



VAWA: The Implementation of Emergency Transfers

BEFORE WE BEGIN...



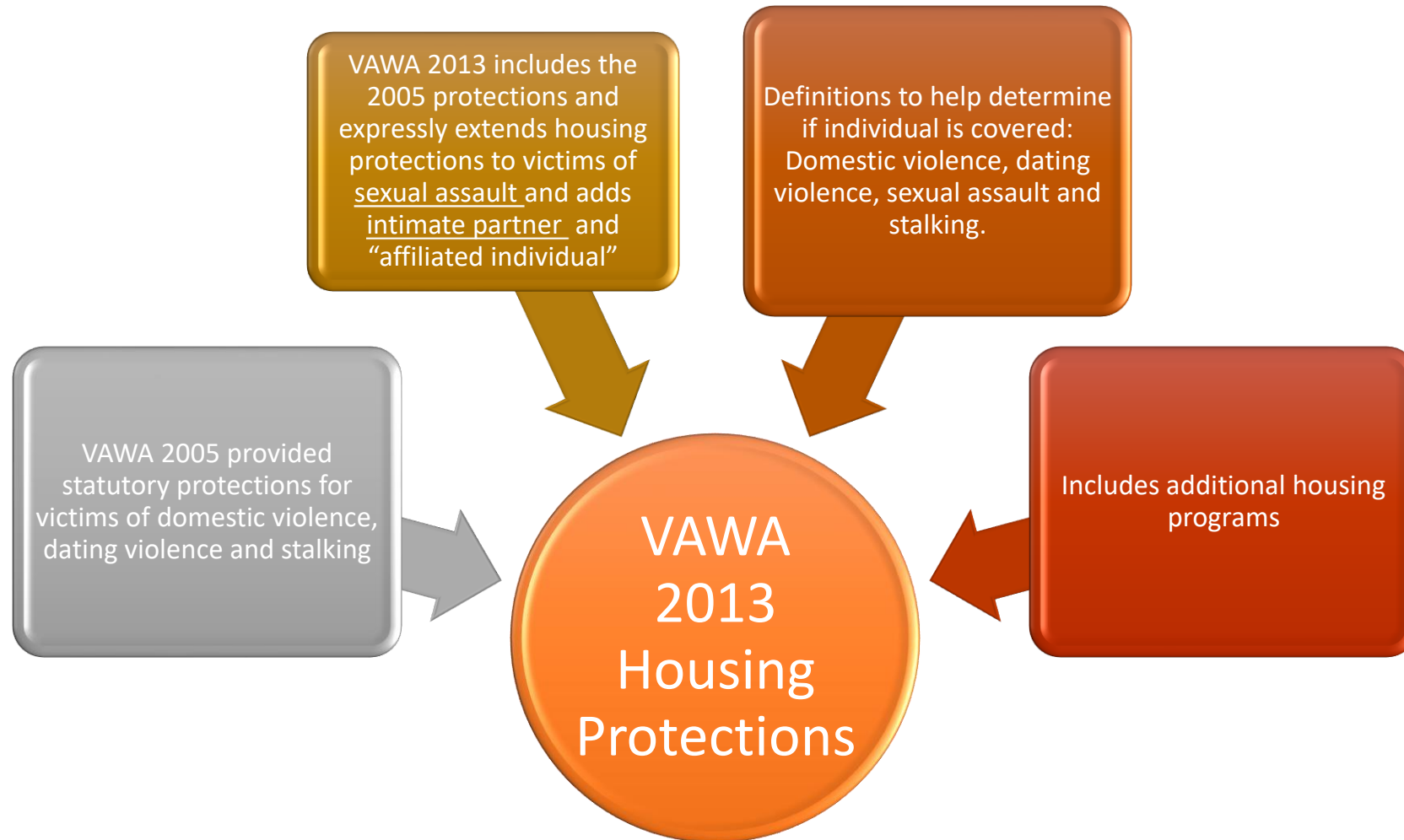
Goals Of This Session



Provide participants an:

- Overview of the emergency transfer protections afforded under VAWA; and specifically, HUD housing provider's obligations:
 - Requirements for an emergency transfer plan;
 - Internal vs External
 - Documentation Requirements

VAWA: Enacted in 1994, reauthorized in 2000, 2005, and 2013



Housing Programs Covered By VAWA

Programs Covered by VAWA 2005	Programs Added by VAWA 2013
Public Housing	OTHER HUD PROGRAMS
Section 8 Vouchers	Section 236 Multifamily Rental Housing
Project Based Section 8	Section 221d3 BMIR
Section 202 Supportive Housing Elderly*	HOME
Section 811 Supportive Housing for People with Disabilities*	HOPWA (Housing Opportunities for people with AIDS)
* Originally added by HUD regulations. Now provided for in the VAWA 2013 Statute.	McKinney-Vento Homeless Programs
	DEPARTMENT OF AGRICULTURE
	Rural Development (RD) Multifamily
	DEPARTMENT OF TREASURY
	Low Income Housing Tax Credit (LIHTC)

The Final Rule added The Housing Trust Fund as a covered program

VAWA: Emergency Transfer Plans

- VAWA requires each “appropriate agency” to adopt a model emergency transfer plan.
 - APPROPRIATE AGENCY.—The term ‘appropriate agency’ means, with respect to a covered housing program, the Executive Department (as defined in section 101 of title 5, United States Code) that carries out the covered housing program.

HUD's Model Emergency Transfer Plan

- HUD created a model emergency transfer plan (form HUD-5381), for use by PHAs and Owners/Agents of housing assisted covered housing programs.
- HUD also required housing providers in its Final Rule to adopt an Emergency Transfer Plan, based on HUD's model plan.
- A housing provider which simply adopts the plan without making modifications to address specific requirements contained in its regulations contained in the Final Rule, will not be in compliance This document is available on HUDclips, https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4

Is An Owner/Agent/PHA Required To Develop An Emergency Transfer Plan?



- O/As/PHAs required to adopt an Emergency Transfer Plan, based on HUD's model Emergency Transfer Plan (form HUD-5381) by June 14, 2017.
 - PHAs administering Public Housing, HCV (including PBV), and Section 8 Mod Rehab must ensure that their Emergency Transfer Plan covers these programs.
 - Based on the programs at your site, it's crucial to know who is responsible for what.

24 CFR 5.2005(e)
PIH 2017-08 pg. 21
H 2017-05 pg. 25

The Emergency Transfer Plan Must



- A. Define tenants eligible for an emergency transfer;
- B. List documentation needed to request an emergency transfer;
- C. Outline confidentiality protections;
- D. Describe how an emergency transfer may occur.
- E. Allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available;
- F. Describe policies for assisting tenants with internal transfers and external transfers when a safe unit is not immediately available;

The Emergency Transfer Plan Must – Cont'd

- G. Detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA in relation to other categories of tenants seeking transfers and applicants;
- H. The policy for assisting a tenant who is seeking an external emergency transfer under VAWA, including what efforts the covered housing provider will take to assist a tenant who wants to make an external emergency transfer when a safe unit is not immediately available;
- I. Where applicable must include policies for assisting tenants who have tenant-based rental assistance to make emergency moves with that assistance; and
- J. Where applicable, the plan must describe policies for a tenant who has tenant-based rental assistance (e.g., voucher) and who meets the requirements of #1 above to move quickly with that assistance.



The PHA is responsible for emergency transfers for project based HCV units. If an owner receives a request for an emergency transfer, the owner needs to explain to the victim that the PHA is the covered housing provider for this activity, and that the PHA needs to be contacted directly.

It is a good business practice for management to have available the contact information at the PHA and to help facilitate the initial contact.

Although the legal obligation for the transfer isn't the Owner's responsibility, the resident is your resident and their safety and the safety of others on site (if relevant) are relevant and helping to facilitate the safety of a resident is good customer service.



Who Is Eligible For An Emergency Transfer?

The Emergency Transfer Plan must provide that a tenant residing in a unit subsidized under a covered housing program and who is a victim of domestic violence, dating violence, sexual assault, or stalking, qualifies for an emergency transfer if:

- 1) The tenant expressly requests the transfer; and
- 2) Either –
 - A) The tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit, or
 - B) In the case of sexual assault, the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying, or the sexual assault occurred on the premises during the 90-calendar day period preceding the date of the request for transfer.

The resident still needs to be eligible for the unit that they are transferring to.



How Does A Resident Make A Request For An Emergency Transfer?

- Housing Provider may either allow for a verbal statement/self-certification or require a written request before any transfer occurs.
- HUD has created a model Emergency Transfer Request document that O/As requiring written request for emergency transfer may use (form HUD-5383).
 - If using it, must make it available to the tenant.
- Housing provider may also request in writing that the victim provide documentation of an occurrence of domestic violence, dating violence, sexual assault, or stalking if it hasn't already been provided, but may not be required to qualify the tenant for an emergency transfer.

The verbal statement/self-certification, if permitted, or the written request must include:

a. A statement that the tenant requests an emergency transfer because the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit,

OR

b. A statement that the tenant requests an emergency transfer because the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar day period preceding the tenant's request for an emergency transfer.



What Are Key Points of The Emergency Transfer Plan?

- Must address internal and external transfers;
 - Internal transfer is a transfer within the same single or scattered site property in which the tenant requesting the transfer resides. The transfer can be performed without the tenant reapplying for housing assistance.
 - When a safe unit is “immediately available”
 - Resident is the person who determines if a unit is safe: some type of an interactive dialogue must occur to determine the parameters of what the resident deems safe
 - Owner needs to define what is meant by immediately available: “A best practice would be to define “immediately available” as a vacant unit, ready for move-in within a reasonable period of time” based on local factors



See § 5.2005VAWA protections:(e)
Emergency transfer plan
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What Are Key Points of The Emergency Transfer Plan? (cont'd)

○ External requires a physical move out of the property in which he or she resides, and requires an application.

- Owners/PHAs are responsible for assisting with external transfers if an internal one isn't available/safe:
 - ✓ According to HUD guidance, not required to research available units and/or arrange for the move; but can if choose to. **Note: It is a good business practice to assist residents in this process and many advocates believe it's a requirement.**
 - ✓ At minimum contact information for relevant local service providers, government agencies, and other affordable housing developments in the area. **Note: It is a good business practice to do outreach and assist residents in this process and many advocates believe it's a requirement. HUD Model Plan provides that at the resident's request, HP will "assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan."**



See § 5.2005VAWA protections:(e)
Emergency transfer plan
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What Are Key Points of The Emergency Transfer Plan? (cont'd)

- Resident is the person who determines if a unit is safe.
- Requires housing providers to document request for emergency transfers, including the outcome of the request, and to report this to HUD annually. **Note that currently there is no reporting mechanism.**
- Verification of need for an emergency transfer is not onerous: a victim need only self-certify in order to exercise their rights under VAWA for an emergency transfer.
 - Owners/PHAs can't require third party verification of the need for the transfer.
 - The rule includes a certification form that may be used by covered housing providers; Owners/PHAs may create their own.

See § 5.2005VAWA protections:(e)
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What Are Relevant Housing Choice Voucher (HCV) Programs That PHAs Must Take Into Consideration When Processing Emergency Transfers?

PHA Regulations are relevant and address issues:

- PHA's family break-up policy. (See 24 CFR 982.315.)
 - If a family break-up results from an occurrence of domestic violence, dating violence, sexual assault, PHA must ensure that the victim retains assistance.

What Are Relevant Housing Choice Voucher (HCV) Programs That PHAs Must Take Into Consideration When Processing Emergency Transfers? Cont'd

PHA Regulations are relevant and address issues:

- Where a family can move with tenant-based assistance. (See 24 CFR 982.353.)
 - **PHA must standardly deny Portability Assistance outside the initial PHA jurisdiction if the family has moved out of the assisted unit in violation of the lease, unless the family moves out in violation of the lease in order to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believes him- or herself to be threatened with imminent harm from further violence by remaining in the dwelling unit (or any family member has been the victim of a sexual assault that occurred on the [premises](#) during the 90-calendar-day period preceding the family's move or request to move), provided family has otherwise complied with all other obligations under the Section 8 program**

What Are Relevant Housing Choice Voucher (HCV) Programs That PHAs Must Take Into Consideration When Processing Emergency Transfers? Cont'd

PHA Regulations are relevant and address issues:

- Moves with continued tenant-based assistance. (See 24 CFR 982.354.)
 - “A PHA may not terminate assistance if the family, with or without prior notification to the PHA, has already moved out of a unit in violation of a lease, if such a move occurred to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking; and who reasonably believed they were imminently threatened by harm from further violence if they remained in the dwelling unit, or if any family member has been the victim of sexual assault that occurred on the premises during the 90 calendar-day period preceding the family’s request to move.”
 - PHA policies which prohibit a family from moving within the first year, or prohibit more than one move per year are prohibited if “the move is needed to protect the health or safety of the family or family member, or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.”

How Do Emergency Transfers Work In The Project-Based Voucher (PBV) Program?

- PBV families cannot move with their project-based assistance, as the assistance is tied to the unit.
 - If the victim has been living in the PBV unit for one year or more, the PHA must give the victim priority to receive the next available opportunity for continued tenant-based rental assistance. (See 24 CFR 983.261.)
 - **A family or member of the family is not required to give advanced written notice, with a copy to the PHA, of intent to vacate the PBV unit if the family moved to protect the health or safety of the victim.**
 - “A PHA may not terminate assistance if the family, with or without prior notification to the PHA, has already moved out of a unit in violation of a lease, if such a move occurred to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking; and who reasonably believed they were imminently threatened by harm from further violence if they remained in the dwelling unit, or if any family member has been the victim of sexual assault that occurred on the premises during the 90calendar-day period preceding the family’s request to move.” See 24 CFR 983.261(c)(1)
- PHAs **must** include in their Emergency Transfer Plan policies that address when:
 - The victim has been living in a unit for less than one year; or
 - The victim seeks to move sooner than a tenant-based voucher will be available

Is A Housing Provider Required To Pay For An Emergency Transfer?



- For HUD programs that have existing guidance related to paying costs of transfer (including application fees, down payments), housing providers should follow that guidance and may follow any existing transfer policies and procedures they have, including those for repayment plans.
- HUD encourages housing providers to take whatever actions they feasibly can to assist victims of domestic violence, dating violence, sexual assault, and stalking.

See §5.2009(c)
See Handout for external resources
that may be available for tenants-
which were included in the rule.

Is An Owner Required To Adopt A Preference For Individuals Who Qualify For An Emergency Transfer Under VAWA?



NO!

- Housing providers in covered programs are encouraged (not required) to establish preferences for victims of domestic violence, dating violence, sexual assault, and stalking.
 - If established, MUST be in accordance with statutory or regulatory requirements that govern the establishment of preferences.
- The emergency transfer plan MUST detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA in relation to other categories of tenants seeking transfers and individuals seeking placement on waiting lists.
 - Policies MUST ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that housing providers may already provide to other types of emergency transfer requests.

See § 5.2005 VAWA protections. (e)
Emergency transfer plan

The Practical Side Of An Emergency Transfer: Crucial Information To Ascertain When A Request Is Made Beyond If The Person Qualifies For A Transfer

- What type of transfer will work for the survivor?
- If an internal transfer will work:
 - Will only certain locations work?
 - When will I have a unit available?
 - Do I need to implement additional safety measures for the resident to be safe while waiting for the transfer?
- If an external transfer is necessary:
 - What location or locations will work?
 - What type of unit/housing program will/won't work?
 - Are there barriers I need to be aware of, such as immigration status and income?

COMMUNICATION WITH THE RESIDENT IS EXTREMELY IMPORTANT

The Practical Side Of An Emergency Transfer: Where Does Someone Begin To Find An Available Unit?

- Who, if anyone at my company is the point person on emergency transfers?
- Who can I connect the resident with (such as agencies, advocates....) who can assist, if the resident wants assistance from an external source?
- Is there a procedure in place regarding how to locate a unit within my company?
- Is there a procedure in place for how to locate a unit somewhere else in the state? Country?
- Is there a procedure in place regarding coordinating the actual move?

COMMUNICATION WITH THE RESIDENT IS EXTREMELY IMPORTANT

Reminder-Posted On HUD CLIPS In Multiple Languages

- *Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking*-[HUD-5381](#)
- *Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, Or Stalking*-[HUD-5383](#)
- Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking, and alternate Documentation-[HUD 5382](#)



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