



Kentucky
Housing
Corporation

Investing in quality housing solutions.

VAWA HUD Requirements Training Aid



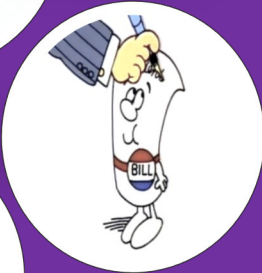
Violence Against Women Act

What is the Violence Against Women Act?

The Violence Against Women Act (VAWA) creates and supports comprehensive, cost-effective responses to domestic violence, sexual assault, dating violence and stalking. Up for renewal every five years, each VAWA reauthorization builds on existing protections and programs to better meet survivors' needs.



VAWA becomes Law



- U. S. Federal Legislation dating back to 1994
- Originally part of the Violent Crime Control and Law Enforcement Act
- The VAWA act has gone through several expirations and reauthorizations since its inception:
 - Reauthorized in 2000
 - Reauthorized in 2005
 - Reauthorized in 2013
 - Temporary expiration on December 21, 2013
 - Temporarily reauthorized January 25, 2019 but then expired again on February 15, 2019
 - Most recently reauthorized on March 15, 2022
- The VAWA regulation provides many protections, programs and services, however this training will focus on HUD requirements related to VAWA

HUD Regulation

80724 Federal Register / Vol. 81, No. 221 / Wednesday, November 16, 2016 / Rules and Regulations

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 91, 92, 93, 200, 247, 574, 576, 578, 890, 892, 882, 883, 884, 886, 891, 905, 906, 966, 982, and 983
[Docket No. FR-5720-F-03]

RIN 2501-AD71

Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs

AGENCY: Office of the Secretary, HUD.
ACTION: Final rule.

SUMMARY: This final rule implements in HUD's regulations the requirements of the 2013 reauthorization of the Violence Against Women Act (VAWA), which applies for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation, and which must be applied consistent with all nondiscrimination and fair housing requirements. The 2013 housing requirements. The 2013 reauthorization (VAWA 2013) expands housing protections to HUD programs beyond HUD's public housing program and HUD's tenant-based and project-based Section 8 programs (collectively, the Section 8 programs) that were covered by the 2005 reauthorization of the Violence Against Women Act (VAWA 2005). Additionally, the 2013 law provides enhanced protections and options for victims of domestic violence, dating violence, sexual assault, and stalking. Specifically, this rule amends HUD's generally applicable law regarding HUD's regulations for the public housing and Section 8 programs that already pertain to VAWA, and the regulations of programs newly covered by VAWA 2013.

In addition to this final rule, HUD is publishing a notice titled the Notice of Occupancy Rights under the Violence Against Women Act (Notice of Occupancy Rights) that certain housing providers must give to tenants and applicants to ensure they are aware of their rights under VAWA and these implementing regulations, a model emergency transfer plan that may be used by housing providers to develop their own emergency transfer plans, a model emergency transfer request form that housing providers request from tenants requesting an emergency transfer under these regulations, and a new certification form for documenting incidents of domestic violence, dating violence, sexual assault, and stalking that must be used by housing providers. This rule reflects the statutory changes made by VAWA 2013, as well

as HUD's recognition of the importance of providing housing protections and rights to victims of domestic violence, and dating violence, sexual assault, and stalking. By increasing opportunities for all individuals to live in safe housing, this will reduce the risk of homelessness and further HUD's mission of utilizing housing to improve quality of life.

DATES: Effective Date: These regulations are effective on December 16, 2016.
Compliance with: Compliance with the rule with respect to completing an emergency transfer plan and providing emergency transfers, and associated recordkeeping and reporting requirements, is required no later than May 15, 2017.

FOR FURTHER INFORMATION CONTACT: For information about HUD's public housing program, contact Monica Shepherd, Director Public Housing, Management and Occupancy Division, Office of Public and Indian Housing, Room 4204, telephone number 202-402-5687; HUD's Housing Choice Voucher program and Project-Based Director, Housing Voucher Management and Operations Division, Room 4216, telephone number 202-402-6050; HUD's Multifamily Housing programs, contact Yvette M. Viviani, Director, Housing Assistance Policy Division, Office of Housing, Room 6136, telephone number 202-708-3000; HUD's HOME Investment Partnerships program, contact Virginia Sandone, Director, Office of Community Planning and Development, Room 7164, telephone number 202-708-2624; HUD's Housing Opportunities for Persons With AIDS (HOPWA) program, contact Rita Fiegel, Director, Office of HIV/AIDS Housing and Development, Community Planning and Development, Room 7246, telephone number 202-402-5374; and HUD's Homeless Programs, contact Norman Suchar, Director, Office of Special Needs Assistance, Office of Community Planning and Development, telephone number 202-708-4300. The address for all offices is the Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410. The telephone numbers listed above are not toll-free numbers. Persons with hearing or speech impairments may access these numbers through TTY by calling the Federal Relay Service, toll-free, at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of This Regulatory Action

This rule implements the HUD housing provisions in VAWA 2013, which are found in Title VI of the statute. (See Pub. L. 113-4, 127 Stat. 54, approved March 7, 2013, at 127 Stat. 1011; VAWA 2005 (Pub. L. 109-162, 119 Stat. 2959, approved January 5, 2006) applied VAWA protections to certain HUD programs by amending the authorizing statutes for HUD's public housing and section 8 programs for victims of domestic violence, dating violence, and sexual assault. VAWA 2013 removes these amendments from the public housing and section 8 authorizing statutes and in its place provides that these protections that apply to these HUD programs, as well as additional HUD expands protections for victims of domestic violence, dating violence, sexual assault, and stalking by amending the definition of domestic violence to include violence committed by intimate partners of victims, and by providing that tenants cannot be denied assistance because an affiliated individual of theirs is or was a victim of domestic violence, dating violence, sexual assault, or stalking (collectively, VAWA crimes). The new law also expands remedies for victims of domestic violence, dating violence, sexual assault, and stalking by requiring covered housing providers to have emergency transfer plans, and providing that if housing providers allow for bifurcation of a lease, then tenants should have a reasonable time to establish eligibility for assistance under a VAWA-covered program or to find new housing when an assisted household has to be divided as a result of the violence or abuse covered by VAWA.

VAWA 2013 provides protections for both applicants for and tenants of assistance under a VAWA-covered program. VAWA 2013 covers applicants, as well as tenants, in the statute's nondiscrimination and emergency transfer and bifurcation provisions. However, the statutory provisions of the rule are applicable solely to tenants. The statutory provisions of VAWA that require an notice of occupancy plan, and allow for the possibility of bifurcation of a lease, support that it is a rental housing situation that is the focus of the VAWA protections. However, as described in this final rule, the core statutory provisions of VAWA that prohibit

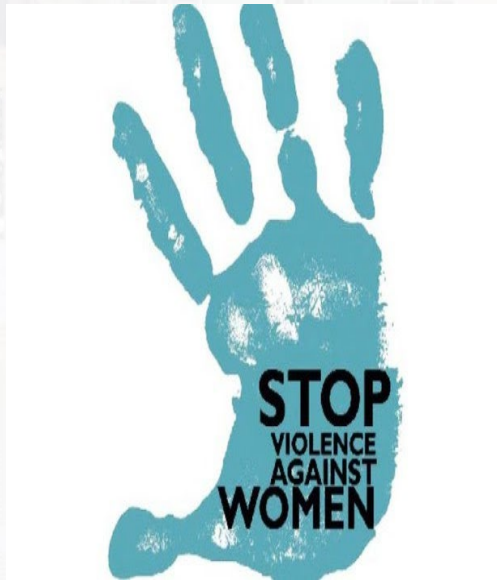
General Rules: 24 CFR 5.2001 – 5.2011

Specific Rules for your funding has been added to the rule for your funding.

Which Programs Are Required to adhere to HUD's VAWA Guidance:

- Home TBRA
- Emergency Solutions Grants (ESG)
- Continuum Care Programs (COC)
- Housing Opportunities for Persons with AIDS (HOPWA)
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Rural Housing Stability Assistance Program
- Multifamily Rental Housing under Section 221 & 236 (Public Housing)
- Tenant-based & Project based Section 8
- Section 8 Moderate Rehabilitation Single Room Occupancy
- The Housing Trust Fund
- FHA Mortgage Insurance for Multifamily Rental Housing
- Low Income Housing Tax Credit (LIHTC)
- Rural Development 515









**Who Is
Protected
?**

It should be noted that, although VAWA refers to women in the title, the statute makes it clear that the protections are for all applicants/tenants regardless of sex, gender, identity, sexual orientation, or age.

VAWA Provides Protections to ALL People:

Who are Victims of VAWA:

DOMESTIC VIOLENCE:

- Emotional abuse
- Physical Abuse
- Economic Abuse
- Psychological abuse
- Isolations

DATING VIOLENCE:

- Physical Abuse
- Threats
- Coercion
- Sexual Abuse
- Intimidation
- Emotional Abuse

SEXUAL ASSAULT:

- Nonconsensual Sex
- Unwanted Sexual Touching
- Fondling
- Forcing Sexual Acts
- Attempted Rape

STALKING:

- Engaging in a course of conduct directed at a person that would cause fear to their safety or causes emotional distress. (text, calls, emails, etc.)

VAWA Laws are also provided to Affiliated Persons:

- Spouse (current or Former)
- Parent
- Brother
- Sister
- Child of the victims

- OR a person to whom the victim stands in place of a parent or guardian
- Any Individual, tenant/applicant, or lawful occupant living in the household of that individual.

VAWA Final Rule

- Provides that an applicant(s) and tenant(s) may not be denied assistance or have assistance terminated under a covered housing program on the basis of, or as a direct result of, the fact that the applicant or tenant is, or has been, a victim of domestic violence, sexual assault, or stalking. (24 CFR 5.2005(b)(1))

VAWA Program Rules

Read the
VAWA section
of your
program rule
for special
considerations
and
timeframes

- Home TBRA- Part 92
- Emergency Solutions Grants (ESG)- Part 576
- Continuum Care Programs (COC)- Part 578
- Housing Opportunities for Persons with AIDS (HOPWA)- Part 574
- Section 202 Supportive Housing for the Elderly- Part 891
- Section 811 Supportive Housing for Persons with Disabilities- Part 891
- Rural Housing Stability Assistance Program- Part 578
- Multifamily Rental Housing under Section 221 & 236 (Public Housing)- Part 236
- Tenant-based & Project based Section 8 5.2005
- Section 8 Moderate Rehabilitation Single Room Occupancy
- The Housing Trust Fund
- FHA Mortgage Insurance for Multifamily Rental Housing
- Low Income Housing Tax Credit (LIHTC)
- Rural Development 515- Part 5

Limits:

- VAWA does not limit an agency or landlord's rights to terminate assistance/tenancy for any violation that is not related to a VAWA crime.
- VAWA does not limit an agency or landlords right to terminate assistance/tenancy if the agency/landlord can demonstrate an actual and imminent threat would be present if the resident or lawful occupant is not terminated.

SUCH AS:

- Threats to other tenants;
- Employees;
- Vendors providing services.

VAWA HUD Required Documents:

KHC Kentucky Housing Corporation
Investing in quality housing solutions.

Housing Contract Administration Help Desk

Welcome to the Housing Contract Administration Help Desk Portal. If you have any questions, please submit a request and a Training and Development Specialist or KYHMIS Specialist will respond.

Hours of Operation
Our office hours are Monday-Friday from 8:00 am to 5:00 pm.
Phone: 502-564-7630; (800) 633-8896 (KY only); ext. 446

Submit a request

Q Toolkit

Top article suggestions

- HOME TBRA COVID-19 Toolkit - Coronavirus (COVID-19) Information
- 2022 I Lead Safe Housing Rule Toolkit - Compliance
- Spanish HOME TBRA Toolkit forms - HOME TBRA
- 2021 HOME TBRA Toolkit (rev. 10/2021) - HOME TBRA
- HOMEBU Infectious Disease Toolkit for CoCs - Coronavirus (COVID-19) Information
- 2022 KHC HOPWA Program Administration Toolkit - HOPWA (Housing Opportunities for Persons With AIDS)

Attachment

- 2022 Single-Family Homebuyer Development Application Scoresheet
- 2022 KHC Single-Family Homebuyer Development Policy Manual
- Affordable Housing Trust Fund (AHTF) Certificates and Assurances
- Home Investment Partnerships Program (HOME) Certification and Assurances

Attachment

- 2022 AHTF Home Repair Program Application Scoresheet
- 2022 AHTF Home Repair Program Policy Manual
- Affordable Housing Trust Fund (AHTF) Certification and Assurances

TECHNICAL SUBMISSION

Required documents can be found in the toolkits at the

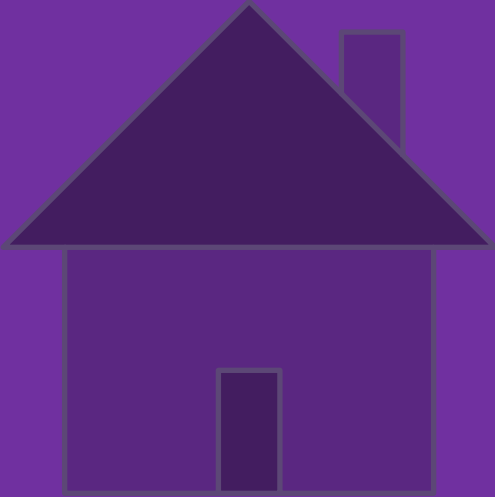
[HCA Partner Agency Portal](#)
(previously known as: HCA Help Desk)

For each program type that is required to follow VAWA, the toolkit will have the required documents.

The link to the portal is:

<https://kyhmis.Zendesk.com>

Notice of Occupancy of Rights
Under VAWA Act Form
HUD-5380 & HUD 5382



- Every applicant when admitted to program;
- Every denied applicant;
- Every current tenant;
- Every client at recertification & unit transfer;
- Every client at termination.

Form HUD-5380

Notice of Occupancy Rights Under the Violence Against Women Act

NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT

U.S. Department of Housing and Urban Development
OMB Approval No. 2577-0286
Expires: 06/30/2017

Notice of Occupancy Rights under the Violence Against Women Act¹

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.² The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that [redacted] is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under [redacted], you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under [redacted], you may not be denied assistance, terminated from participation, or be evicted from your rental housing

¹ Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.
² Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

U.S. Department of Housing and Urban Development

Purpose of Form: The Violence Against Women Act (VAWA) requires HUD to terminate from housing assistance based on stalking against them. Despite the name of the violence, dating violence, sexual assault, and orientation.

Use of This Optional Form: If you are seeking housing provider may give you a written request or incidents of domestic violence, dating violence, or sexual assault.

In response to this request, you or someone else to your housing provider, or you may submit:

- (1) A document signed by you and an employer, attorney, or medical professional, or a member of your household, or a person with whom you have sought assistance relating to stalking, or the effects of abuse. The document must be signed by a professional who believes the incident or incidents of stalking occurred and meet the definition of "stalking" in HUD's regulations at 24 CFR 98.223.
- (2) A record of a Federal, State, tribal, territorial, or local government, or administrative agency, or
- (3) At the discretion of the housing provider, a tenant.

Submission of Documentation: The time period for submission of documentation shall be the date that you receive a written request from the housing provider, but is not required to, extend the extension of the time period. If the request for you received the request for the documentation, you received the request for the documentation, your housing provider does not need to issue this form does not serve as a written request.

Confidentiality: All information provided to HUD regarding domestic violence, dating violence, sexual assault, or stalking shall not be entered into any shared database to these details unless to grant or deny VAWA to this information to any other entity or individual by you in writing in a time-limited release, or regarding termination of assistance, or (iii) of

2

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. Date the written request is received by victim: _____
2. Name of victim: _____
3. Your name (if different from victim's): _____
4. Name(s) of other family member(s) listed on the lease: _____
5. Residence of victim: _____
6. Name of the accused perpetrator (if known and can be safely disclosed): _____
7. Relationship of the accused perpetrator to the victim: _____
8. Date(s) and time(s) of incident(s) (if known): _____
10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signed on _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

Form HUD-5382
Certification of Domestic Violence

[REDACTED]

**Model Emergency Transfer Plan for Victims of Domestic Violence,
Dating Violence,
Sexual Assault, or Stalking**

Emergency Transfers

[REDACTED] (acronym HP for purposes of this model plan) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),¹ HP allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.² The ability of HP to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether HP has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model

¹ Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

² Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.



Form HUD-5381

Emergency Transfer Plan

Form HUD-5383

Emergency Transfer Request

EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

U.S. Department of Housing
and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.
- (2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.
- (3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third-party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Form HUD-5383
(12/2016)

Seeking VAWA Protection

When a person indicates that they are a victim of a VAWA crime and states that they want to invoke their protection, the agency and /or landlord must take certain steps.

Certification As a Victim of VAWA Crime

- Does not require an agency or landlord to request that an individual seeking protection submit documentation of that status.
- IF an agency is going to require certification or other documentation, requests for documentation must be in writing and must conform to the rules of timelines describe. HUD stresses this point in the final rule.



Documentation of Occurrences

- The person seeking protection can complete, sign and submit the VAWA Certification form HUD-5382. Agency/landlords must allow at least 14 business days from the date of the request for this information to be return.
- Agency/Landlord may provide additional time but may not provide less time. This certification may be submitted in an equally effective manner, as a reasonable accommodation, if there is the presence of a disability.
- If applicant/tenant has sought assistance in addressing DV, dating violence, sexual assault, and/or stalking from a federal, state, local police or court, the resident may (but is not required) submit written proof of this outreach in lieu of the certification form.
- Ex: police reports, protective orders, restraining orders, etc.



Documentation of Occurrences

- Documentation signed and attested to by a professional from whom the victim has sought assistance in addressing any of the above acts of abuse.

The documentation must be:

1. Signed by the professional from whom the victim sought assistance related to a VAWA crime:
2. Signed by the tenant; and
3. That specifies under penalty of perjury that the professional believes the occurrence of the incident of a VAWA crime is the ground for protection and remedies under the VAWA Final Rule

Also, if the resident is currently living in a shelter established to protect victims of violence covered under the VAWA, the agency/landlord should accept the verification of such living arrangements in lieu of additional documentation.



Documentation of Occurrences

- If a covered **Housing Provider** receives documentation that contains conflicting information (including certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator), the covered housing provider may require an applicant or tenant to submit third party documentation as describe in the previous two slides, within 30 calendar days of the date of the written request for the third-party documentation. The covered housing provider **MUST** make this request to the client in writing.

Remember a victim is not required to name the accused perpetrator if doing so would result in imminent threat or if the victim does not know the name of his/her accused perpetrator.

Confidentiality

- Victims have a right to privacy when dealing with the agency/landlord regarding VAWA report. All information provided by the resident must be kept confidential and must be maintain in a separate file.

- The identity of the victim and all information provided to the agency/landlord related to the incident(s) of violence must be retained in confidence by the agency/landlord and must neither be entered into any shared database nor provided to a related entity, except to the extent that the disclosure is:
 1. Requested or consent to by the individual in a time-limited written release;
 2. Required for use in an eviction proceeding or termination of assistance; or
 3. Otherwise required by applicable law

VAWA Accommodations

- Waive tenant selection criteria (ex. Credit screening)
- Reconsider rejection
- Modify a lease term (ex. Waive the requirement to provide 30-day notice to move)
- Reconsider a lease violation
- Reconsider a termination of assistance or tenancy
- Evict a member of the household
- Emergency transfer

VAWA Accommodations

- Most agency/landlords will consider each request on a case-by-case basis.
- Ensure staff remember to provide the same opportunities to all people seeking VAWA protections.
- In order to set appropriate expectations, agency/landlord should define in writing how they respond to request for VAWA accommodation requests.
 - For Example, the agency may want to include language such as, how they will review, respond, and the time frame for responding and that should be no more than 10 days from receiving all documentation.
- Responses may include:
 - Approval of the request
 - Denial of the request
 - Requesting additional information.



There are a few
VAWA
accommodations
that require a
little more in-
depth discussion.

There are a few
VAWA
accommodations
that require a little
more in-depth
discussion.

1. The option to bifurcate the lease;
2. Continued eligibility of remaining household members, and;
3. Emergency transfers.

Lease Bifurcation

- If the agency/landlord determines that physical abuse caused by a resident is clear and present, the law provides the agency/landlord the authority to bifurcate a lease.
- MEANING- remove, evict, or terminate assistance to any accused perpetrator! While allowing the victim, who lawfully occupies the home to maintain tenancy.
- Even in these cases, you may not require that the person seeking VAWA protections provide verification of their status as a victim of a crime or person affiliate with someone who is a victim of a VAWA crime. Remember it is the person seeking protections choice of which form they will submit, not yours.

Lease Bifurcation

- Except for cases where there is conflicting evidence, the agency/landlord may request, in writing, that the applicant/tenant submit specific documents within thirty (30) calendar days of the written request. You may attempt to evict the accused perpetrator, but applicants and tenants should know that state/local tenant-landlord laws prevail, and agency and landlords must comply with such laws.
- Tenants must keep in mind that the eviction of or the termination action against the individual must be in accordance with the procedures prescribe by federal, state, and local laws. Evictions are generally carried out through the court system and the agency/landlord cannot override or circumvent a legal decision.

Lease Bifurcation

- In the event that one household member is removed from the unit because of engaging in acts of violence, an appropriate recert must be processed reflecting the change in the household composition.
- Agency/landlord may also establish policies to execute a new lease or to provide a HUD approved lease addendum.
- Special consideration will be given if the remaining household members are not qualified to remain in the unit or was not the qualifying household member.

Continued Eligibility

- In some cases, when a tenant leaves a unit, the agency/landlord is required to determine if remaining household members are eligible for subsidy or for housing.
- The agency/landlord must determine eligibility of remaining family members when the qualifying member leaves. PLEASE check your specific program rule for time frames related to this eligibility determination.

Continued Eligibility

- In standard cases, the agency/landlord is required to provide a 30-day notice of termination of tenancy or assistance.
- If the accused perpetrator leaves the unit or is terminated and was the eligible/qualifying tenant under the covered program, the agency/landlord will provide 90 calendar days from the date of bifurcation of the lease to any remaining tenants that were not already eligible to:
 - i. Establish eligibility for the same covered housing program under which the evicted or terminated tenant was covered;
 - ii. Establish eligibility under another covered housing program; or
 - iii. Find alternative housing.

Continued Eligibility

- The 90-calendar day period will not be available to a remaining household member if the statutory requirements for the covered housing program prohibit it. It will not apply beyond the expiration of a lease, unless this is permitted by program regulations.
- The covered housing provider may extend the 90-calendar day period up to an additional 60-calendar day, unless prohibited from doing so by statutory requirements of the covered program or unless the time period would extend beyond the expiration of the lease.

Emergency Transfer Plan (ETP)

1. Agency/landlords must develop and implement an Emergency Transfer Plan
2. It should include policies for assisting:
 - A. A tenant who is seeking an external emergency transfer under VAWA out of the agency/landlord's program or project.
 - B. A tenant who is seeking an external emergency transfer under VAWA into the agency/landlord's program or project.

Let's Define

Internal Transfer

- Refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.

External Transfer

- Refers to an emergency relocations of a tenant to another unit where the tenant would be categorized as a new applicant; that is the tenant must undergo an application process in order to reside in the new unit.

What Is Consider a Safe Unit?

A UNIT THAT THE VICTIM
BELIEVES IS SAFE!!

Qualifications For Transfer

1. If the tenant requests for a transfer;
2. If the tenant reasonably believes that there is a threat to imminent harm if they stay the same unit;
3. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the assault occurred on the premises within the 90-day calendar period preceding a request for an emergency transfer

Requirements For ETP

- The VAWA ETP must allow a tenant to make an internal Emergency Transfer under VAWA when a safe unit is immediately available.
- The ETP must describe policies for assisting a tenant in making an internal emergency transfer under VAWA when a safe unit is not immediately available.
- ETP must describe reasonable efforts that agency/landlord will take to assist a resident who wishes to make an external emergency transfer when a safe unit is not immediately available.
- Nothing may preclude a tenant from seeking an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.
- The ETP must detail any preference given to tenants who qualify for an emergency transfer.
- The ETP must incorporate strict confidentiality measures to ensure that the agency/landlord does not disclose the location of the dwelling unit of the tenant to a person who committed or threatened to commit an act of VAWA crimes against the tenant.
- The agency/landlord must make the ETP available upon request and, when feasible, must make its plan publicly, such as posting on a bulletin board.

The Agency/Landlord Must:

- Keep a record of all emergency transfer requested under its ETP and the outcomes of such requests;
- Retain these records for a period of three (3) years or for a period of times as specified in the program regulations;
- Report request and outcomes of such request to HUD annually.

Q&A

You have

Questions

We have

Answers

Question: When a resident requests VAWA protections, can an agency/landlord require the applicant or tenant to obtain a restraining order as documentation of the victim's status?

Answer: No, the agency/landlord cannot require the tenant to obtain a restraining order to document victim status. While the VAWA Final Rule allows agency/landlords to require tenants to submit documentation showing the applicant or resident is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, The VAWA Final Rule prohibits an agency/landlord from requiring the victim to provide third-party documentation of victim status, except in the case of conflicting information. When requesting documentation of victim status or an incident of domestic violence, dating violence, sexual assault, or stalking, the agency/landlord must accept any of the types of documentation listed in the VAWA Certification form, HUD-5282

Question: Are resident and applicant files required to include evidence that Management issued the Notice of Occupancy Rights?

Answer: Although the VAWA Final Rule does not require applicants/tenants to sign acknowledgement of receipt of the forms, it is strongly recommended that agency/landlord maintain a note or other documentation in each tenant file that indicates each applicant/tenant was provided the Notice of Occupancy Rights (form HUD-5380) and Certification Form (form HUD-5382) at each of the following times:

- Household annual recertification
- At the time an applicant is denied assistance or admission;
- At the time the household is provided assistance or admission (i.e., at move-in), and
- With any notification of eviction or termination of assistance.

Question: It does not appear that the Model Emergency Transfer Plan (form HUD-5381) contains all the required elements of the VAWA Final Rule. Will the property be in compliance if this Model Emergency Transfer Plan is utilized?

Answer: The model form contains only general provisions of an Emergency Transfer Plan that apply across HUD programs. Adoption of this model plan without further information will not be sufficient to meet an agency/landlord responsibility to adopt an emergency transfer plan. Agency/landlord must consult applicable regulations and program-specific HUD guidance when developing their own emergency transfer plans, to ensure their plans contain all required elements.

Question: The head of household (HOH) is a victim of domestic violence, but continues to let the abuser, who is not a member of the household, in the unit. The couple's repeated altercations disrupt other tenants. The HOH has claimed VAWA protections but has refused to move forward with any charges and maintains a relationship with the abuser. Does the HOH still have the same rights under VAWA?

Answer: Yes. Agency/landlord cannot penalize a VAWA victim based on the fact that the victim still has a relationship with the abuser. However, VAWA doesn't limit the authority of an agency/landlord to evict a tenant if the agency/landlord can demonstrate that an actual and imminent threat to other tenants or those employed at or providing services at the property would be present if the tenant or lawful occupant is not evicted or terminated from assistance.

