



June 1, 2015

Regulations Division  
Office of General Counsel  
Department of Housing and Urban Development  
451 7<sup>th</sup> St, SW Room 10276  
Washington, D.C. 20410-0500

**Docket No. FR-5720-P-02 Violence Against Women Reauthorization Act of 2013:  
Implementation in HUD Housing Programs**

The National Housing Conference (NHC) appreciates the opportunity to comment on HUD's proposed rule to implement the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) and the proposed notice of occupancy rights, certification form and emergency transfer plan. This rule will provide important guidance to HUD housing providers on the expanded protections now available under VAWA. If implemented well, the law and its regulations can strengthen and improve protections for domestic violence, dating violence, sexual assault and stalking survivors.

The comments below respond to specific requests HUD has made and raise some additional issues on overall implementation of VAWA 2013. The underlying theme of our comments is that HUD should provide program participants with clear guidance on what they need to do to fulfill their new legal requirements while also allowing flexibility to protect survivors in emergent danger.

**I. About the National Housing Conference**

The National Housing Conference represents a diverse membership of housing stakeholders including tenant advocates, mortgage bankers, non-profit and for-profit home builders, property managers, policy practitioners, realtors, equity investors, and more, all of whom share a commitment to safe, decent and affordable housing for all in America. We are the nation's oldest housing advocacy organization, dedicated to the affordable housing mission since our founding in 1931. As a nonpartisan, 501(c) 3 nonprofit, we are a research and education resource working to advance housing policy at all levels of government in order to improve housing outcomes for all in this country.

**II. HUD's specific requests for comment (questions in italics)**

- A. *Specific solicitation of comment 1: HUD specifically seeks comment on whether the proposed regulations for the specific HUD-covered program carry out the intent of VAWA within the statutory parameters of the program.*

The proposed regulations do carry out the intent of VAWA but most programs would **benefit from greater clarity than the proposed rule provides**, either through expanded language in the proposed rule or through detailed program guidance.

- B. *Specific solicitation of comment 2: HUD specifically solicits comment on applying VAWA protections to rental housing assisted under the HTF program in the same manner that HUD is proposing to apply the VAWA protections to rental housing assisted under the HOME program.*

Treating rental housing assisted under the National Housing Trust Fund similar to rental housing funded under the HOME program is appropriate. HOME and NHTF serve people at different levels of need and support different housing activities, but from a purely administrative perspective, **maintaining similarity in their regulatory treatment is efficient** for program participants.

- C. *Specific solicitation of comment 3: HUD is considering requiring that the newly covered HUD programs distribute the notice of occupancy rights and certification form to all current tenants and not only new tenants. HUD specifically solicits comment on this proposal and whether there is a less burdensome way to reach out to all existing tenants.*

It is appropriate to require providers to distribute the notice of occupancy rights to current tenants, not just new tenants. Properties already have mechanisms in place to communicate with tenants; **it is not burdensome** to expect they share these new resources with tenants. However, HUD should not require a specific timeline, instead giving providers flexibility to deliver the new resources in a manner that fits with existing procedures. Additionally, if the new language around VAWA protections could be incorporated into existing documents that are shared with tenants, for example the Tenants' Rights and Responsibilities brochure in Section 8 project based rental assistance properties, this would reduce administrative burden for housing providers.

- D. *Specific solicitation of comment 4 : HUD invites comments on requiring documentation in the situation in which a tenant who is a victim of domestic violence, dating violence, sexual assault or stalking requests and emergency transfer and what that documentation might include.*

HUD should require documentation when a tenant requests an emergency transfer, but HUD **should give providers flexibility** on what documentation is required. NHC wants to avoid having the process, the requirement to provide documentation and level of documentation, from preventing a survivor in need from receiving assistance. However, NHC also wants to ensure that only eligible persons benefit from VAWA protections. Flexibility on what documentation to require is important so that different programs and providers can determine what will work best for their projects. While some survivors may have court orders and/or medical records, not all survivors will have those records either because the situation is new, because of the level of abuse they have suffered, or because they kept their situation a secret. The rule and program guidance(s) should allow for those situations. HUD should also allow some flexibility on when documentation needs to be provided. If a provider has a unit available when an emergency transfer has been requested, that provider should not wait until documentation is provided.

- E. *Specific solicitation of comment 5: HUD specifically solicits comment on available and safe dwelling units that a covered housing provider consider in transferring a tenant who expressly requests a transfer as a result of domestic violence, dating violence, sexual assault or stalking.*

In regards to available and safe dwelling units a covered housing provider should consider in case of an emergency transfer, administratively it will be easier to remain within the covered housing program. However, HUD should **provide guidance and tools** on how providers could look to possible units across their portfolio and also across programs to help providers understand when such moves could be feasible and allowed. This flexibility is especially important in areas of lower housing density where there may be few options within a property, portfolio, or even a program. In some situations, transferring to a different unit within the property may be helpful, but it will not be sufficient for every situation. Tenants should also have the right to turn down a transfer if they do not feel it would enhance their safety, and the guidance should make this clear.

- F. *Specific solicitation of comment 6: HUD solicits comments on whether it would be helpful to covered housing providers if HUD issues a model transfer request that includes the criteria for requesting the transfer.*

NHC has some concern about including criteria for requesting the emergency transfer within the model transfer request. Many different situations could justify an emergency transfer so any **language around criteria would need to be flexible** and give providers confidence that they have room to interpret the criteria based on a tenant's situation. NHC would also recommend HUD seek out domestic violence experts, organizations like the National Network to End Domestic Violence, for their suggestions on appropriate criteria and language for these situations. In the proposed rule, HUD uses the example "reasonable belief that the tenant is being threatened" which is not overly restrictive but is also not that helpful for providers new to this issue in understanding what merits reasonable belief. This potential confusion is just one example to highlight why HUD needs to be careful in any language around criteria for an emergency transfer.

In addition, while it is reasonable that the housing provider cannot guarantee that a transfer request will be approved, the language that a "housing provider cannot guarantee how long it will take to process a transfer request" needs to be improved. HUD should require housing providers to give tenants a status update on their request within a reasonable amount of time as well as to provide tenants with periodic updates.

### **III. Overall comments on the proposed rule**

NHC believes that HUD's drafting of a Notice of Occupancy Rights and certification form will be helpful for housing providers and lead to greater consistency across programs and properties. NHC also supports the decision for HUD to draft an emergency transfer plan for covered housing providers to use, again because it will provide important consistency across programs and projects. It is also important that these documents be made available in multiple languages by providers and grantees. It could be cost-effective for HUD to provide these model documents in a few languages that are most commonly spoken in HUD properties to reduce duplication of effort and ensure consistency of translation and interpretation.

NHC encourages HUD to **provide tools and training to grantees, owners and managers** on these new requirements. Many of the proposed changes will provide survivors of domestic violence with greater protections and housing stability, but only if grantees, owners and managers fully understand the options available to them for addressing those situations, such as transferring the survivor to a different unit or barring the offender from the property.

HUD will also need to provide **program specific guidance** in addition to this proposed rule. Implementation of certain provisions will vary somewhat between programs as HUD briefly mentions in the rule, so program level guidance will be important. For example, HOME grantees and Low Income Housing Tax Credit (LIHTC) owners may need to add language to their tenant selection plans to handle transfer requests and allow a domestic violence survivor to have access to an available unit. The Department of Treasury and state agencies will need to provide guidance for LIHTC properties, and Treasury and HUD should coordinate their efforts so that requirements for HUD-assisted LIHTC properties are clear. Additionally, in the proposed rule, HUD should list out every program that is now covered by VAWA 2013 to eliminate any possible confusion. HUD will also need to provide clear guidance to each field office on how VAWA 2013 should be implemented across the various HUD programs, especially in regards to unit transfers, and provide a path for escalation if there are unclear or confusing situations.

HUD should provide clarity to providers and grantees that using HUD's documents (notice of occupancy rights, model plan, and certification form) as templates will be sufficient to satisfy the law. Providers will need to adjust those documents as appropriate but do not need to craft their own.

HUD should provide more guidance and information on the **various options available to providers**, beyond bifurcating the lease and transferring tenants. For instance, HUD could provide guidance on allowing tenants to break a lease because of a domestic or dating violence situation.

Lastly, as HUD drafts the final rule for VAWA 2013 implementation, NHC wants to emphasize the **importance of both clarity and flexibility**. Good guidance on these new documents and responsibilities will be pivotal for effective implementation. Flexibility will also be important because every newly covered housing program is different from its counterparts; domestic and dating violence situations are also complicated and cannot all be treated the same way.

#### **IV. Conclusion**

NHC appreciates the opportunity to comment on this proposed rule and commends HUD for its proactive efforts to strengthen and improve protections for domestic violence, dating violence, sexual assault and stalking survivors. Please contact Rebekah King, Policy Associate ([rking@nhc.org](mailto:rking@nhc.org)) with any questions.

Sincerely,

A handwritten signature in black ink that reads "Chris Estes". The signature is written in a cursive, slightly slanted style.

Chris Estes

President and CEO