



August 16, 2016

The Personal Responsibility and Work Opportunity Act of 1996 and HUD's Homeless Assistance Programs

On August 11, 2016, the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Health and Human Services (HHS), and the U.S. Department of Justice (DOJ) issued a joint letter to remind recipients of federal financial assistance that they must not withhold certain services based on immigration status when the services are necessary to protect life or safety. This guidance provides additional information to recipients of funds under HUD's Homeless Assistance Programs – the Emergency Solutions Grants (ESG) and the Continuum of Care (CoC) Programs – about how this joint letter and the Personal Responsibility and Work Opportunity Act of 1996 (“the Act”), the Act on which this letter is based, applies to assistance funded through these programs. For more information about these programs, please see 24 CFR Part 576 and 24 CFR Part 578.

In the Act, Congress restricted immigrant access to certain federal public benefits but also recognized exceptions to protect life or safety, based on a 3-part test. There are certain types of federal assistance that are not subject to the Act's restriction on access to public benefits based on immigration status. This includes activities that: (1) deliver in-kind services at the community level, (2) are necessary for the protection of life or safety, and (3) do not condition the provision of assistance on the potential program participant's income or resources. The remainder of this document covers the types of assistance funded through the ESG and CoC Programs that are covered by this life or safety exception.

HUD has determined that the following forms of assistance meet this three-part test and, therefore, are not subject to the Act's immigration-based restrictions:

- **Street Outreach Services**
- **Emergency Shelter**
- **Safe Haven**
- **Rapid Re-Housing**

Transitional housing meets the 3-part test and falls within the exception for life or safety, and therefore must be provided to persons without regard to immigration status, when the recipient or subrecipient owns or leases the building used to provide transitional housing. However, in transitional housing programs where the recipient or subrecipient provides rental assistance payments on behalf of program participants, this type of program does not fall within the life or safety exemption because the rental assistance provided is required by regulation to be based on the program participant's income and, therefore, does not meet the 3-part test.

HUD reminds nonprofit organizations that are recipients of CoC or ESG Program funds that the Act does not require nonprofit charitable organizations to verify the immigration status of applicants for federal, state, or local public benefits.¹

¹ For more information about verification and the nonprofit exemption, see Department of Justice, Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 62 Fed. Reg. 61344, 61345 (Nov. 17, 1997).