Violence Against Women Act (VAWA) Activities

VIOLENCE AGAINST WOMEN ACT (VAWA) ACTIVITIES

The Violence Against Women Act (VAWA) requires PHAs to describe any goals, objectives, policies or programs that enable the PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault or stalking.

The HPHA supports the goals and objectives of VAWA and will comply with its requirements. The HPHA is currently working to implement policies to the Public Housing Program as required by VAWA. A review of policies and procedures will be conducted to ensure that all requirements are met or exceeded.

Recognizing the seriousness, HPHA has in place a Preference designation in its Admission Policy for victims of domestic violence. The HPHA has completed the following in its efforts to support and comply with VAWA provisions:

* The Section 8 Administrative Plan has been updated to reflect HPHA policy on the prohibition against denial of assistance to victims of domestic violence, dating violence, and stalking as required by VAWA.

* The fair housing policy in the HPHA Admissions and Continued Occupancy Policy for the Federally Assisted Public Housing Program has also been updated to reflect compliance with the provisions of VAWA.

*Established a list of domestic violence service providers statewide to provide referrals to aid applicant or resident victims.

* Information regarding the VAWA is given to all HPHA public housing residents at annual recertification and residents are required to sign a lease addendum acknowledging the VAWA protections. This notice and lease addendum are also available in Cantonese, Chuukese, Ilocano, Korean, Samoan, and Tagalog.

* Information regarding the VAWA is also distributed to Section 8 tenants. New Section 8 leases also require the HUD Tenancy Addendum which include provisions relating to VAWA.

* Property management staff were given a refresher session on the protections of VAWA in 2012.

The HPHA's Board of Directors has adopted an interim VAWA Policy. Staff is currently developing a final policy for adoption pending reauthorization of VAWA. Non-substantive changes are not considered a substantial deviation to the PHA plan, and will be adopted by the HPHA Board of Directors, and not through the PHA Plan process.

Subject: VIOLENCE AGAINST WOMEN ACT of 2005 (VAWA) IMPLEMENTATION of INTERIM POLICY – Public Housing

I. BACKGROUND

On January 5, 2006, President Bush signed into law the Violence Against Women Act of 2005 (VAWA). While the U.s. Department of Housing and Urban Development (HUD) is developing proposed regulations, public housing agencies (PHAs) were informed that in the interim the statutory provisions were effective from the date the law was enacted. HUD has yet to issue final rules that would make conforming changes in existing regulations and provide guidance regarding the requirements of the law.

II. VAWA REQUIREMENTS

The purpose of VAWA is to protect certain victims of criminal domestic violence, dating violence, sexual assault, or stalking – as well as members of the victim's immediate families – from losing their HUD-assisted housing as a consequence of the abuse of which they were the victim.

HUD has instructed PHAs that *Certification of Domestic Violence, Dating Violence, or Stalking for use in Public Housing program, HUD form – 50066* may be used by PHAs administering the Public Housing Program. The form needs to be completed, signed and submitted within fourteen (14) business days from the date the individual certifies that he/she is a victim under VAWA (domestic violence, dating violence, or stalking, and that the incident or incidences in question are bona fide incidences of such actual or threatened abuse).

The VAWA also requires that PHAs provide adequate notice and address issues of confidentiality as follows.

PHAs must notify applicants and tenants of their rights under VAWA, and the right of confidentiality. All information provided to a PHA relating to the incident(s) of domestic violence, including the fact that an individual is a victim of domestic violence, dating violence, or stalking, must be retained in confidence and neither entered into any shared database nor provided to a related entity, except to the extent that the disclosure is (i) requested or consented by the individual in writing; (ii) required for use in an eviction proceeding or termination of assistance; or otherwise required by applicable law. The HUD-approved certification form provides notice to the tenant of the confidentiality of the form and the limits thereof.

III. DEFINITIONS: The following definitions were incorporated into the United States Housing Act and apply to VAWA.

Domestic Violence. The term includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's act under the domestic or family violence laws of the jurisdiction.

Dating Violence: Violence committed by a person:

1. *who is or has been in a social relationship of a romantic or intimate nature with the victim; and*
2. *Where the existence of such relationship shall determine based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.*

Stalking: to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person; (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person.

Immediate Family Member: a spouse, parent, brother or sister, or child of the person, or an individual to whom that person stands in loco parentis (in place of a parent); or any other person living in the household of that person and related to that person by blood or marriage.

IV. HPHA Interim Policy

A. Application

At Application: (Initial and Final Eligibility review)

1. An applicant will be granted a preference eligible status as a victim of domestic violence, dating violence or stalking, with certification or documentation verifying current actual or threatening abuse. An applicant may not be denied admission solely because an applicant is or has been a victim of domestic violence, dating violence, or stalking, if he or she is otherwise qualified for admission.

2. In reviewing preference eligibility, staff must determine whether negative suitability was a consequence of domestic violence against the applicant.

3. An applicant will not be denied admission if the unfavorable (negative report) screening factors of the applicant are related to acts of domestic violence, dating violence, or stalking against the applicant or any member of the family household. For example:
   a. If a negative report of performance in meeting lease obligations is related to domestic violence, dating violence, or stalking against the applicant or any member of the applicant's household, these shall not make the applicant ineligible for admission.

4. Verification of domestic violence, dating violence or stalking for preference status with:
   a. a federal, state, or local police records, or
   b. a court record that documents the incident;
   c. a statement certifying abuse, under penalty of perjury, from
      - a victim service-provider,
      - an attorney, or
      - a medical professional from whom the victim sought assistance; or
   d. a certification form approved by HUD, completed by applicant, signed and submitted within (14) days of the date requested.

B. TENANTS: Occupancy Lease Enforcement

1. The VAWA provides that criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that abuse.

2. An incident of actual or threatened domestic violence, dating violence or stalking does not qualify as "good cause" for terminating assistance, tenancy or occupancy rights of a victim of such violence.

3. HPHA is explicitly permitted to bifurcate leases in order to evict or terminate assistance to a tenant who engages in violence against

others, without evicting or terminating assistance to the remaining tenants who may or may not be the victims of this violence.

a. This means that if the abuser is named as the head of household on the lease, the HPHA can terminate the abuser's assistance only. The HPHA is then allowed to create a new lease with the remaining tenants.

b. If the HPHA seeks to terminate the tenancy of a victim of domestic violence, dating violence, or stalking for lease violations unrelated to the domestic violence, dating violence, or stalking, HPHA may not hold the individual to a more demanding set of rules than you apply to tenants who are not victims of domestic violence, dating violence, or stalking.

c. The HPHA will recommend that the victim seek assistance from local service providers of domestic violence.

d. The HPHA will recommend that victim contact police and obtain a temporary restraining order against the abuser.

C. TENANT'S RIGHTS

1. A tenant has the right to continue to remain in housing or receive housing assistance if tenant is a victim of domestic violence, dating violence, sexual assault or stalking.

2. If the tenant feels they are a victim of domestic violence, dating violence, sexual assault or stalking, the tenant may disclose this information to the HPHA. The HPHA may request that the tenant certify in written form that the tenant is a victim of domestic violence, dating violence, sexual assault or stalking. The tenant shall provide the certification to the HPHA as requested.

D. CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE OR STALKING

1. The HPHA may request certification in responding to an incident(s) of actual or threatened domestic violence, dating violence or stalking that may affect a tenant's participation in the housing program to request in writing that an individual complete, sign and submit, within fourteen (14) business days of the request, a HUD-approved certification form. Using the HUD form, the individual certify that he/she is a victim of domestic violence, dating violence, or stalking, and that the incident(s) in question are bona fide incidences of such actual or threatened abuse. The

individual shall be asked to provide the name of the perpetrator on the HUD form.

2. In lieu of or in addition to the certification form, a tenant may provide, (1) local police or court record; (2) documentation signed and attested to by an employee, agent or volunteer of a victim service provider, an attorney or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the Professional's belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence or stalking has signed or attested to the documentation.

3. If the individual does not provide the form HUD-50066 or written certification that may be provided in lieu of the certification by the fourteenth (14th) business day or any extension of that date provided by the HPHA, none of the protections afforded to the victim of domestic violence, dating violence or stalking by section 607 of VAWA will apply. The HPHA would therefore be free to evict, or to terminate assistance, in the circumstances authorized by otherwise applicable law and lease provisions, without regard to the amendments made by Section 607.

4. The HPHA may accept certification beyond the 14th day, if the delay in submittal was for good cause.

E. ALL INFORMATION CONFIDENTIAL:

1. The HPHA must keep information confidential, including the individual's status as a victim of domestic violence, dating violence, or stalking. The HPHA may disclose the information if: the victim requests or consents to the disclosure in writing; the information is required for use in eviction proceedings related to whether the incident or incidents in questions qualify as a serious or repeated violation of the lease or criminal activity directly relating to domestic violence, dating violence, or stalking; or disclosure is otherwise required by law.

F. DEALING WITH INCIDENTS OR CLAIMS OF DOMESTIC VIOLENCE

1. The HPHA will encourage victims to seek professional assistance by referring them to the appropriate victim service providers.

2. If police are involved, staff should keep in contact with them. The HPHA should obtain a copy of police report for its files, and request the perpetrator is issued a temporary restraining order.

3. Once a temporary restraining order is issued, and the victim has provided a certification of domestic violence, the HPHA may remove the abuser from the lease. The HPHA will make available to the victim the option to change existing unit entry locks at their cost, if desired.

4. In cases where the facts are unclear, staff may liberally apply VAWA procedures and then seek immediate consultation with the Property Management and Maintenance Services Branch.

5. The HPHA will issue written "Trespass Warning Notice" when deemed appropriate. Staff shall cooperate and coordinate with police and on-site security, if any, to the issuance and enforcement of trespass notices.

6. The HPHA will keep written log of actions taken, including referrals to social service organizations, to police, or to other state agencies; to document efforts made to assist victims assisted under VAWA.

7. The HPHA may issue a Notice of Violation to one of the tenants of a lease in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

8. Questions regarding the application of the VAWA will be addresses to the Department of the Attorney General via HPHA's Compliance Office. In situations where an imminent emergency threatens life or property, staff must contact the police for immediate assistance. Guidance on the VAWA is not an emergency and shall be addresses through the Compliance Office as stated above.

9. The HPHA is requires to maintain confidential information in separate files and stored in a locked restricted access cabinet.