

§5.216

(4) Unearned IRS income and self-employment, wages and retirement income as described in the Internal Revenue Code, 26 U.S.C. 6103(1)(7); and

(5) Wage, social security (Title II), and supplemental security income (Title XVI) data obtained from the Social Security Administration.

Individual owner applicant. Except as excluded pursuant to 42 U.S.C. 3543(b), 3544(a)(2), or paragraph (2) of this definition, this term means:

(1) An individual who seeks to participate as a private owner in any of:

(i) The project-based assistance programs under Section 8 of the 1937 Act; or

(ii) The programs in 24 CFR parts 215, 221, 235 (without homeownership assistance), or 236, including where the individual seeks to assume an existing mortgage; or

(2) An individual who:

(i) Either: (A) Applies for a mortgage or loan insured or coinsured under any of the programs referred to in paragraph (1)(iii) of the definition of “entity applicant” in this section; or

(B) Seeks to assume an existing mortgage or loan; and

(ii) Intends to hold the mortgaged property in his or her individual right.

IRS means the Internal Revenue Service.

Owner means the person or entity (or employee of an owner) that leases an assisted dwelling unit to an eligible family and includes, when applicable, a mortgagee.

Participant. Except as excluded pursuant to 42 U.S.C. 3543(b) and 3544(a)(2), this term has the following meaning:

(1) For any program under 24 CFR part 891, or Section 8 of the 1937 Act: A family receiving rental assistance under the program;

(2) For the public housing program: A family or individual that is assisted under the program;

(3) For 24 CFR parts 215, 221, 236, and 290: A tenant or qualified tenant under any of the programs; and

(4) For 24 CFR part 235: A homeowner or a cooperative member receiving homeownership assistance.

Processing entity means the person or entity that, under any of the programs covered under this subpart B, is responsible for making eligibility and related

24 CFR Subtitle A (4–1–10 Edition)

determinations and an income reexamination. (In the Section 8 and public housing programs, the “processing entity” is the “responsible entity” as defined in §5.100.)

Social Security Number (SSN) means the nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person’s earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

SSA means the Social Security Administration.

State Wage Information Collection Agency (SWICA) means the State agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the State, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

[61 FR 11113, Mar. 18, 1996, as amended at 63 FR 23853, Apr. 30, 1998; 65 FR 16715, Mar. 29, 2000]

DISCLOSURE AND VERIFICATION OF SOCIAL SECURITY NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS FOR APPLICANTS AND PARTICIPANTS IN CERTAIN HUD PROGRAMS

§5.216 Disclosure and verification of Social Security and Employer Identification Numbers.

(a) *General.* The requirements of this section apply to applicants and participants as described in this section, except that this section is inapplicable to individuals who do not contend eligible immigration status under subpart E of this part (see §5.508).

(b) *Disclosure required of assistance applicants.* Each assistance applicant must submit the following information to the processing entity when the assistance applicant’s eligibility under the program involved is being determined.

(1) The complete and accurate SSN assigned to the assistance applicant and to each member of the assistance applicant’s household; and

(2) The documentation referred to in paragraph (g)(1) of this section to verify each such SSN.

(c) *Disclosure required of individual owner applicants.* Each individual owner applicant must submit the following information to the processing entity when the individual owner applicant's eligibility under the program involved is being determined:

(1) The complete and accurate SSN assigned to the individual owner applicant and to each member of the individual owner applicant's household who will be obligated to pay the debt evidenced by the mortgage or loan documents; and

(2) The documentation referred to in paragraph (g)(1) of this section to verify each such SSN.

(d) *Disclosure required of certain officials of entity applicants.* Each officer, director, principal stockholder, or other official of an entity applicant must submit the following information to the processing entity when the entity applicant's eligibility under the program involved is being determined:

(1) The complete and accurate SSN assigned to each such individual; and

(2) The documentation referred to in paragraph (g)(1) of this section to verify each SSN.

(e) *Disclosure required of participants—*

(1) *Initial disclosure.* (i) Each participant, except those age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010, must submit the information described in paragraph (e)(1)(ii) of this section, if the participant has:

(A) Not previously disclosed a SSN;

(B) Previously disclosed a SSN that HUD or the SSA determined was invalid; or

(C) Been issued a new SSN.

(ii) Each participant subject to the disclosure requirements under paragraph (e)(1)(i) of this section must submit the following information to the processing entity at the next interim or regularly scheduled reexamination or recertification of family composition or income, or other reexamination or recertification for the program involved:

(A) The complete and accurate SSN assigned to the participant and to each

member of the participant's household; and

(B) The documentation referred to in paragraph (g)(1) of this section to verify each such SSN.

(2) *Subsequent disclosure.* Once a participant has disclosed and the processing entity has verified each SSN, the following rules apply:

(i) *Addition of new household member who is at least 6 years of age or under the age of 6 and has an assigned SSN.* When the participant requests to add a new household member who is at least 6 years of age, or is under the age of 6 and has an assigned SSN, the participant must provide the following to the processing entity at the time of the request, or at the time of processing the interim reexamination or recertification of family composition that includes the new member(s):

(A) The complete and accurate SSN assigned to each new member; and

(B) The documentation referred to in paragraph (g)(1) of this section to verify the SSN for each new member.

(ii) *Addition of new household member who is under the age of 6 and has no assigned SSN.* (A) When a participant requests to add a new household member who is under the age of 6 and has not been assigned a SSN, the participant shall be required to provide the complete and accurate SSN assigned to each new child and the documentation referred to in paragraph (g)(1) of this section to verify the SSN for each new child within 90 calendar days of the child being added to the household.

(B) The processing entity shall grant an extension of one additional 90-day period if the processing entity, in its discretion, determines that the participant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant. During the period that the processing entity is awaiting documentation of a SSN, the processing entity shall include the child as part of the assisted household and the child shall be entitled to all the benefits of being a household member. If, upon expiration of the provided time period, the participant fails to produce a SSN, the processing entity shall follow the provisions of §5.218.

§5.218

(iii) *Assignment of new SSN.* If the participant or any member of the participant's household has been assigned a new SSN, the participant must submit the following to the processing entity at either the time of receipt of the new SSN; at the next interim or regularly scheduled reexamination or recertification of family composition or income, or other reexamination or recertification; or at such earlier time specified by the processing entity:

(A) The complete and accurate SSN assigned to the participant or household member involved; and

(B) The documentation referred to in paragraph (g)(1) of this section to verify the SSN of each individual.

(f) *Disclosure required of entity applicants.* Each entity applicant must submit the following information to the processing entity when the entity applicant's eligibility under the program involved is being determined:

(1) Any complete and accurate EIN assigned to the entity applicant; and

(2) The documentation referred to in paragraph (g)(2) of this section to verify the EIN.

(g) *Required documentation—(1) SSN.* The documentation necessary to verify the SSN of an individual who is required to disclose his or her SSN under paragraphs (a) through (e) of this section is:

(i) A valid SSN card issued by the SSA;

(ii) An original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual, along with other identifying information of the individual; or

(ii) Such other evidence of the SSN as HUD may prescribe in administrative instructions.

(2) *EIN.* The documentation necessary to verify an EIN of an entity applicant that is required to disclose its EIN under paragraph (f) of this section is the official, written communication from the Internal Revenue Service (IRS) assigning the EIN to the entity applicant, or such other evidence of the EIN as HUD may prescribe in administrative instructions.

(h) *Effect on assistance applicants.* (1) Except as provided in paragraph (h)(2) of this section, if the processing entity

24 CFR Subtitle A (4–1–10 Edition)

determines that the assistance applicant is otherwise eligible to participate in a program, the assistance applicant may retain its place on the waiting list for the program but cannot become a participant until it can provide:

(i) The complete and accurate SSN assigned to each member of the household; and

(ii) The documentation referred to in paragraph (g)(1) of this section to verify the SSN of each such member.

(2) For applicants to the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program for Homeless Individuals under 24 CFR part 882, subpart H, the documentation required in paragraph (h)(1) of this section must be provided to the processing entity within 90 calendar days from the date of admission into the program. The processing entity shall grant an extension of one additional 90-day period if the processing entity, in its discretion, determines that the applicant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the applicant. If, upon expiration of the provided time period, the individual fails to produce a SSN, the processing entity shall follow the provisions of §5.218.

(i) *Rejection of documentation.* The processing entity must not reject documentation referred to in paragraph (g) of this section, except as HUD may otherwise prescribe through publicly issued notice.

[74 FR 68932, Dec. 29, 2009]

§5.218 Penalties for failing to disclose and verify Social Security and Employer Identification Numbers.

(a) *Denial of eligibility of assistance applicants and individual owner applicants.* The processing entity must deny the eligibility of an assistance applicant or individual owner applicant in accordance with the provisions governing the program involved, if the assistance or individual owner applicant does not meet the applicable SSN disclosure, documentation, and verification requirements as specified in §5.216.

(b) *Denial of eligibility of entity applicants.* The processing entity must deny the eligibility of an entity applicant in