-demand-insufficient-funding-for-housing-vouchers-means-long-waits> (Apr. 19, 2017).

<sup>28</sup> HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01, at 11 (Apr. 15, 2019).

<sup>29</sup> NPR, *White House Budget Calls for Deep Cuts to HUD*, <https://www.npr.org/2018/02/13/585255697/white-house-budget-calls-for-deep-cuts-to-hud> (Feb. 13, 2018).

<sup>30</sup> HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01, at 3 (Apr. 15, 2019).

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very issue. The Regulatory Impact Analysis released by HUD makes it clear that the proposed rule will not further HUD’s mission to “create strong, sustainable, inclusive communities and quality affordable homes for all.”<sup>31</sup> In fact, the proposed rule will do the exact opposite, reducing the quantity of affordable homes on the market.

As noted in section II of these comments, above, the Chicagoland area already lacks sufficient affordable housing. This is true across Illinois, and the state simply cannot sustain a loss of affordable housing resources at a time when we face a severe shortage. The state currently has an unmet need for nearly 300,000 additional units of affordable housing.<sup>32</sup> A family of three needs to earn well over \$20 per hour at a full-time job in order to afford a home in Illinois and far more in certain parts of Chicago.<sup>33</sup> Given the realities of the low-wage jobs that are most readily available to immigrants—who may face significant barriers to employment such as language barriers, limited educational attainment or credentials that are not recognized in the U.S., or issues with documentation<sup>34</sup>—it is clear that access to affordable housing for this population is imperative. As one Heartland Alliance staffer noted, “The folks [we work with] may not ever be able to afford [market rate rent].”

The fact that this rule will exacerbate this affordable housing crisis is alone enough to reject it. Indeed, this rule will have the effect of increasing homelessness and further burdening the resources allocated to our homeless system due to the eviction of thousands of current HUD residents and an overall reduction in affordable housing stock. In Chicago alone, over 5,000 individuals are already experiencing homelessness on any given night.<sup>35</sup> An increase in need combined with a reduction in resources will create nothing less than a crisis. As a result, the proposed rule runs counter to the existing federal goal articulated by the U.S. Interagency Council on Homelessness (USICH) in its current strategic plan: to end homelessness in America, including by increasing affordable housing opportunities.<sup>36</sup> As a member of USICH, HUD’s proposed rule is puzzling and undermines the agency’s own work.

Moreover, the proposed rule would lead to a reduction in the quality of federally assisted housing provided by HUD. In the Regulatory Impact Analysis issued by HUD, the agency

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<sup>31</sup> HUD, *HUD Mission*, <https://www.hud.gov/about/mission> (last visited May 20, 2019).

<sup>32</sup> National Low-Income Housing Coalition, *The Gap: A Shortage of Affordable Homes*, [https://reports.nlihc.org/sites/default/files/gap/Gap-Report\\_2019.pdf](https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2019.pdf), (March 2019).

<sup>33</sup> National Low-Income Housing Coalition, *Out of Reach 2019*, [https://reports.nlihc.org/sites/default/files/or/OOR\\_2019.pdf](https://reports.nlihc.org/sites/default/files/or/OOR_2019.pdf) (2019).

<sup>34</sup> See, e.g., Heartland Alliance National Initiatives Blog, *Oprima-1: A Creative Social Enterprise Strategy Connecting Immigrants to Employment*, <https://nationalinitiatives.wordpress.com/2015/05/06/oprima-1-a-creative-social-enterprise-strategy-connecting-immigrants-to-employment/> (May 6, 2015).

<sup>35</sup> City of Chicago. *2018 Homeless Point-in-Time Count & Survey Report*. [https://www.chicago.gov/content/dam/city/depts/fss/supp\\_info/Homeless/2018PITSummaryReportFinal100418.pdf](https://www.chicago.gov/content/dam/city/depts/fss/supp_info/Homeless/2018PITSummaryReportFinal100418.pdf)

<sup>36</sup> U.S. Interagency Council on Homelessness, *Home, Together: The Federal Strategic Plan to Prevent and End Homelessness—Summary of Essential Elements of the Plan*, [https://www.usich.gov/resources/uploads/asset\\_library/Summary\\_of\\_Essential\\_Elements\\_of\\_the\\_Plan.pdf](https://www.usich.gov/resources/uploads/asset_library/Summary_of_Essential_Elements_of_the_Plan.pdf) (July 2018).

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acknowledged that the proposed rule could create about \$200 million in new costs and hurt public housing by reducing the “maintenance of the units and possibly [leading to] deterioration of the units that could lead to vacancy.”<sup>37</sup> In light of the negative consequences of the proposed rule, it is hard to see what purpose it serves, other than to foment fear among individuals, families, and children who have come to the U.S. seeking refuge, safety, and a chance at economic opportunity.

## **V. The Rule Would Violate HUD’s Obligation to Affirmatively Further Fair Housing**

Adoption of HUD’s proposed rule directly violates the agency’s statutory obligation to affirmatively further fair housing. The federal Fair Housing Act (FHA) mandates that the HUD Secretary shall “administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of” the FHA.<sup>38</sup> In its 2015 regulation, HUD defined “affirmatively further fair housing” to mean “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.”<sup>39</sup> The affirmatively furthering fair housing obligation also includes “fostering and maintaining compliance with civil rights and fair housing laws.”

The proposed rule does nothing to advance fair housing aims, or compliance with other civil rights laws. Instead, it seeks to do the exact opposite by denying housing opportunities to thousands of immigrant families, using eligible immigration status as a pretext for discriminating against individuals based on their race and national origin. Furthermore, according to HUD’s own analysis, 70 percent of the households negatively impacted by this proposed rule *are families with eligible children*.<sup>40</sup> Since minor children comprise the vast majority of eligible occupants of mixed status households,<sup>41</sup> the proposed rule would also have a disproportionate and devastating impact on families with children. This clearly discriminatory policy is wholly inconsistent with HUD’s obligation to combat housing discrimination and segregation.

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<sup>37</sup> HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01, at 3 (Apr. 15, 2019).

<sup>38</sup> 42 U.S.C.A. § 3608(e)(5) (West 2019).

<sup>39</sup> 24 C.F.R. § 5.152 (definition of “Affirmatively furthering fair housing”).

<sup>40</sup> HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01, at 8 (Apr. 15, 2019).

<sup>41</sup> *Id.* At 6 (noting that in mixed status households, 73 percent of eligible occupants are children between 0 and 17 years old).

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## **VI. The Proposed Rule Will Disproportionately Hurt Disadvantaged Populations**

As discussed throughout these comments in greater detail, a number of already-disadvantaged populations will be disproportionately impacted by this proposed rule. Communities of color, older adults, children, people who are experiencing homelessness or housing instability, and the LGBTQ community are among the groups likely to bear the brunt of the proposed rule's negative consequences. Heartland Alliance stands by ALL individuals who are seeking a safe and stable place to call home. However, two populations likely to be hurt by the proposed rule that are of special concern relative to our work at the intersection of immigration, housing, and homelessness are survivors of trafficking and persons with disabilities, particularly severe mental health diagnoses.

### **Survivors of Trafficking**

As noted in the introduction to these comments, Heartland Alliance's [Freedom from Trafficking \(FFT\) Program](#) provides foreign-national survivors of human trafficking and their family members with comprehensive services, including helping these individuals obtain housing. Immigrants—both documented and undocumented—face increased risk for trafficking, especially when combined with poverty, limited English proficiency, and lack of understanding of their rights or knowing how to access resources.<sup>42</sup> Survivors of human trafficking share common experiences such as separation from family and friends, loss of wages, lack of autonomy and independence, and isolation and confinement. Additionally, many survivors have been forced to live with their trafficker or in a place controlled by their trafficker. These experiences, combined with their controlled living situation, leaves them with few to zero options for safety, independence, and self-sufficiency upon escape.

The large majority of survivors we serve risk their lives to escape their trafficking situation by running away without the help of community members, service providers, or law enforcement. Foreign national survivors are not able to support themselves immediately after escaping a trafficking situation. These survivors are eligible to apply for T nonimmigrant status (commonly referred to as a T-Visa), which makes them eligible for employment authorization and certain federal and state benefits and services, *including* housing assistance through Section 214. However, it can take anywhere from 18 to 36 months for a survivor to obtain a T-Visa. During this lengthy waiting period, safe housing is a primary need—but also the toughest resource to secure. For some survivors awaiting their T-Visa, the ability to live in a mixed household is a critical lifeline. For others, housing options are short-term and not stable. At Heartland Alliance, we have often turned to domestic violence shelters, homeless shelters, hotels, and community members to house survivors. These settings are time-limited, have eligibility criteria that survivors may not be able to meet, and are ill equipped to understand and address this population's particular needs.

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<sup>42</sup> Freedom Network USA, Human Trafficking and Immigrant Rights, <https://freedomnetworkusa.org/app/uploads/2018/07/HT-and-Immigrant-Rights.pdf> (April 2015)

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In order to better meet the housing needs of survivors of trafficking, in 2016 Heartland Alliance partnered with HUD, the U.S. Department of Health and Human Services, Chicago Based Public Housing Authorities (PHAs), and other service providers to implement a housing pilot for human trafficking survivors with PHAs. The Chicago Housing Authority issued sixty tenant-based Housing Choice Vouchers over a three-year period. As currently implemented, mixed-status families can access this critical resource while survivors wait for their T-Visas. This proposed rule threatens to undermine this important program and, as a result, the safety and well-being of survivors of trafficking and their families. If confirmed, this rule will force survivors into homelessness, making them extremely vulnerable to re-victimization.

For example, one of our current housing pilot participants is trafficking survivor who is undocumented and has two citizen children, which allows the family to qualify for and live together with a Housing Choice Voucher. Prior to receiving the Voucher, this survivor experienced homelessness for over a year. Since being housed through the pilot program, her mental health has improved and she has been able to work toward other important goals, including participating in the investigation against her trafficker. If this rule is implemented while this survivor is still working to obtain her eligible status, she will once again be at high risk of experiencing homelessness—as well as at risk of being re-trafficked. Another one of our pilot participants, who is also awaiting a T-Visa, is an older male in his 70s who faces a number of physical impairments that serve as significant barriers to employment. When we met him, he was living with his trafficker's son in the garage of a building owned by his trafficker. While Heartland Alliance was able to provide this individual with short-term housing, without his Housing Choice Voucher, he will not have a next stepping stone to make sure he remains safely housed. Again, if this rule goes into effect prior to his obtaining eligible status, this individual will very likely be left with no other viable housing options.

### **Individuals with Disabilities, Including Severe Mental Illness**

The lack of accessible, affordable housing is a continuing and significant barrier to integrated community living, making it difficult for people with disabilities to move from segregated facilities into the community, and putting many people with disabilities at risk of unnecessary institutionalization or homelessness. People with disabilities comprise a large percentage of the individuals served by HUD programs, including programs covered under the proposed rule. For example, about one in three households using Section 8 vouchers are headed by a non-elderly person with a disability and about one in five households living in public housing are headed by a non-elderly person with a disability. People with disabilities often have few financial resources and remain among the country's poorest.<sup>43</sup> At the same time, people with

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<sup>43</sup> Institute on Disability/UCED, University of New Hampshire, *2018 Annual Report on People with Disabilities in America*, [https://disabilitycompendium.org/sites/default/files/user-uploads/Annual\\_Report\\_2018\\_Accessible\\_AdobeReaderFriendly.pdf](https://disabilitycompendium.org/sites/default/files/user-uploads/Annual_Report_2018_Accessible_AdobeReaderFriendly.pdf) (2018).

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disabilities all too often face discrimination when seeking housing.<sup>44</sup> Termination of assistance under the proposed rule could put people with few options at risk, with tremendous cost to their health, earning potential, well-being, and other significant harm.

In addition to people with disabilities living in mixed status families that will lose rental assistance, many people with disabilities will be at risk of losing assistance because of the proposed rules new documentation requirements for seniors and citizens. People with disabilities often have additional barriers to accessing proof of citizenship and identity. For example, some people with disabilities do not drive and are less likely to have state-issued identification; in 2012, 7.5 percent of people with disabilities lacked a valid ID compared to less than 5 percent of people without disabilities.<sup>45</sup>

Heartland Alliance program participants are among those most at risk. Single adults who have experienced chronic homelessness represent a significant portion of those we serve in both our housing programs and through our other support services. A disproportionate number of these individuals are diagnosed with a severe mental illness and other disabilities. It is difficult for them to find and maintain stable housing and Heartland Alliance staff devotes significant effort to helping them acquire housing and maintain that tenancy. The administrative barriers and diversion of resources that will occur from this proposed rule will lead many of these needy individuals to fall through the cracks and lose whatever stability they have gained through our services.

\* \* \* \*

As has been made clear throughout these comments, this proposed rule will hurt immigrants, their families, and the U.S. as a whole. It is unconscionable that HUD would seek to take action that, by its own analysis, would lead to widespread fear, eviction, and increased homelessness among people seeking safety, refuge, and a chance at economic opportunity in the U.S.

We urge HUD to immediately withdraw its current proposal and dedicate its efforts to advancing policies that strengthen, rather than undermine, the ability of immigrants to support themselves and their families in the future. If we want our communities to thrive, everyone in those communities must be able to stay together and get the care, services, and support they need to remain healthy and productive—including safe and stable housing.

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<sup>44</sup> National Fair Housing Alliance, *Making Every Neighborhood A Place of Opportunity: 2018 Fair Housing Trends Report*, [https://nationalfairhousing.org/wp-content/uploads/2018/04/NFHA-2018-Fair-Housing-Trends-Report\\_4-30-18.pdf](https://nationalfairhousing.org/wp-content/uploads/2018/04/NFHA-2018-Fair-Housing-Trends-Report_4-30-18.pdf) (2018)

<sup>45</sup> Center for American Progress, *Reforming Elections Without Excluding Disabled Voters*, <https://www.americanprogress.org/issues/disability/news/2019/03/28/468019/reforming-elections-without-excluding-disabled-voters/> (Mar. 29, 2019).

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Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact Caitlin C. Schnur at Heartland Alliance to provide further information.

Sincerely,

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