



Emergency Solutions Grants - Violence Against Women Act of 2013 Guidance

The U.S. Department of Housing and Urban Development (“HUD”) has released regulations regarding implementation of the Violence Against Women Act (“VAWA”) that requires the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) to add new sections to its Emergency Solutions Grants (“ESG”) Program Rules in 2017. The below is guidance on implementation of the new rules in 10 Texas Administrative Code (“TAC”) §5.2014 and §7.2007.

Guidance 1: When should ESG Subrecipients present the VAWA forms?

The “Notice of Occupancy Rights under the Violence Against Women Act” based on HUD form 5380, and the “Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking,” HUD form 5382, must be provided by the ESG Subrecipient to:

1. All applicants for short- and medium-term rental assistance at the time of admittance or denial;
2. Program Participants of short- and medium-term rental assistance prior to execution of a Rental Assistance Agreement;
3. Program Participants of short- and medium-term rental assistance with any notification of eviction or notification of termination of assistance;
4. Program Participants of short- and medium-term rental assistance either during an annual recertification or lease renewal process, whichever is applicable.

These forms are available at <http://www.tdhca.state.tx.us/home-division/esgp/guidance-solutions.htm>. While it is not optional to provide the two forms listed above, it is optional to complete HUD form 5382. HUD form 5382 should be completed if the applicant or Program Participants are seeking VAWA protections.

Guidance 2: What are some possible 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. Listed below are some examples of possible VAWA protections.

- If a household otherwise qualifies for assistance under the covered program, they cannot be denied admission or denied assistance because of criteria resulting from them being a victim of experienced domestic violence, dating violence, sexual assault, or stalking.
- If a household is receiving assistance under the covered program, they may not be denied assistance, terminated from participation, or be evicted from the rental housing due to their experience of domestic violence, dating violence, sexual assault, or stalking.
- If a member of the household or an affiliated individual of the household is or has experienced domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, they may not be denied rental assistance or occupancy



rights under ESG solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

- If an ESG Subrecipient has adopted written standards to prioritize rental assistance for applicants with good rental history (such as no history of evictions), a household could request an exception to written standards if the history of evictions is related to violence, as documented on HUD form 5382.

Guidance 3: How can the Subrecipient document compliance with the rule regarding distribution of the forms?

One option is to have the individual sign and date a certification form that they have received the “Notice of Occupancy Rights under the Violence Against Women Act” based on HUD form 5380, and the “Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking” at each interval identified in Guidance #1, as applicable.

TDHCA has provided a Receipt of Violence Against Women Act Protections and Rights form available at <http://www.tdhca.state.tx.us/home-division/esgp/guidance-solutions.htm> that may be used by ESG Subrecipients to document the receipt of the two forms mentioned above. ESG Subrecipient may also create and use their own acknowledgement form of receipt of the two forms mentioned above.

Guidance 4: When should someone complete form 5382 (certification of domestic violence, dating violence, sexual assault, or stalking)?

HUD form 5382 is an optional form to be filled out if an individual is seeking VAWA protections from a covered housing provider. An individual may fill out HUD form 5382 to show that they have experienced domestic violence, dating violence, sexual assault, or stalking, and that they wish to use their rights under VAWA. The form should be filled out if the incident on the 5382 is related to the VAWA protections the household is seeking, see the examples listed above.

The 5382 form does not need to be completed each time it is provided to a household. The form should be completed only if the household is seeking protections. If a household has already completed the form, a previously-completed form may be used if there are no changes to the circumstances triggering the protection. Listed below are examples of when to complete form 5382.

- If the household is requesting VAWA protections at multiple intervals identified as 1 – 4 in Guidance 1, the same 5382 form could be used at each interval. For example, if the household was requesting protection at application (interval 1) and program acceptance (interval 2), the form 5382 would only have to be filled out once (interval 1 at application). However, the Subrecipient must make sure to present a blank 5382 form to the household, and obtain acknowledgement that the form was received by the household during each subsequent interval.
- If the household had experienced domestic violence in the past, but is not currently requesting protections under VAWA, then the form does not have to be completed.