



FEBRUARY 21 - 22, 2018

DESERT WILLOW CONFERENCE CENTER

# VAWA 2013

A New Way of Thinking

FEBRUARY 21 - 22, 2018



# Adverse Factors which might be the Direct Result of DV

- Property damage
- Noise complaints
- Financial
- Criminal

# Emergency Transfers

- Internal
- External
- Referrals

# Applicability

- Apply to all assisted multifamily housing programs
  - Project-based Section 8
  - 202/162 PAC
  - 202/811 PRAC
  - 202 SPRAC
  - 236 (including RAP)
  - 811 PRAC
  - 221(d)(3) and (d)(5)

# Applicability

- Tax Credits
  - Only if receiving Section 8 PBA
  - Contact IRS or State Agency for further guidance
- Rural Development
  - Only if receiving Section 8 PBA
  - Contact RD office for further guidance

# VAWA PROTECTIONS

- May not deny or terminate applicant/tenant assistance or tenancy on the basis or as a direct result of the applicant or tenant currently or having been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.
- Sexual assault not previously included



# WHO'S ELIGIBLE

- Applicants and tenants of HUD housing programs who are victims of domestic violence , dating violence, sexual assault, or stalking
- Not limited to women
  - Sex doesn't matter
  - Gender identity doesn't matter
  - Sexual orientation doesn't matter
- What if sexual assault didn't occur on the property





# VAWA FORMS

- If expired, keep using until new forms are posted
- Being Updated
  - Won't have new form for estimate of 5-6 months

# HUD-5380

## Notice of Occupancy Rights

- Use form without changes to core protections
  - Can add company name, etc.

# HUD-5380

## Notice of Occupancy Rights

- Provide with HUD- 5382
  - With applicant rejection
  - At move-in

# HUD-5380

## Notice of Occupancy Rights

- Provide with HUD- 5382
- With notice of eviction
  - Send Notice and certification form only once for entire action
  - Material noncompliance
    - Is that a pay or quit notice
  - Criminal activity



# HUD-5380

## Notice of Occupancy Rights

- Provide with HUD- 5382
- With termination of assistance
  - Send Notice and certification form only once for entire action
  - Failure to respond to recertification
  - Failure to move to different sized unit
  - Increase of income

# HUD-5380

## Notice of Occupancy Rights

- Provide with HUD- 5382
- Through 12/15/2017 to each household during its annual recertification (AR)
- If 2017 AR has passed, provide to household through other means by 12/15/2017

# HUD-5382 Certification

- Replaces form HUD-91066
  - No longer use the 91066
- Provide with HUD-5380
- O/As must accept Certification form or other documentation to validate victim status



# Documentation

- Request for VAWA Protections
  - O/As may accept a verbal request
  - O/As may also require written certification or other documentation
    - O/A's request for written certification must be in the form of a written dated letter



# Documentation

- Other Permissible Documentation
  - Signed document from professional from whom victim sought assistance
  - Record from governmental law enforcement or administrative agency or court
  - At discretion of an O/A, another statement or form of evidence
  - O/A cannot require more than one type of documentation, for example: form HUD-5382 **must** be accepted in lieu of other permissible documentation

# Documentation

- May require response within 14 business days
  - May extend time period
  - May deny VAWA protections if not submitted on time

# Documentation

- Information and documentation must be maintained with strict confidentiality
  - Cannot provide to employees or contractors unless required by law
  - Cannot enter into a database or provided to others, without consent from victim or unless required for an eviction action or by law

# Documentation



- Must secure all correspondence and personal interaction with victim to maintain confidentiality
- Document in tenant's file victim's preferred mode of communication
  - Victim may designate an attorney, advocate, or other secure contact for communications
- Keep VAWA communication separate from tenant file

# Documentation

- Adverse Factors
  - May consider documentation of adverse factors resulting from being a victim that otherwise deems the individual ineligible
    - Applicant or tenant must inform O/A that he/she is a victim and provide enough information for the O/A to make determination regarding adverse factor
    - May ask for clarification or additional information
  - Must make an objectively reasonable determination of whether the adverse factor is a direct result of the applicant or tenant being or having been a victim

# Documentation

- Must not deny admission based on an adverse factor if the adverse factor is a direct result of the fact that an applicant is/has been a victim of domestic violence, dating violence, sexual assault, or stalking
- Eviction
  - Late Rent
  - Disturbances
- Criminal Activity
  - Bad Checks



# Documentation

- Conflicting Evidence
  - More than one party may claim victim status
- Requested documentation may contradict initial information provided to the O/A
  - May request additional documentation [from both parties]
  - May require 30-day response time

# HUD-91067

## VAWA Lease Addendum

- Revising to include new provisions
- Applies to all Multi Family housing programs
  - Not required for PRAC properties until new form is published
- Provide to current households at next AR
- Include with all new MIs



FEBRUARY 21 - 22, 2018

**AWMA**  
PACIFIC SOUTHWEST

# Lease Bifurcation

- Remove a household member or lawful occupant from a lease to evict, terminate occupancy rights, or terminate assistance
- Perpetrator is taken off lease and new lease executed with victim or other eligible household member


# Lease Bifurcation

- Must be effected in accordance with applicable laws for your area
- When evicting one household member, follow outstanding grievance procedures and family break-up policies
- HUD recommends court-ordered evictions or reaching agreement on the mutual termination of the lease
- Change in family composition may require move to another unit of appropriate size

# Lease Bifurcation

- Remaining family member has to meet statutory requirements for housing assistance; e.g. immigration, age, disability status
- Recommended reasonable time period from the date of lease bifurcation to establish eligibility or move out
  - 90-calendar days or when lease expires (whichever is first) for 202/811 PRAC & SPRAC where household member does not meet age/disability criteria
  - 30-calendar days to establish immigrations status for Section 8, 202/8, and 236
  - Period will not apply beyond the expiration of a lease, unless permitted by program regulations

# Actual or Imminent Threat

- May evict a victim or terminate assistance if actual and imminent threat to other tenants or those employed at or providing services to the property would be present if that tenant is not evicted.
- Must have objective evidence of words, gestures, actions, or other indicators of such threat
- Actual and imminent threat 
- A physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm
- Must enforce the lease to ensure the peaceful enjoyment of the premises by other residents

# Emergency Transfer Plan

- Internal transfer
  - Relocation of a tenant to another unit at same property where the tenant may move in without completing application process
- External emergency transfer
  - Relocation of a tenant to another unit and meet eligibility requirements for the other property where the tenant must complete an application process at a different property



# Emergency Transfer Plan

- Required to assist victims in making internal and/or external unit transfers when possible
  - Transfer to a safe unit
    - Tenant determines what is safe
- Must create and implement an Emergency Transfer Plan, based on HUD's model
- Form HUD-5381
- Deadline for plan completion
  - June 14, 2017

# Emergency Transfer Plan

- Plan Contents
  - Define eligibility for emergency transfers
  - Describe measure of any preference or priority given to tenants/applicants who qualify for internal and external transfers
    - Preferences or priority must be included in TSP
  - Statement that preferences (if any) don't supersede usual eligibility criteria
  - Incorporate strict confidentiality measures

# Emergency Transfer Plan

## TRANSFER

- Plan Contents (cont.)
  - Policy for making internal transfer when safe unit immediately available
  - Policy for internal transfer when safe unit not immediately available
  - Reasonable efforts O/A will take to facilitate external transfer
    - Arrangements with other HUD housing providers and
    - Outreach activities to community service providers

# Emergency Transfer Plan

- Plan Contents (cont.)
  - Outreach activities to community service providers
  - Policy for requesting internal and external transfer at same time
  - Whether O/A will accept/require verbal or written transfer request and certification of victim status
  - Specify required documentation, (if any)

# Emergency Transfer Plan

- Other Requirements
  - Must make the Plan available upon request and, when feasible, publicly available
  - Keep record of all emergency transfers requested and their outcomes for three years or for a period of time as specified in their program's regulations
  - Define "immediately available"
    - Vacant unit
    - Ready for move-in within reasonable period of time
  - Review internal and external transfer waiting list policies in the TSP to determine if changes needed

# Emergency Transfer Plan

- Eligibility for Transfers
  - Tenant expressly requests transfer and believes there is a threat of imminent harm if remaining in same unit
  - In the case of sexual assault, either tenant believes there is a threat of imminent harm or the sexual assault occurred on the premises during the 90 days preceding the transfer request
  - Request does not guarantee continued assistance or an external transfer to other HUD housing
  - Tenant must meet outstanding eligibility or occupancy requirements

# WHO'S NOT ELIGIBLE

- Guests
  - What if they were sexually assaulted at the property
- Unassisted household members
- Live-in aides
  - Reasonable Accommodation
    - Tenant can request VAWA protections if a live-in aid is a victim
      - May request an emergency transfer for household





# Emergency Transfer Plan

- Preferences
  - May establish a preference for VAWA victims
- For external transfers
  - Amend TSP for VAWA preference Priority
- For internal transfers
  - Amend TSP for priorities of the internal transfer waiting list



# HUD Enforcement

- VAWA claims, policies and transfer plan reviewed as part of MOR
- Reviewer will identify areas of noncompliance
  - TSP
  - Wait Lists (internal and external)
  - Preference and priority
  - Confidentiality
  - Record keeping

# HUD Enforcement

- Record Keeping and Reporting
  - Keep records by project and project fiscal year
  - Number of transfer requests and outcomes of each
  - Retain records for three years or as specified in program regulations



# HUD Enforcement

- Fair Housing and Nondiscrimination
  - Comply with all applicable fair housing and civil rights laws in implementing VAWA requirements
  - Provide reasonable accommodations for people with disabilities to VAWA policies and procedures
  - Ensure access to and accessible versions of VAWA documents to LEP individuals and people with disabilities

THANK YOU FOR YOUR  
ATTENTION

FEBRUARY 21 - 22, 2018

