

# HUD's Final Rule Implementing VAWA 2013



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**MARCH 1, 2017**

**HOUSING JUSTICE**

**National Housing Law Project**

# Adobe Connect Interface

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The screenshot displays the Adobe Connect interface during a webinar. At the top, the title bar shows 'Meeting' with icons for audio, video, and chat, and a 'Help' button. Below the title bar, the main content area displays a slide titled 'HUD's Final Rule Implementing VAWA 2013'. The slide content includes the following text:

HUD's Final Rule  
Implementing VAWA 2013

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To the right of the slide is a 'Q & A' panel. Below the slide, a closed captioning window is visible, titled 'AC9\_ClosedCaptioning\_v.4.1.swf', with controls for font size (18 pt) and color (White (B)). At the bottom of the interface, there are navigation buttons (back, forward, stop) and a 'Waiting for Captions' status indicator.

# Housekeeping

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- Materials were emailed to registrants and will be emailed again after the webinar, along with the evaluations.
- Materials and recording will be posted at <http://nhlp.org/OVWgrantees>
- MCLE certificates will be emailed to California attorneys.
- To request a certificate of attendance, please contact [kng@nhlp.org](mailto:kng@nhlp.org)

# Who is in the Audience?

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- Poll: Are you an
  - Advocate that works with domestic and sexual violence survivors?
  - Attorney that works with survivors?
  - Shelter or transitional housing provider?
  - Public housing authority or other permanent housing provider?
  - Government agency staff?
  - Other

# Goals for Today

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- Overview of key parts of HUD's final VAWA rule
- Highlights of recent notice from USDA Rural Development on implementing VAWA 2013
- Discussion of VAWA enforcement

# What is VAWA?

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- VAWA is intended to encourage survivors who are receiving housing subsidies to report and seek help for the abuse committed against them, without being afraid of being evicted.
- VAWA protects individuals applying for or living in federally subsidized housing from being discriminated against because of acts of domestic violence, sexual assault, dating violence, and stalking (VAWA crimes) committed against them.
- Applies to survivors regardless of age, sex, gender, identity, or sexual orientation
- Only applies to federal housing programs

# What is HUD's VAWA 2013 Final Rule?

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- VAWA was reauthorized in 2013 and signed into law on March 7, 2013.
- HUD issued final regulations implementing VAWA 2013 on November 16, 2016, which were effective December 16, 2016.
- Why are these regulations important?

# What Programs are Covered?

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- Poll: Which program is NOT covered by HUD's VAWA rule?
  - Public housing
  - Project-based Section 8
  - Housing Trust Fund
  - McKinney-Vento/HEARTH homeless programs
  - Low Income Housing Tax Credit program



# What Programs are Covered?

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## HUD Programs

• Public Housing	• § 236 Multifamily rental housing
• Section 8 vouchers	• § 221d3/d5 Below Market Interest Rate (BMIR)
• Project-based Section 8	• HOME
• Section 202 Supportive Housing for the Elderly	• HOPWA (Housing Opportunities for People w/AIDS)
• Section 811 Supportive Housing for People with Disabilities	• McKinney-Vento Homelessness Programs (includes ESG; CoC)
• Housing Trust Fund	

## Department of Agriculture

- Rural Development (RD) Multifamily

## Department of Treasury/IRS

- Low Income Housing Tax Credit (LIHTC)

# What Programs are Covered? (cont'd)

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- VAWA applies to programs involving rental assistance
- Only VAWA's "core protections" apply to emergency shelters, short-term supported housing, and safe haven program
  - These programs cannot deny admission or terminate assistance on the basis or as a direct result of an individual's status as a survivor.
  - But these programs are **not** subject to other VAWA obligations (e.g. notice of VAWA rights, lease bifurcations, emergency transfer plans).

# Who is Protected?

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## **VAWA covers people who are subject to:**

**Domestic violence:** Any felony or misdemeanor crimes of violence committed by: a current/former spouse or intimate partner, person with whom the victim shares a child, person who is or has cohabitated with the victim; a person against a victim protected from acts under state/local domestic and family violence laws.

**Dating violence:** Violence committed by a person who is/was in a social relationship of intimate nature with victim as determined by considering three factors

**Sexual assault:** Any nonconsensual sexual act prohibited by law

**Stalking:** Any conduct directed toward a specific person that would cause a reasonable person to fear for safety or suffer substantial distress

VAWA applies to applicants and tenants

# Who is Protected? (cont'd)

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- “Affiliated individual” of the survivor
  - Defined as
    - ✦ A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian
    - ✦ Immediate family or individual living in household
  - Since VAWA only covers tenants or individuals on the lease, affiliated individuals not on lease are not protected by VAWA
    - ✦ E.g. VAWA does not apply to live-in aides
  - Tenant cannot be evicted or denied assistance for VAWA crime committed against affiliated individual.
  - Affiliated individual is protected as applicant and cannot be denied admission or assistance because of VAWA crime.

# Proving Abuse

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- Housing provider is free to take tenant at their word, or can ask tenant to prove VAWA crime.
- Any request by housing provider for proof must be made **in writing**.
- Tenant has **14 business days** from the request to provide proof.
- Housing provider is free to grant extension if tenant needs more time.

# What Documentation is Prohibited?

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- Poll: What type of proof is NOT permitted under HUD's VAWA rule:
  - Administrative court record
  - Statement from a mental health professional
  - HUD VAWA self-certification form
  - Emails, voicemails, text messages, and social media posts
  - None of the above

# Proving Abuse – Documentation Options

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## 1. Self-certification form

- New HUD VAWA self-certification form for all HUD programs
- **HUD Form 5382 (all HUD programs)**, HUD Forms 50066 & 91066

## 2. Police, court or administrative record

- Record can be from a federal, state, tribal, territorial, or local entity or administrative record.

## 3. Statement from third party

- Can be from a victim service provider, medical professional, mental health professional or attorney.
- Must be signed by both third party and survivor under penalty of perjury.

## 4. Statement or other evidence (housing provider's discretion)

# HUD Form 5382

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

U.S. Department of Housing and Urban Development

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

**Purpose of Form:** The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**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.

Signature \_\_\_\_\_ 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.



# Proving Abuse (cont'd)

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- Survivor gets to choose documentation option; housing providers must accept whatever documentation the survivor gives.
  - Housing providers must accept self-certification.
  - Survivors do not have to contact the police or initiate legal proceedings against abuser or perpetrator.
- Only exception – when there is conflicting evidence, housing providers can ask for third-party doc
  - Third-party doc includes all options aside from self-cert.
  - Housing providers may require 30 days to submit third-party doc and can grant extensions.
- Housing providers cannot judge the merits of claims of VAWA crimes.

# Admissions

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- PHAs, landlords, and owners may not deny an applicant housing **on the basis or as a direct result of** an applicant having been a survivor of domestic violence, dating violence, sexual assault, or stalking.
  - Adverse factors resulting from the abuse (e.g. poor credit history or criminal history)



# Evictions

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- PHAs, landlords, and owners may not evict a tenant **on the basis or as a direct result of** their status as a survivor.
- Crimes against a survivor directly relating to the abuse are not grounds for evicting the survivor or terminating their rental subsidy.
- An incident of actual or threatened abuse does not constitute a “serious or repeated lease violation” or “good cause” for evicting the survivor or terminating their rental subsidy.

# Limitation

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- Must comply with court orders re: property rights
- Housing providers can still evict or terminate assistance if they can demonstrate an “actual and imminent threat” to other tenants or employees at the property if the survivor is not evicted.
  - “Actual and imminent threat” consists of a physical danger that is real, would occur within an immediate timeframe, and could result in death or serious bodily harm.
  - Must subject survivor to the same standard as other tenants (i.e., cannot impose more demanding standard on survivor)
- Housing providers can evict or terminate assistance for violation not premised on VAWA crimes.
  - Important note re: abusers who are unauthorized occupants

# HUD Notice of VAWA Occupancy Rights

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- HUD has developed a notice of VAWA occupancy rights (HUD notice) for applicants and tenants
  - Summarizes VAWA housing rights of tenants and applicants.
  - Housing providers provide the name of housing provider, relevant HUD program, and contact information for local organizations that can assist survivors.
  - Identifies housing provider that will interact with tenant/applicant.
  - Includes statement that if housing provider fails to comply with notice requirements or tenant/applicant needs assistance, they can contact applicable intermediary or HUD.

# HUD Notice and Self-Certification Form

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- Housing provider must provide HUD notice and self-certification form to applicants and tenants
  - (1) at the time an applicant is denied admission or assistance;
  - (2) at the time individual is admitted or given assistance; and
  - (3) with any notification of eviction or assistance termination.
- Existing tenants must receive notice and form by December 15, 2017 during annual recertification or lease renewal process, or, if no recertification or lease renewal, by other means.
- HUD Multifamily has made notice and self-certification form available in Word.
- HUD will translate HUD notice and form.

# Lease Bifurcation

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- A housing provider may bifurcate a lease to evict an abuser while allowing the survivor to stay.
- The landlord must follow federal, state, and local law in evicting the abuser.
- HUD rule states that lease bifurcations only apply to tenants. **BUT VAWA amendment in 2016 Justice for All Act, which was signed into law last December, clarifies that lease bifurcations and post-lease bifurcation rights apply to tenants AND residents.**

# Lease Bifurcation - Protection for Remaining Tenants

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- If the abuser who is evicted was the family member who qualified the rest of family to live in unit or receive assistance, the housing provider must provide the remaining tenant(s) **at least 90 calendar days or until lease expiration (with possible 60-day extension)** to establish eligibility for the existing program, establish eligibility for another covered housing program, or find alternative housing.
  - E.g. Section 202, Section 811 housing
- Existing program regulations govern interim rent obligations



# Lease Bifurcation – Exceptions

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- HOPWA
  - Provide remaining tenants reasonable grace period of at least 90 days and at most a year.
  - Must notify participants of grace period and may assist them with information on other available housing programs and moving expenses.
  - Lease expiration does not necessarily terminate assistance.

# Lease Bifurcation – Exceptions (cont'd)

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- Continuum of Care (CoC)
  - Transitional housing
    - ✦ Household retains assistance for time remaining in original assistance period. Once assistance period ends, household can recertify or reapply.
    - ✦ Can extend assistance beyond 24 months to facilitate movement to permanent housing
  - Permanent supportive housing
    - ✦ If qualifying member evicted due to lease bifurcation, remaining household has right to rental assistance until lease expires.

# Lease Bifurcation – Exceptions (cont'd)

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- Programs subject to immigration restrictions under Section 214 of the Housing and Community Development Act
  - E.g. public housing, Section 8 vouchers, project-based Section 8, Section 202/8, Section 236
  - Allow “mixed families” and prorated assistance
  - **Within 30 days** - remaining family member must submit documentation of eligible immigration status or pending appeal of verification determination of immigration status

# Lease Bifurcation – Exceptions (cont'd)

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- For some programs, this time period is never triggered because entire household already meets eligibility
  - Section 221(d)(3)/(d)(5)
  - HOME
  - Emergency Solutions Grant (ESG)
  - Housing Trust Fund

# Jen

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- Jen, her husband AJ, and their minor kids rented a unit with a Section 8 voucher. AJ was listed as the only head of household on the voucher.
- Due to repeated acts of DV, Jen obtained a restraining order against AJ that excluded him from the unit.
- AJ asked the PHA to remove Jen from the voucher.
- Jen asked the PHA to let her keep the voucher because of the DV, and because the children were living with her.
- Since he was head of household, the housing authority let AJ move with the voucher and terminated Jen's assistance.
- **Poll: Did the PHA's actions violate VAWA?**

# Family Breakups and Section 8 Vouchers

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- Housing authority can terminate Section 8 Housing Choice Voucher assistance to the abuser while preserving assistance to survivor
- Section 8 Housing Choice Vouchers
  - If a family breakup results from occurrence of VAWA crime, “the PHA **must** ensure that the victim retains assistance.” 24 C.F.R. § 982.315(a)(2).
  - Survivors can request that vouchers be transferred to their names because of abuse.

# How Can Jen Get the Voucher?

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- Jen can request from the housing authority that the voucher be transferred to her name due to the violence or abuse (orally or via written demand letter – NHLP has samples)
- Who gets the voucher?
- Look at the housing authority's Section 8 Administrative Plan – section on VAWA and family breakups

# Family Breakups and Vouchers (cont'd)

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- VAWA states - In deciding who gets the voucher, housing authority can consider:
  - Whether remaining family members should get the assistance;
  - Interest of minor children or of ill, elderly, or disabled family members;
  - Whether family members were forced to leave unit because of domestic violence, dating violence, sexual assault, or stalking;
  - Whether any family member is receiving protection as a victim of domestic violence, dating violence, sexual assault, or stalking;
  - Other factors specified by PHA. 24 C.F.R. § 982.315(b).
- Who should get the voucher in Jen's case?



# Family Breakups (cont'd)

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- **Project-based Vouchers (PBV)**
  - If survivor who has lived in PBV unit for at least a year, and has given owner advance written notice of intent to vacate (w/ copy to PHA), PHA must give survivor priority to receive next opportunity for tenant-based assistance (i.e. HCV).
  - If there is no one-year trigger, PHA must offer assistance to different unit or offer the survivor a HCV.
- **CoC Tenant-based Assistance**
  - Survivor can retain tenant-based assistance and move to different CoC geographic area; reasonable one-time moving costs is an eligible supportive services cost.

# Section 8 Voucher Portability

- Many PHAs prohibit Sec 8 voucher tenants from moving during the 1<sup>st</sup> year of their lease, or from moving more than once during a 12-month period.
- There is a VAWA exception for survivors. These policies do **NOT** apply when the move is needed to protect health or safety OR when a family member was a victim of sexual assault that occurred on premises 90 days before request to move.



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# Violence Against Women Reauthorization Act of 2013: Transfer Provisions

• **March 1, 2017**

# Emergency Transfers

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**VAWA 2013 expands remedies for survivors of violence by requiring covered housing providers to have emergency transfer plans.**

\* No exceptions for small entities



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# Why The Need for Emergency Transfers?

Survivors living in federally assisted housing often need to move or “transfer” to another subsidized unit to protect their safety and keep their affordable housing.

## **Prior to VAWA 2013:**

- Generally, only tenant-based Section 8 vouchers were portable;
- COC/RHSP program already had a transfer program.



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# VAWA Transfer General Requirements

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- **VAWA 2013 mandates each federal agency to adopt a model emergency transfer plan to be used by PHAs and owners;**
- **Transfer plans must be adopted by covered housing providers by 6/14/17;**
- **Only applies to tenants but can request if live-in aide is survivor.**



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# General Transfer Plan Requirements

Transfer plan must allow survivor tenants to transfer to another available and safe unit assisted under covered housing program if:

- (1) tenant expressly requests the transfer; and
- (2) either tenant reasonably believes that she is threatened with imminent harm from further violence if she remains or tenant is a victim of sexual assault that occurred on premises within 90 calendar days before request;

\*\*SA survivors can also make imminent harm request, regardless of when or where SA occurred and may be permitted more than 90 days from SA if owner agrees.



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# General Transfer Plan Requirements

- *Reasonable belief of imminent harm*: Does not matter when initial act occurred if current belief of threat of imminent harm is reasonable; view of victim.
- *Safe unit*: is one the survivor believes is safe, based upon survivor's personal knowledge and reasonable belief about what is safe;
- *Available unit*: one that is not occupied and is available to tenants given program requirements, eligibility, unit restrictions, and term limitations.  
\*no specific standard set





# General Transfer Requirements: Confidentiality

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**Transfer plan must maintain existing VAWA strict confidentiality measures and ensure confidentiality so that PHA or owner does not disclose location of new unit to abuser.**



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# General Transfer Plan Requirements

## PHA/Owner plan must:

- detail priority, if any, given to ET tenants v. other transfer requests;
- allow internal transfer when safe unit is immediately available, no application req'd;
- external transfers: describe policies when safe unit not immediately available;
- describe policies on outreach to orgs to support ET tenants;
- if no safe unit, must have resources and policies to help tenant;
- make plans publicly available whenever feasible and available upon request;
- detail any priority ET tenants will receive;
- Tenant turning down a transfer unit not a basis for termination.



# General Transfer Plan Requirements: Costs

- Housing providers not required to bear moving costs;
- HUD encourages providers to bear costs where possible or work with survivors to identify ways to fund transfers;
- DOJ programs/Victim Crimes Funds could pay for relocation;
- Lost rent – program regs. determine who bears cost of lost rent.
- PHAs could recover vacancy payments when otherwise eligible.



# General Transfer Requirements: Where

- Must require at least a transfer to safe unit under provider's control and assisted under same covered housing program and with one waitlist (internal transfer);
- Transfers not required to units outside of provider's control and in different program, but should happen if feasible (external transfers);
- Determine when unit available, provide list of nearby covered properties, contact info for local HUD office;
- Internal and external transfer efforts can be concurrent;
- Must have process to assist with finding alternative units (;
- Can't force move to unit where tenant does not feel safe;
- Can't deny transfer bec. perpetrator learned of new location (even if from victim) or # of requests for transfers.



# General Transfer Requirements: Proof

- Documentation can be required (eligible for ET and VAWA; provider not to evaluate safety);
- Written or oral request for ET okay;
- HUD Model ET request form – providers not required to use it and can modify it (i.e, add where safe);
- Must accept self-certification form;
- Cannot require 3<sup>rd</sup> party documentation;
- Providers encouraged not to require written requests if exigent circumstances.



## General Program Transfer Requirements: Waitlists

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- To be on list, can only require written ET request w/ self-certification or other doc;
- Must be confidential;
- HUD encourages admission and ET preference for survivors.



# General Program Transfer Requirements: Timing

- Each provider must develop a strategy to transfer survivor to safe unit as quickly as possible;
- No specific timing requirement;
- If no safe unit without application, must have policies that assist tenants in making internal transfer, place tenant on ET list, and provide resources of help with external transfer with different program or provider;
- ET transfers should be a priority over others but “balance.”
- Eligibility and occupancy requirements of different housing programs remain intact.



# General Program Transfer Requirements: Records

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- Must keep records of all ET requests, outcomes;
- Retain records for 3 years or per regs;
- Annual report to HUD;
- HUD to solicit comment on this through separate notice before providers must comply.





# General Transfer Requirements: Denials

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If unfair denial and can't resolve with provider, should contact HUD.

Eligible for transfer even if not in good standing.



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# General Transfer Requirements: Vouchers

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**VAWA 2013 states that HUD must establish policies and procedures under which a survivor requesting emergency transfers may receive a tenant protection voucher.**

- No vouchers available at this time. Will issue guidance when available.**



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# Existing Transfer Programs

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- Chicago Housing Authority
- Philadelphia Housing Authority
- Region V HUD Multifamily Office
- IHDA Transfer Process



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# Program Specific Issues – HOME/HTF

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- HOME/HTF: part. juris or grantee must provide a list of properties in juris that include HOME or HTF units (address, contact info, unit size, and any tenant preferences).
- Obligation to create plan on participating jurisdiction for HOME (in consultation w/ project owners); grantee for HTF.



# Program Specific Issues – COC/ESG

- ESG: applies to short-term and medium term housing assistance;
- Recipient responsible unless a state;
- ESG/COC: if no internal emergency transfer available, priority over all other applicants for a new unit under these programs or other assistance under these programs;
- COC must develop a plan to coordinate ETs in geographic area;
- Tenant based RA also an option.



# Program Specific Issues – Sec. 8, 202, 811

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- May adopt admissions preference and ET waitlist preference;
- Must provide a list of nearby HUD properties to tenants who qualify for emergency transfers under vAWA.



# Program Specific Issues - HOPWA

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- For HOPWA funded efforts regarding rehab, construction, lease, or acquisition or tenant-based – HOPWA grantee responsible for making sure project sponsors comply/create ETP unless directly administer.



# Program Specific Issue: PBVs

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- PHA responsible for ETP for PBV program.



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# Confidentiality

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- Any information submitted by survivor under VAWA must be maintained in “**strict confidence**” by housing providers.
- Housing providers cannot allow anyone administering assistance or employees to have access to confidential information unless explicitly authorized.
- Confidential information will not be entered into shared database or disclosed to others, except if disclosure is:
  - Requested or consented to in writing by survivor in **time-limited** release;
  - Required for use in eviction or termination hearing; or
  - Otherwise required by law.

# Leases and Lease Addendums

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- Housing providers must include VAWA protections in housing contracts and lease addendums.
  - Public housing, Section 8 vouchers, project-based Section 8
    - ✦ HUD-required lease, lease addendum, or tenancy addendum must include VAWA protections.
  - HOME, HOPWA, ESG, CoC
    - ✦ Require descriptions of VAWA protections in leases, lease addendums, and contracts

# Additional Important Points

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- Survivor can invoke VAWA multiple times.
- When there is mixed financing or layers of HUD subsidies
  - Housing provider under each program provides VAWA notice and certification form.
  - Tenants can request emergency transfers or lease bifurcations under any program.
  - If there is a conflict between remedies, survivor can choose to use the protections or remedies under any or all the programs (if feasible and permitted under program regulations).

# What is Not Addressed?

60

- HUD's rule does not address:
  - Policy for VAWA tenant protection vouchers
    - ✦ HUD Secretary must establish policies and procedures under which a survivor requesting an emergency transfer can receive a tenant protection voucher. 42 U.S.C. 14043e-11(f)
  - Enforcement of VAWA housing provisions

# Recent RD Notice re: VAWA

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- Rural Development (RD) operates USDA housing programs in rural areas.
- AN (Administrative Notice) 4814 (1944-N) (1/18/17)
  - ANs do not have force and effect of law; expire after 12 months but can be renewed.
    - ✦ ANs generally **cannot be enforced by residents**
  - Landlords have to comply with VAWA 2013 by virtue of their execution of certifications to abide by all applicable laws. *See e.g.* 7 C.F.R. § 3560.102(a).
  - AN short and, compared to HUD regulations, lacks definitions and details.
    - ✦ Does not mention that VAWA applies to threats of violence; does not define “actual and imminent threat.”
  - VAWA 2013 does not supersede any other provision of Federal, State or local law that provides greater protections.
  - VAWA does supersede conflicting RD regulations.

# Recent RD Notice re: VAWA (cont'd)

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- RD landlords
  - must comply with VAWA, however, they are **only encouraged** to update management plans and tenant selection policies or to adopt a lease addendum implementing VAWA 2013.
  - must publicly post Notice of Occupancy Rights and Certification of Domestic Violence forms and distribute them to residents when individual is denied residency, is assigned to a unit, or receives an eviction notice.
  - must allow residents to use Emergency Transfer Plan; transfers must be allowed to a unit that is under the **borrower's** control (does it apply to a units under the management agent's control?). Victims may receive Letter of Priority Entitlement (LOPE) to another RD development. Victims cannot transfer RD subsidy to another development.
  - can permit lease bifurcation and must allow addition of an adult to household if remaining household members are not eligible for the housing.
- RD relies on HUD forms published in HUD final regulation. They need to be modified for RD program.

# Resources

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- Information packet
  - Updated VAWA 2013 brochure
  - HUD's final VAWA 2013 rule
  - Form HUD-5382 – new VAWA self-certification form
  - HUD's notice of occupancy rights
  - HUD's model emergency transfer plan
  - HUD's emergency transfer request form
  - USDA Rural Developments updated notice on VAWA implementation

# Thank You!

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