



VIOLENCE AGAINST WOMEN ACT: TDHCA PROGRAM IMPLEMENTATION

Presented by:

Texas Department of Housing and Community Affairs

DISCLAIMER

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Any opinion, findings, conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Housing and Urban Development.



BEFORE WE START...

All materials and recordings of this webinar will be available on the TDHCA website.

If you have any questions, please enter them into the question chat box – after every segment, we will answer the questions in the chat box.

This training is informational only and does not satisfy the requirements in 10 TAC §10.402(e)(1)-(2) for post bond closing documentation (for Multifamily Bond transactions) and documentation submitted for the 10 Percent Test (for Housing Tax Credits).

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AGENDA

- VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION
- HUD GUIDANCE
- REQUIRED NOTIFICATION
- DOCUMENTATION OF COVERED STATUS
- LEASE BIFURCATION
- EMERGENCY TRANSFER PLAN



LEARNING OBJECTIVES

Understand

Understand VAWA and its purpose

Understand

Understand your role and responsibilities

Know about

Know about required notifications and documentations

Know about

Know about lease bifurcations and emergency transfer plans

THE FAIR HOUSING ACT

It is the policy of the United States to provide, within constitutional limitations, for fair housing through the United States. No person shall be subjected to discrimination because of their race, color, religion, sex, handicap (disability), familial status, or national origin in the sale, rental, or advertising of dwellings, in the provision of brokerage services or in the availability of real estate-related transactions. (24 CFR 200.5(a))

VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT

- The Violence Against Women Act (VAWA) provides protections for victims (i.e. persons that have experienced) domestic violence, dating violence, sexual assault, or stalking.
- VAWA protections are a change or exception to standard policies and procedures to accommodate a household that is otherwise eligible for the housing related program and has experienced domestic violence, dating violence, sexual assault, or stalking.
- VAWA protections are available equally to all individuals regardless of sex, gender identity, or sexual orientation

HUD VAWA FINAL RULE

- HUD published its VAWA Final Rule implementing the requirements of VAWA 2013 on November 16, 2016. The notice included the following changes for the HUD Multifamily Housing programs:
 - Specified “sexual assault” as a crime covered by VAWA in HUD-covered programs (24 CFR 5.2003)
 - New requirements for notification of occupancy rights under VAWA – form HUD-5380 (24 CFR 5.2005(a))
 - Establishes requirements for creating an emergency transfer plan
 - Covered additional programs



TEXAS DATA

Area	Family Violence Incidents*	Incidence Rate (per 1,000 people)	Sexual Assault Incidents	Incidence Rate (per 1,000 people)
Rural	22,170	65	1,987	6
Urban	174,849	73	17,828	7
Texas	197,019	72	19,815	7

Source: Texas Department of Public Safety, 2019

*Includes sexual assaults that also meet the criteria for family violence



DEFINITIONS

- **Sexual assault:** Any nonconsensual sexual act prohibited by law, or sexual offense, that meets the definition of rape, fondling, incest, or statutory rape
- **Sex offenses:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
- **Consent:** Voluntary, positive agreement between the participants to engage in specific sexual activity

DEFINITIONS

- **Domestic Violence:** Any felony or misdemeanor crimes of violence committed by:
 - A current/former spouse or intimate partner;
 - A person with whom the victim shares a child;
 - A person who is or has cohabitated with the victim; or
 - A person in violation of state/local domestic and family violence laws.

DEFINITIONS

- **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship

DEFINITIONS

- **Stalking:** Any conduct directed toward a specific person that would cause a reasonable person to fear for safety or suffer substantial distress.
- **Substantial distress:** Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.



VAWA PROTECTIONS

VAWA protections are a change or exception to standard policies and procedures to accommodate a household that is otherwise eligible for the program and has experienced domestic violence, dating violence, sexual assault, or stalking.

These protections apply to household members.

These protections do not apply to guests or unreported household members.

ADVERSE FACTORS

An adverse factor is any factor that can be used as a basis for denying admission or assistance into a housing program, terminating assistance or participation in a housing program, or eviction.

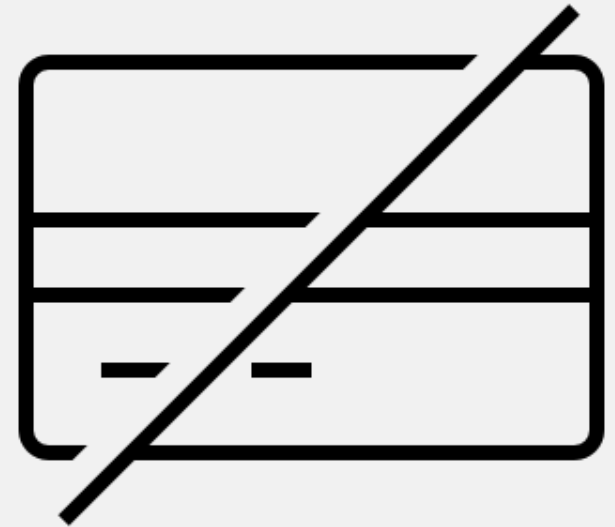
Housing providers may have to determine whether an adverse factor is a direct result of domestic violence, dating violence, sexual assault, or stalking.

However, if a denial or termination is required by a federal statute, based on a particular adverse factor, the housing provider must comply with the statute.

EXAMPLES OF ADVERSE FACTORS

Examples of adverse factors that may be a direct result of domestic violence, dating violence, sexual assault, or stalking:

- Poor credit history
- Poor rental history
- Criminal record
- Failure to pay rent



VAWA PROTECTIONS: WHAT IT MEANS

- Having experienced domestic violence, dating violence, sexual assault, or stalking is not a basis for denial of assistance or admission to assisted housing if the applicant otherwise qualifies for assistance or admission.
- Incidents or threats of domestic violence, or stalking will not be construed as serious or repeated violations of the lease, or as “good cause” for termination of assistance, tenancy, or occupancy rights of a covered person.

VAWA 2013 COVERED BY STATUTE

The Act is divided into 12 Titles. The provisions in Title VI (6), “Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking” are applicable to the following federal programs.

- Section 202
- Section 811
- HOPWA
- HOME
- Section 211(d)(3)
- Section 236
- Public Housing
- Section 8 (project and tenant-based)
- McKinney - Vento Homeless Act – Title IV (4) Homeless Programs including Emergency Solutions Grant
- Rural Housing (USDA)
- LIHTC (IRS)



TDHCA PROGRAMS

The Texas Department of Housing and Community Affairs is the State agency that administers:

- Housing Tax Credit
- HOME Multifamily
- HOME Tenant Based Rental Assistance
- Tax Credit Assistance Program-Repayment Funds
- National Housing Trust Fund
- Emergency Solutions Grant
- Neighborhood Stabilization Program
- Section 811 Project Rental Assistance Program
- Housing Choice Voucher Program (tenant and project-based).



HUD & TDHCA - REQUIRED NOTIFICATION



TDHCA PROGRAMS

All tenants and applicants of TDHCA multifamily properties, or those who receive rental assistance from Section 8, Section 811 PRA, HOME TBRA, or ESG distributed by TDHCA or through TDHCA to an organization, **may not be**:

- denied assistance;
- terminated from participation;
- evicted from their rental housing

because they have been subject to domestic violence, dating violence, sexual assault, or stalking.

REQUIRED VAWA FORMS FOR ALL COVERED HOUSING PROGRAMS

- VAWA Forms must be provided by the housing provider to all applicants and program participants:
 - At the time of application acceptance or denial;
 - Prior to execution of a Rental Assistance Agreement;
 - With any notification of eviction or notification of termination of assistance;
 - During an annual recertification or lease renewal process, whichever is applicable.

These notifications are required for Multifamily Properties per **§10.802 & §10.613**

FORMS REQUIRED

- TDHCA's Notice of Occupancy Rights under the Violence Against Women Act – based on HUD form 5380 (available in English, Spanish, and Vietnamese)
- HUD 5382 – Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation (available in English and Spanish; other languages available at HUD.gov)

Both forms are available in the GoToWebinar handouts as PDFs and on the TDHCA website as fillable Word documents.

<https://www.tdhca.state.tx.us/pmcomp/forms.htm>



EMERGENCY
SOLUTIONS
GRANTS (ESG)
PROGRAM

Per 10 TAC §7.10(b)(3) (Homelessness Programs)

An ESG Subrecipient must inform program participants about the rights they have under VAWA. This notification must be provided at denial, non-renewal or termination

Subrecipient may not deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking.

10 TAC §7.27 (ESG Rules)

Safety planning for persons covered under VAWA is an allowable case management costs for ESG funded subrecipients.



TENANT-
BASED
RENTAL
ASSISTANCE
HOME

Single Family HOME Program - 10 TAC §23.51

VAWA forms must be provided at application and before termination.

HOME TBRA Administrators must:

- notify TDHCA within **three days** when tenant submits a Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and/or alternate documentation and
- must submit a plan to Department for continuation or termination of assistance to affected Household members.



SECTION 811
PROJECT
RENTAL
ASSISTANCE

- **10 TAC §8.7**

For Section 811 Participating properties, requirements to provide the VAWA forms also appear in the TAC rules for the Section 811 program. This is part of the Section 811 PRA lease addendum.



DOCUMENTATION OF COVERED PERSONS

DOCUMENTATION OF A COVERED PERSON'S STATUS

If a tenant or applicant identified themselves as a covered person who has experienced domestic violence, dating violence, sexual assault, or stalking, the housing provider may request in writing one of the following:

- Completed Certification Form HUD-5382
- Signed certification by victim service provider, attorney, medical or mental health professional from whom the covered person sought assistance
- Record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency; or
- A statement or other evidence provided by the applicant or tenant (at the discretion of the provider)

Housing providers may also accept verbal requests for VAWA protections and may not require more than one type of documentation. Also, a housing provider must allow at least 14 days for a response.

CONFIDENTIALITY OF A COVERED PERSON

- All information and documentation received must be maintained with strict confidentiality. Any VAWA-related information should not be provided to other employees or contractors unless required by law.
- VAWA information should not be entered into a database or provided to others without consent from the covered person, or unless required for an eviction action or by law.
- Document the covered person's preferred method of communication within their tenant file (e-mail, phone call, text, or in-person only). They may designate an attorney, advocate, or other secure contact for communications.

KEEP VAWA COMMUNICATION
SEPARATE FROM TENANT FILE



CONFLICTING EVIDENCE

- More than one party can claim covered person status from the same incident of domestic or dating violence. The Housing Provider may request documentation from the second party that may contradict initial information provided by the first party.
- Additional documentation may be requested from both parties, and the housing provider must allow a 30-day response time.

POSSIBLE EVICTION

- A tenant can be evicted (or their assistance terminated) for serious or repeated lease violations not related to domestic violence, dating violence, sexual assault, or stalking.
- Tenants who have experienced domestic violence, dating violence, sexual assault, or stalking cannot be held to a more stringent set of rules than any other tenant.
- VAWA protections may not apply to a tenant if you, as their housing provider, can demonstrate that not evicting the tenant would present a real physical danger that:
 - Would occur within an immediate time frame, and
 - Could result in death or serious bodily harm to other tenants or those who work on the property.



LEASE BIFURCATION

LEASE BIFURCATION

Bifurcate means to split one lease into two.

VAWA protections allow housing providers to bifurcate a lease to remove a perpetrator from a unit while permitting the covered person to remain in the unit.

Whenever you remove a household member from a lease to evict, you are terminating their occupancy rights and/or assistance. Follow standard grievance procedures and family break-up policies.

ESTABLISHING ELIGIBILITY FOLLOWING LEASE BIFURCATION

HUD recommends that housing providers allow 90 calendar day period after lease bifurcation to establish the following:

Eligibility in the same housing program

Eligibility in another covered housing program

Alternative housing



EMERGENCY TRANSFER PLAN

EMERGENCY TRANSFER PLAN AND FORM

Model Emergency
Transfer Plan
(Form HUD-5381)

Emergency Transfer
Request Form
(Form HUD-5383)



EMERGENCY TRANSFER PLAN – HUD GUIDANCE

- HUD requires housing providers to adopt an Emergency Transfer Plan, based on the HUD Model Emergency Transfer Plan (Form HUD-5381).
- Housing Providers should review their Emergency Transfer Plans and ensure they contain all elements within the HUD model.
- The Emergency Transfer Plan must allow tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to make an internal emergency transfer when a safe unit is immediately available.
- The victim is the only person who determines if the unit is safe.

EMERGENCY TRANSFER ELIGIBILITY

- A tenant who has experienced domestic violence, dating violence, sexual assault, or stalking, is eligible for an emergency transfer, if:
 - The tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;
 - The tenant expressly requests the emergency transfer; and
 - the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit.
- If the tenant has experienced sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.
- Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

EMERGENCY TRANSFER PLAN

INTERNAL TRANSFERS

- An internal transfer is a relocation of a tenant to another unit at the same property without completing an application process.

EXTERNAL TRANSFERS

- An external transfer is a relocation of a tenant to another unit at another property where they meet eligibility requirements – tenant must complete application process at the different property.

RECORD KEEPING AND REPORTING

HUD guidance requires that requests and outcomes of VAWA requests should be reported to HUD annually.

1. Number of emergency transfer requests received;
2. Number of requests resolved;
3. Number still pending;
4. Outcomes of requests –
 - Number of internal unit transfers (within same project);
 - Number relocated to other HUD-funded housing sites (e.g., other multifamily assisted, public housing/housing vouchers/ or HOME);
 - Number of other move-outs; and
 - Number of tenants who chose to remain in unit.

Send this information to
VAWA.Transfer@tdhca.state.tx.us

Do not send any personal tenant information when reporting data to TDHCA.

DOMESTIC VIOLENCE SUPPORT RESOURCES

- National Domestic Violence Hotline - 1-800-799-7233 or 1-800-787-3224 (TTY) for victims of domestic or dating violence.
- Rape, Abuse & Incest National Network's (RAINN) National Sexual Assault Hotline – 1-800-656-HOPE or <https://ohl.rainn.org/online/> for victims of sexual assault.
- National Center for Victims of Crime's Stalking Resource Center - <https://www.victimsofcrime.org/our-programs/stalking-resource-center> for victims of stalking.
- Texas Council on Family Violence - <https://tcfv.org/survivor-resources/> to connect to resources specifically in Texas.

TRAINING & TECHNICAL ASSISTANCE

Please contact Nathan Darus at the Texas
Department of Housing and Community
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THANKS FOR YOUR PARTICIPATION!

QUESTIONS?