

RD AN No. 3913 (1980-D)
October 4, 2003

TO: All State Directors
Rural Development

ATTENTION: Rural Housing Program Directors,
Guaranteed Rural Housing Coordinators,
Community Development Managers, and
Rural Development Managers

FROM: Arthur A. Garcia *(Signed by Arthur A. Garcia)*
Administrator
Rural Housing Service

SUBJECT: Eligibility of Non-U.S. Citizens for Single Family Housing
Guaranteed Loan Program Assistance

PURPOSE/INTENDED OUTCOME:

This Administrative Notice (AN) is intended to furnish guidance concerning what documentation non-U.S. citizens must supply in order to be considered for a loan note guarantee under the Single Family Housing Guaranteed Loan Program (SFHGLP).

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 3881 which was dated July 9, 2003. The list of documents that are acceptable evidence of eligible immigration status has been corrected to refer to Immigration and Naturalization Service (INS) Form I-766, instead of Form I-765.

EXPIRATION DATE:
October 31, 2004

FILING INSTRUCTIONS:
Preceding RD Instruction 1980-D

BACKGROUND:

RD Instruction 1980-D, section 1980.346(c), limits eligibility for individuals who receive a loan note guarantee under the SFHGLP to those who:

reside as a citizen in any of the 50 States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, Federated States of Micronesia, and the Republics of the Marshal Islands and Palau, or a noncitizen who resides in one of the foregoing areas after being legally admitted to the U.S. for permanent residence or on indefinite parole.

The term “indefinite parole” is no longer a term used by the Immigration and Naturalization Service (INS). Instead, under Section 401 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (8 U.S.C. Section 1611) lenders and the Agency must determine whether the applicant for a guaranteed loan is a U.S. citizen, a U.S. non- citizen national, or a “qualified alien.”

Generally, a U.S. non-citizen national is a person born in American Samoa or Swains Island or after the date the U.S. acquired American Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. Typical evidence of the relatively uncommon status as a non-citizen national includes a birth certificate or passport, and persons who are non-citizen nationals are eligible for consideration under the SFHGLP.

A “qualified alien” is defined under PRWORA (8 U.S.C. Section 1641) as:

- 1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
- 2) an alien who is granted asylum under section 208 of such Act;
- 3) a refugee who is admitted to the United States under section 207 of such Act;
- 4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year;
- 5) an alien whose deportation is being withheld under section 243(h) of such Act; or
- 6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;
- 7) an alien who is a Cuban/Haitian Entrant as defined by Section 501(e) of the Refugee Education Assistance Act of 1980; or
- 8) An alien who has been battered or subjected to extreme cruelty under section 431 of the Immigration and Nationality Act (INA).

The Department of Housing and Urban Development (HUD) will insure loans to non-permanent resident aliens provided that the borrower occupies the property as a residence, has a social security number, and is eligible to work in the United States. Despite HUD’s operating policy in this regard, the USDA Office of the General Counsel has determined that the SFHGLP may not permit loans to be guaranteed unless the non-permanent alien is deemed to be a qualified alien.

A list of documentation serving as evidence that a non-permanent alien is a qualified alien follows below.

IMPLEMENTATION RESPONSIBILITIES:

Lenders must secure evidence that non-citizens who apply for a guaranteed loan are qualified aliens. Evidence confirming qualified alien status may be obtained directly from the INS or by securing copies of the documentation further described below. When combined with satisfactory proof of identity, such evidence is adequate to establish that the applicant is a qualified alien under PRWORA.

Documentation that a Non-Citizen is a Qualified Alien

Any of the following documents is acceptable evidence of eligible immigration status:

1. INS Form I-551, Alien Registration Receipt Card (for permanent resident aliens);
2. INS Form 1-688B, Employment Authorization Card, which must be annotated "Provision of Law" followed by one of the provisions listed below:
 - 274a.12(c)(11),
 - 274a.12(a)(1),
 - 274a.12(a)(3),
 - 274a.12(a)(4),
 - 274a.12(a)(5),
 - 274a.12(a)(10)
3. INS Form I-766 (Employment Authorization Document) annotated as follows:
 - A3, or
 - A5, or
 - A10.
4. INS Form I-571 (Refugee Travel Document);
5. INS Form 1-94, Arrival-Departure Record, with one of the following annotations:
 - "Admitted as Refugee Pursuant to Section 207";
 - "Section 208" or "Asylum";
 - "Section 243(h)" or "Deportation stayed by Attorney General";
 - "Paroled Pursuant to Section 212(d)(5) of the INA;"
 - "Admitted under Section 203(a)(7) of the INA."
6. If Form 1-94, Arrival-Departure Record, is not annotated, it will still be acceptable evidence of eligible immigration status if it is accompanied by one of the following documents:

- A final court decision granting asylum (but only if no appeal is taken);
 - A letter from an INS asylum officer granting asylum (if application is filed on or after October 1, 1990) or from an INS district director granting asylum (if application was filed before October 1, 1990);
 - A court decision granting withholding of deportation; or
 - A letter from an asylum officer granting withholding of deportation (if application filed on or after October 1, 1990).
7. A receipt issued by the INS indicating that an application for issuance of a replacement document in one of the above-listed categories has been made and the applicant's entitlement to the document has been verified; or
8. Other acceptable evidence. If other documents are determined by the INS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the Federal Register.

If the documentation described above appears to be altered or counterfeit, or if the alien presents unfamiliar INS documentation, the lender should complete INS Form G-845, "Document Verification Request," and forward it to the nearest INS District Office for review. A copy of INS Form G-845 is attached. Fully readable copies (front and back) of the original immigration documents should be attached to the INS Form G-845 when it is submitted to the INS District Office. The original documents should be returned to the non-citizen. There is a 10 business day INS processing period. The location of INS District Offices may be found on the internet at <http://www.immigration.gov/graphics/fieldoffices/statemap.htm>.

Should there be any comments or questions concerning this AN, please contact Joaquín Tremols or Robert Keyes at (202) 720-1465.

Attachment

Document Verification Request

Section A - to be completed by the submitting agency.

To: Immigration and Naturalization Service

6. Verification Number

7. Photocopy of Document Attached.
(If printed on both sides, attach a copy of the front and of the back.)
- Other Information Attached (Specify documents).

From: Typed or Stamped Name and Address of Submitting Agency

8. Organization (specify)

Attn: Status Verifier

(INS may use above address with a #20 window envelope.)

1. Alien Registration or I-94 Number

9. Name of Submitting Official

2. Applicant's Name *(Last, First, Middle)*

10. Title of Submitting Official

3. Nationality

11. Date

4. Date of Birth *(Month/Day/Year)*

12. Telephone Number

5. Social Security Number

Section B - to be completed by INS.

INS RESPONSE: From the documents or information submitted and/or a review of our records we find that:

1. This document appears valid and relates to a **Lawful Permanent Resident alien** of the United States.
2. This document appears valid and relates to a **Conditional Resident alien** of the United States.
3. This document appears valid and relates to an alien **authorized employment** as indicated below:
 - a. Full-Time
 - b. Part-Time
 - c. No Expiration
 - d. Expires on _____
(specify Month/Day/Year, below)
4. This document appears valid and relates to an alien who has an application pending for _____
(specify INS benefit below)
5. This document relates to an alien having been granted **asylum/refugee** status in the United States.
6. This document appears valid and relates to an alien **paroled** into the United States pursuant to Section 212 of the I&N Act.
7. This document appears valid and relates to an alien who is a **Cuban/Haitian entrant**.
8. This document appears valid and relates to an alien who is a **conditional entrant**.
9. This document appears valid and relates to an alien who is a **nonimmigrant**.
(specify type or class below)
10. This document appears valid and relates to an alien **not authorized employment** in the United States.
11. Continue to process as legal alien. INS is searching indices for further information.
12. This document is **not valid** because it appears to be *(check all that apply)*
 - a. Expired
 - b. Altered
 - c. Counterfeit

INS Stamp

Please see reverse for additional comments.

Comments

13. No determination can be made from the information submitted. Please obtain a copy of the **original** alien registration documentation and resubmit.
14. No determination can be made without seeing both sides of the document submitted (*please resubmit request*).
15. Copy of document is not readable (*please resubmit request*).

"PRUCOL"

For Purposes Of Determining If Alien Is Permanently Residing Under Color Of Law Only!

16. INS actively pursues the expulsion of an alien in this class/category.
17. INS **is not** actively pursuing the expulsion of an alien in this class/category, at this time.
18. Other

Instructions

- **Submit copies of both** *front and back* of alien's original documentation.
- **Make certain a complete return address** has been entered in the "From" portion of the form.
- The Alien Registration Number ("A" Number) is the letter "A" followed by a series of (7) or (8) digits. Also in this block may be recorded the number found on Form I-94. (Check the front and back of the I-94 document and if the "A" Number appears, record that number when requesting information instead of the longer admission number as the "A" Number refers to the most integral record available.)
- If Form G-845 is submitted without copies of applicant's original documentation, it will be returned to the submitting agency without any action taken.
- Address this verification request to the local office of the Immigration and Naturalization Service.