

Colette Pollard
Reports Management Officer, REE,
Department of Housing and Urban Development
451 7th Street SW, Room 4176,
Washington, DC 20410-5000
Colette.Pollard@hud.gov.
Docket No. FR-7061-N-18

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Dear Ms. Pollard:

Please accept these comments in response to the HUD's Information Collection Notice issued on Nov. 4, 2022, regarding HUD's implementation of the Violence Against Women Act ("VAWA") and HUD Forms 5380, 5381, 5382, and 5383, emergency transfer reporting and data collection by covered housing providers, model emergency transfer policies, family break-up, lease bifurcation, and lease addendums. The undersigned organizations are a collective of legal aid and advocacy organizations throughout the country who have represented tens of thousands of survivors eligible for and residing in federally subsidized housing covered by VAWA. Thus, these comments reflect our experiences directly interacting with covered housing providers to protect our clients' VAWA housing rights, while also trying to ensure our clients are safe and their trauma is not exacerbated. We urge HUD to take a similar holistic approach to improving how covered housing providers ("CHP") respond to survivors and comply with VAWA.

I. HUD Must Ensure that Language Access Requirements Are Adhered To For All VAWA Forms and Information.

The DOJ recently issued a memorandum requesting that federal agencies review their language access practices and policies to strengthen the federal government's engagement with individuals with limited English proficiency.¹ In line with this memorandum, we recommend that HUD translate the VAWA forms into multiple languages. Indeed, during the COVID-19 pandemic, the CDC provided its Eviction Declaration Form ("Declaration") in multiple languages such as Spanish, Vietnamese, Chinese, and Korean, and made it available on its website. This access allowed litigants who do not speak, read, or write in English to obtain and complete the Declaration and give it to their landlord to avail themselves of the eviction protections to remain housed. Additionally, HUD should prominently place the language access requirements for the VAWA forms as a standalone provision so that survivors who are limited English proficient ("LEP") can easily see it and know they have the right to have these forms interpreted or translated to them in their native language if they do not proficiently read or speak English. Currently, HUD has buried the information regarding language access rights so far down on the form that it is likely to be missed by a LEP survivor who needs help. This access is particularly critical for survivors who live in housing owned and operated by housing providers who

¹ See [Attorney General Merrick B. Garland Issues Memorandum to Improve Access to Services for People with Limited Proficiency in English | OPA | Department of Justice](#) (last visited on December 9, 2022).

repeatedly refuse to provide interpreters or translated forms for LEP survivors, notwithstanding their Title VI obligations.

II. HUD Forms 5380 and 5382 Could Be Further Improved In Order to Help Survivors.

Overall accessibility and readability

While we applaud the revisions to HUD Form 5380 and HUD Form 5382, they remain very lengthy, which may make them less accessible to survivors. Accordingly, we recommend HUD strike repetitive or unnecessary words and streamline these forms to give survivors the essential information they need to invoke their rights under VAWA. Because these are public facing documents, we also recommend HUD change the title of the HUD Form 5380, “Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault,” to “Rights for Survivors,” or “Help for Survivors” to better communicate to survivors that the notice contains information that can help them keep their housing and increase their safety. Other federal agencies have done this and simplified the titles to their documents to help members of the public understand their rights. For instance, in explaining rights to crime victims, the DOJ has used the broad heading “What Rights do Crime Victims Have?”

Finally, HUD should review the forms to ensure they are accessible, readable, and understandable for people with low literacy, disabilities, cognitively impaired, color blind, or people with visual impairments.

Lease Bifurcation

Although the bifurcation language in HUD Form 5380 helps survivors understand that their housing provider may remove the abuser from their lease, the revised language explaining this concept to survivors is quite dense. It is important that a survivor understands the rights they have to remove the abuser from the home and retain housing assistance. Accordingly, we recommend HUD clarify this language as follows:

If you and the abuser are both on the lease, your landlord can evict the abuser from your home while you remain. A public housing authority (PHA) or the landlord can break up a lease, known as “bifurcating,” to evict the abuser and allow the survivor to stay. Further, VAWA protects survivors who remain in the home after the landlord or PHA breaks up the lease or assistance. If the landlord or PHA evicts the tenant with the housing assistance, the landlord or PHA must provide the tenant who remains an opportunity to establish eligibility or give them a reasonable time to move or establish eligibility for another covered housing program. This amount of time varies depending on which covered housing program you are participating in.

As is described in detail below, lease bifurcation policies in place now largely fail survivors. HUD must ensure consistent access to lease bifurcation across jurisdictions by reversing its position that the availability of lease bifurcation depends on “applicable state law.” HUD has the authority to mandate specific lease provisions which would allow for lease bifurcation regardless of state law, thus ensuring that survivors have equal access to the protections authorized by VAWA and that no survivor is deprived of vital safety protections based on where they live.

Should HUD take this step, the proposed HUD Form 5380 would need to be modified by removing the opening clause “Depending on applicable state law” in response to the question “How can I remove an abuser from my household?”

HUD should also amend the answer to “How can I remove an abuser from my household?” to make it clear that survivors can affirmatively request to have their lease bifurcated and that CHPs are required to have a lease bifurcation policy. Ideally, this response would also direct survivors to HUD Form 5383, as set forth below.

Confidentiality

Additionally, VAWA regulations prohibit sharing personally identifying information about survivors without informed, time-limited, written consent. HUD should include this requirement in the proposed revised HUD Form 5380.

Adverse Factors

VAWA prohibits housing providers from denying admission to, denying assistance under, terminating participation in, or evicting a tenant based on an adverse factor, if the adverse factor is determined to be a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.² However, HUD has not included these adverse factors in the HUD Form 5380. Adverse factors include, but are not limited to, a survivor having a poor credit, rental, or criminal history as a result of the violence they have experienced. HUD should revise the form to include the adverse factors that a housing provider may not consider at admissions, termination, or eviction. As advocates who frequently represent survivors in eviction and termination proceedings, adverse factors often drive or at least factor into a housing provider’s adverse actions against a survivor. Without including language detailing the adverse factors that housing providers may not consider, survivors will not be on notice that these admission denials, terminations, or evictions may not be permitted under VAWA. Additionally, the form should detail the process housing providers must undertake to evaluate whether an adverse factor is a direct result of violence.

Reasonable Accommodation

HUD should revise HUD Form 5380 regarding reasonable accommodation and inform survivors that the law allows a survivor living with disability in need of an accommodation to make that request at any time, even for the first time in an eviction. This section should also inform survivors that the law prohibits the housing provider from inquiring about the nature of the survivor’s disability and that in the event of a denial of a reasonable accommodation, the housing provider may need to engage in the interactive process to determine the accommodation that will work to allow the survivor the ability to submit the HUD Form 5382. Further, because survivors and their attorneys have had to enforce reasonable accommodation law to prevent discrimination and eviction of tenants who are living with disabilities, HUD may also consider including footnotes to the joint HUD-DOJ guidance and other publications that explain reasonable accommodation to housing providers.³

² Notice PIH 2017-08 (HA) May 19, 2017 at 6 - 9.

³ JOINT STATEMENT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF JUSTICE, REASONABLE ACCOMMODATIONS UNDER THE FAIR HOUSING ACT (2004), available at https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf.

Exception to actual and imminent threat

In Form 5380, HUD needs to make clear that the actual and imminent threat exception to VAWA is quite limited, both by regulations and sub-regulatory guidance, which make it clear that the phrase “actual and imminent” refers to “a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm.”⁴ Likewise, HUD should include the factors under 24 C.F.R. § 5.2003 that a PHA or housing provider must consider in determining whether a situation involving a survivor falls under the “actual and imminent” exception. This is important because it has been our experience that a PHA or housing provider will immediately move to evict the survivor without examining whether there is any mitigating circumstance against invoking the exception and keeping the survivor housed. Left unaltered, it appears that these evictions are lawful, even if the housing provider has not met this high standard or pursued other options, such as an emergency transfer, no trespass order, or help from law enforcement.⁵ Thus, both HUD Forms 5380 and 5382 should clarify that while this exception exists, eviction should be used as a last resort. As boldly and prominently as HUD can make it, HUD should state that evictions should only occur if there is no other action to be taken that would reduce or eliminate the threat.

Documentation

HUD needs to revise the documentation section of HUD Form 5380 to include the fourth level of documentation —statement or other evidence, which a housing provider must describe in detail. If the housing provider chooses to request written documentation, this fourth level of documentation can be helpful where the survivor has not reached out to third parties but has documentation, such as emails or text messages, documenting the threats and abuse.

Safe Communications

In making changes to HUD Form 5382, we urge HUD to adopt and implement procedural safeguards and VAWA-compliant communication protocols to ensure the safety of the witness and the confidentiality of their status as a VAWA survivor, including but not limited to clarifying the question in the form that asks the participant to identify the best method of contact (phone number, mailing address, e-mail address) to be framed as at which *they can safely and securely receive communications* regarding their rights as a survivor and their option to enforce those rights. HUD should also leave additional space for any additional circumstances that should be considered to ensure the survivor’s safety when communicating with them. While asking if it is okay to leave a voicemail is helpful, technology is increasingly used to track and harm survivors. So reframing the question to ask what methods are safe to use and expressly noting that the survivors can regularly update safe methods of contact is key. The form could also permit a survivor to offer written consent and a release of information to another person, such as an advocate or lawyer, as the point of contact.

Denial of VAWA Housing Rights

Under “Have your protections under VAWA been denied?” HUD should add information on HUD’s Office of Fair Housing and Equal Opportunity new complaint process for potential VAWA violations. In our collective experiences, the field offices are rarely equipped to process

⁴ 24 C.F.R. § 5.2003.

⁵ 24 C.F.R. §5.2005(d)(4); PIH Notice 2017-08 at 35-36.

complaints, including VAWA complaints. As well, HUD staff in the HUD Multifamily programs are directed to refer individual tenant complaints to the Performance Based Contract Administrators (“PBCA”). PBCAs rarely resolve tenant complaints and often simply refer the tenant back to the project owner or manager. In the case of tenants seeking VAWA protections, this loopback to the very staff who denied their VAWA protections will be unhelpful, traumatic, and often dangerous.

Failure of CHPs to Issue the Required Notices

HUD should make clear that failure to send the required HUD Form 5382 and HUD Form 5380 with *any* notification of termination of subsidy or tenancy renders that termination notice defective under HUD regulations. HUD should state that a CHP cannot properly terminate tenancy or subsidy without these two required forms, and the tenant may raise the CHP’s failure to send these two required forms as a procedural defense in subsidy or tenancy termination proceedings. This clarity will allow tenants and their advocates, to be able to enforce compliance with VAWA regulations by moving to dismiss or challenge any eviction or subsidy termination that was premised on a termination notice that did not include HUD Form 5382 and HUD Form 5380, in contravention of VAWA requirements.

Further, HUD should make that any compliance and occupancy reviews for all of HUD’s covered housing programs should flag CHPs who fail to issue the required HUD VAWA notifications and plans. For example, HUD could clarify to performance-based contract administrators that HUD multifamily owner compliance with VAWA regulations must be specifically evaluated during Management and Occupancy Reviews, under category HUD Form 9834, Category E.16, “Eviction/Termination of Assistance Procedures.” Owners who routinely fail to send these two required HUD forms with any notification of termination of tenancy or subsidy should be cited for corrective action in this category of the Management and Occupancy Review.

III. HUD Must Holistically Approach Revisions to the Rules and Policies regarding Emergency Transfers, Lease Bifurcations, and Family Break-Up.

Under current practice and policy, emergency transfers, lease bifurcations, and family break-up are viewed as distinct events, bereft of any consideration of a survivor’s safety or trauma needs. Regardless of what threats or trauma they are experiencing, these requests are processed with no sense of urgency or consideration that the point at which a survivor, particularly domestic violence survivors, seek to leave is one of the most dangerous points in a survivor’s life. For that reason, HUD must provide rules and guidance that mandate collaboration with victim service providers and culturally specific organizations, that prioritize as emergencies requests for a transfer, lease bifurcation, and family break-up. As described below, lease bifurcation and family break-up policies need to be unified (understanding various program features) and a mandated part of VAWA.

Our proposed revisions also reflect a need for transfers, lease bifurcation, and family break-up policies to be viewed collectively as a spectrum of housing retention options for survivors that CHPs must be capable of executing. Revisions to these policies must also recognize that safety

planning for survivors attempting to exit an abusive relationship is often complex and necessitates both short- and long-term steps. At the same time, for sexual assault survivors, the trauma can resurface at any time and trauma responses are often varied and subject to change. To address these complexities, survivors must be offered multiple paths to support both their short-term and long-term needs.

For tenants and program participants to truly be supported in their efforts to live free from abuse and trauma, they must be given options which allow them to address the varied and competing needs of their families. Each survivor's situation and family dynamic is unique. Some survivors may wish to remain in their current housing – perhaps because it is close to family supports, work, or allows children to remain in the same school – while others will wish to move. HUD has an obligation to ensure that, whenever possible, survivors are empowered to choose what is best for them, their family, and their situation.

Emergency Transfer Plans

Emergency Transfer Plans (“ETPs”) are an essential part of ensuring that a survivor does not have to choose between their housing and their safety, and we appreciate HUD's guidance to providers through the required customization and drafting notes. After the 2013 VAWA Reauthorization, many housing providers adopted HUD's Model Emergency Transfer Plan (HUD-5381) without providing subsidy and property specific information about how transfers would be conducted. The drafting notes and the required information drafted by HUD will be helpful in correcting this issue and addressing the necessary details that a survivor must know regarding how to access or effectuate a transfer of a subsidy.

HUD should give housing providers further guidance on how to make their ETPs publicly available. Many survivors who are facing ongoing threats to their safety have limited time to assess the options available to them, so it is essential that ETPs be easy to access and known to survivors before they need to make the request. HUD should require that—if housing providers have a website—that they post an updated copy of the ETP for survivors and their support systems and in a clear, prominent, and accessible place on their website. HUD should also require that properties that have on-site property management offices or other communal spaces post a copy of their ETP. Both of these means of access are feasible for housing providers and will allow survivors to quickly access and understand their options to transfer under VAWA.

HUD should also require housing providers to refine their emergency transfer procedures by requiring providers to identify a time frame by which they will confirm receipt or respond to the survivors request and explain how the provider will assist with moving expenses. Survivors that are fleeing a dangerous situation are often working with their support systems and limited resources on the logistics of their move, while planning to make sure that they stay safe. Often, housing providers do not confirm whether a request has been received or respond to a survivor's request, which hinders a survivor's efforts to move while they are waiting to hear what options may be available. Additionally, moving expenses can be a big barrier to a transfer and HUD should encourage providers to utilize their resources or partner with community organizations to alleviate the cost burdens of a survivor's transfer. Several housing providers already do this,

including the Chicago Housing Authority's public housing program.⁶ If providers bear the costs associated with a transfer—including moving, storage, and costs associated with transfer of utilities—survivors will be able to move as soon as a safe unit becomes available rather than waiting until they have the economic resources to pay the moving expenses.

Emergency transfers are particularly difficult in Project-Based Section 8 housing and other HUD multifamily housing, due to the collaboration needed between private owners in order to effectuate a transfer to another property. While HUD references in its drafting notes that providers should include memoranda of understanding with other housing providers, it should provide more detail about what these memoranda of understanding should include and why it is important to establish cross-provider partnerships. For providers that are willing to establish memoranda of understanding with other providers to accept and refer external VAWA transfers, HUD should note that providers should work with victim service providers, culturally specific organizations, and other stakeholders—including the local HUD office—in developing these partnerships, so that the partnership can address survivor's safety needs and so the properties can be considered for a management add-on fee. A great example of this work is the current pilot happening in Chicago in HUD Region V regarding Project-Based Section 8 housing providers, who are working on establishing a cohort to facilitate external VAWA transfers.

HUD needs to give more guidance to CHPs on how they prioritize emergency transfer requests. While we appreciate that under the new transfer drafting notes, CHPs will have to describe the prioritization, it will not alter the current practice of most CHPs placing emergency transfer requests well behind other kinds of transfers or waitlists. CHPs perceive VAWA emergency transfer requests as “resident initiated” and thus a low-priority. For example, the New York City Housing Authority's (“NYCHA”) [Tenant Selection Assignment Plan](#) (TSAP) lays out the order of priority for public housing new and transfers applicants. According to Appendix B of the TSAP, VAWA transfer applicants are given a T2-B priority code, *which makes them 15th on the list*. Plus, section IX(B)(1) of the TSAP provides that after T0 transferees have obtained their apartments, NYCHA's computer system cycles through 5 categories of applicants that include both transferees and new applicants - *i.e.*, in addition to being 15th in transfer priority, some VAWA transfer applicants may come behind certain new (non-VAWA) applicants. Furthermore, within any transfer priority code, transfers go first to intra-development applicants according to certification date rather than an individualized transfer needs assessment. All in all, a VAWA transfer applicant who needs to relocate neighborhoods needs to wait until: (1) all 11 T0 transfer categories get their apartments; (2) an additional 3 transfer categories, plus a certain number of new applicants, get their apartments; and (3) intra-development VAWA transfers get their apartments. As a result of the above rules, advocates in New York City regularly see VAWA transfer applicants wait over a year to move after their emergency transfer request has been approved, during which time they are left to either continue living in a dangerous environment or move to a homeless shelter.

We remain extremely frustrated with the continued distinction between internal and external transfers. Internal transfers rarely make survivors safe or free from trauma and external transfers

⁶ See Chicago Housing Authority Admissions and Continued Occupancy Policy (2022), V.E, available at http://cha-assets.s3.us-east-2.amazonaws.com/s3fs-public/2022-07/approved_fy2022_admissions_and_continued_occupancy_policy_-_effective_7-19-2278_0.pdf.

rarely occur. We urge HUD to consider transfers to other properties owned and/or managed by the same entities as internal transfers, requiring providers to coordinate across their own portfolios to facilitate survivor relocation. While these issues are larger than the form, we urge HUD to insert language in the Emergency Transfer Plan that better explains to survivors the difference between an internal transfer and an external transfer. HUD also needs to include the same language from the notice of occupancy rights in the Emergency Transfer Plan regarding what a household can do if their transfer request is denied or their rights under VAWA (i.e., demanding third party documentation for all transfer requests in violation of VAWA) are otherwise violated.

Transfer Request Form

We also support the expanded language regarding a housing provider's obligation to keep survivor's information confidential, including explicitly stating that a housing provider cannot disclose a survivor's address. However, we think there are several areas where this section could be improved. Many survivors delay reporting the violence that has happened to them or seek help based on concerns for their safety or of retaliation if the person harming them learns of their reporting. Breaches in confidentiality can lead to life threatening consequences, and it is important for both survivors and providers to appreciate the importance of this provision. HUD should support this section by informing survivors that they can request a compliance review from HUD if their information is improperly shared.

We appreciate the changes made to the 5383 form regarding the best method to contact survivors, and believe additional changes would help keep survivors safe. Best contact information is frequently changing as survivor's plans evolve, and the best way to contact survivors should include a space to provide updated or changed information so that the housing provider and the survivor can update the plan when necessary without executing a new document. It would also be helpful if the form contained a space identifying any survivor preferences or interim safety planning measures regarding how providers can use safe contact methods when working with survivors on a transfer (e.g. only calling at certain times of day, not identifying any information about the transfer if the survivor is not alone, setting up /a standing time and day of the week for the survivor to check-in on the transfer). The form should also allow space for survivors to identify if they may need to have a temporary absence from the unit while the transfer is pending. VAWA transfers often take time to implement, and while the survivor is waiting, the subsidized unit can be unsafe even as a temporary location. By explicitly allowing survivors to identify that they need to be absent from the unit, HUD will eliminate common issues caused by a survivor's absence, including a housing provider issuing an eviction notice or considering the unit abandoned.

We support HUD creating options for survivors to identify features of a safe unit. However, in our experience working with survivors trying to access safe housing, there are additional factors that help survivors identify what is safe for them, including whether a unit allows essential parts of their safety network to remain accessible, such as their job, childcare, healthcare, family, or victim service provider. These are the supports that help survivors remain safe and rebuild after experiencing violence, and HUD should recognize that these can be an essential part of a safe transfer. Although the form does provide an option for "other," the list reads as an exclusive list, which will prevent survivors from disclosing these other necessary considerations to housing

providers. For these reasons, HUD should include accessibility to safety network supports (job, childcare, healthcare, family, or victim service provider) as an option under this section and add more space for a survivor to describe anything else that they believe will make them safe and reduce their trauma. It is not clear from this list if a survivor will have to request an internal transfer or external transfer or if it will depend upon how the survivor describes what is safe. If the plan continues to make that distinction, HUD in some way has to reconcile the plan's instructions with the transfer request form.

HUD should create space for survivors to give consent to speak with or work through a third-party—as allowed by the confidentiality provisions—to support survivors that are under surveillance by the people harming them and offer an additional safe means to communicate. Many survivors are connected with victim service providers who have up to date information about their safety needs and plans. Giving survivors the option to communicate through a provider, family member, or other third-party contact allows survivors in dangerous situations the security they need to feel safe to make the transfer request. HUD can implement this on the form by providing a space to list a third-party contact and consent to communicate with that contact under the Best Method of Contact section.

HUD can similarly make this form more accessible to survivors by explicitly identifying space for them to request a reasonable accommodation. Although “accessibility needs” are referenced in the safe unit section, this is not enough to support survivors with disabilities. There is significant overlap between survivors and people with disabilities, and gender-based violence can cause a temporary or permanent disability. Additionally, people with disabilities experience higher rates of gender-based violence, are often harmed by someone that they trust, and may face unique violence tailored to their disability-related needs. It can be harder for people with disabilities to get help when they are experiencing violence because the person harming them may be an essential part of their daily care. It is important that HUD make requesting an accommodation as easy and low-barrier as possible and explicitly include a place to make a request on the 5383 form. HUD can include this on the form before the tenant certifies that the information is correct, and include space to describe what accommodation is needed. HUD should also explain what an accommodation is in the explanatory section at the beginning of the form.

HUD should also modify the form to include a section for survivors to also request bifurcation of their lease. This section should ideally be placed at the top of the form, so that survivors understand that they have options to address both their short-term and long-term needs as they exit their abusive or unsafe situation. The form should make clear that it is not an “either/or” choice – that a survivor seeking a bifurcation of their lease can request an emergency transfer while the bifurcation request is pending. The current practice at many CHPs of requiring survivors to remain with their abusers while bifurcation takes place is extremely dangerous and likely deters some individuals from seeking assistance out of fear that they will be in increased danger if they attempt it. Survivors should also be allowed to change any of their requests at any time. In this way, by allowing survivors to seek any and all safe housing options which may evolve over time, their chance of securing safe housing is maximized.

While we understand that HUD is stating that it will not require CHPs to use the transfer request form, HUD should make clear that all of the information contained in the form must be asked in writing by CHPs as survivors seek help.

Data Collection on Emergency Transfers

We also support HUD's intention in defining what data housing providers must collect and provide to HUD regarding VAWA emergency transfers. In addition to the data already outlined by HUD in its notice, HUD should also request additional data points, identified below. All of the data points suggested will not add significant time or resources to housing providers but will give HUD a greater understanding of housing barriers for survivors of gender-based violence.

1. Having providers list an explanation for why admission to a housing program is denied and tracking whether these decisions are later reversed. Many adverse factors directly related to gender-based violence are common reasons that housing is denied, such as eviction records, history of nonpayment, poor credit, or prior justice involvement. HUD can include a category dedicated to the reason for denial (including subcategories providers can select for common bases for denial), and also track how many applicants submitted a VAWA 5382 form and were later admitted. Receiving data regarding denials is a low burden on the housing provider but will provide useful information regarding how gender-based violence is affecting survivor's housing opportunities.
2. Tracking the number of survivors who leave a housing program while a VAWA emergency transfer is pending. Often VAWA emergency transfers take months to years to complete, while survivors wait in unsafe housing for a safe unit to become available. HUD should track survivor's that leave the program during this time, including tracking whether the survivor gave up the subsidy, abandoned the unit, or was evicted. Information on these adverse outcomes will inform how VAWA timelines adversely affect survivors and increase housing instability.
3. Tracking the time that it takes a survivor to have a safe unit from the time the VAWA emergency transfer happens to the time that they receive keys to a new unit. By tracking these timelines, which should be easy for providers to list because they will simultaneously be working with survivors on their transfer documents, HUD will be able to understand how long it is taking survivors to reach safe housing, evaluate whether alternative options are necessary for certain housing programs, and identify any barriers that are increasing the time it takes to move.
4. Having providers list all moving resources/transfer costs they provide and the number of survivors that have utilized those resources for a VAWA emergency transfer. Covering these expenses makes transfers a lower barrier and allows survivors to move as soon as a safe unit is available, rather than waiting until they have the resources to pay for the move. There are current programs that already cover expenses for some of these programs and, for programs that cover expenses such as the Chicago Housing Authority, HUD can assess how these resources affect the speed with which survivors are able to transfer.
5. Having providers identify any partnerships they have with local victim service providers (both domestic violence and sexual assault) and culturally specific organizations and the amount of referrals made through that partnership. Tracking this data will encourage

housing providers to establish these partnerships, and having these partnerships increases safety options and resources for survivors in housing programs.

6. Having providers identify if they have a VAWA coordinator on staff, the number of hours the staff member has dedicated to this role, and the number of survivors that utilize the VAWA coordinator's services. Tracking this information is helpful to VAWA implementation and exploring how VAWA coordinators may be an essential part of making sure survivors are able to utilize VAWA's protections.
7. Using a point in time count to have providers track the number of internal and external units they have available for transfer.
8. CHPs should have to describe the average length of time between emergency transfer request and approval, and average length of time between approval and the tenant moving into the transfer apartment. Also, CHP's should produce both data fields for intra-development and inter-development transfers separately and describe what priority is given to VAWA transfer requests, relative to other transfers (i.e., overcrowding requests, 504 requests, tenant initiated non-emergencies) and to waitlist applicants.
9. CHPs should have to report if they have or have considered an admission preference for VAWA survivors. If they elected not to offer an admissions preference, the CHPs should be required to explain what analysis was conducted to determine that the preference should not be provided.
10. Public housing authorities must report on how the residents in former public housing units converted to project-based vouchers or project-based Section 8 housing under the Rental Assistance Demonstration ("RAD") program have access to both RAD and public housing units within the housing authority's jurisdiction in the event they need to seek an emergency transfer. Essentially, public housing authorities must show how they comply with the statutory obligation mandating that former public housing tenants residing in RAD converted properties retain the same rights and protections they had prior to conversion, which includes the ability to transfer to units within the jurisdiction of the housing authority.
11. Survivors with disabilities (or in households with disabilities) find it particularly difficult to make a safe, trauma free, and accessible move. Thus, CHPs should have to report on how many ET requests are coupled with a request for an accessible or visitable unit, or coupled with a reasonable accommodation request. CHPs should then have to report on how many ETs are granted for this population and if their accessibility and accommodation needs are met.
12. We remain concerned that CHPs primarily focus on survivors of domestic violence and their ET requests, which must be based upon a representation that they have an imminent threat of future violence. CHPs are often not seeing survivors of sexual assault as covered by VAWA or entitled to an ET if there is no imminent threat. Thus, CHPs should be required to specifically note how many transfer requests are from survivors of sexual assault not alleging an imminent threat and the results of those requests.
13. We support HUD's effort to explore where there are model emergency transfer policies. HUD should evaluate the following policies: Chicago Housing Authority's move policies and dedicated staffing for their Housing Choice Voucher households; Philadelphia Housing Authority's transfer policies for public housing residents; Los Angeles Homeless Services Authority's co-location model; the policies governing transfers among Massachusetts' Project-Based Section 8 owners, as described in the MAT User's

Guide; the Boston Housing Authority's Admissions and Continued Occupancy Policy ("ACOP"), which provides that certain domestic violence survivors could qualify for administrative transfers; the Stable Families Program initiative, which is a partnership between the Housing Authority of the City of Bridgeport, Connecticut and the New Haven Housing Authority, which offers case management, emergency financial assistance, crisis intervention, and other supportive services to families in crisis; the Safe Housing Program at the San Francisco Housing Authority ("SFHA"), which is a co-location program that places two survivor advocates, trained and employed by La Casa de las Madres, a local DV organization, at SFHA's office. None of these programs are perfect, but they demonstrate a level of commitment, innovation, and partnership to support survivors.

V. Lease Bifurcation and Family Break-Up Policies Need to be Mandatory and Uniform Across Subsidy Programs.

Survivors should not have to choose between physically separating from their abuser or trauma and retaining safe and affordable housing. Accordingly, the option to bifurcate a lease is a critical tool for many survivors following a family break up. That there is inconsistent regulatory language among different covered housing programs has the consequence of affording some survivors more protection than others.

The regulatory language in 24 CFR § 5.2009(a), which applies to all covered housing programs listed in 24 CFR § 5.2003, suggests that housing providers have the option to bifurcate a lease. By contrast, the regulatory language in 24 CFR § 982.315, which is applicable only to the Housing Choice Voucher program, makes it clear that following a family break-up the public housing agency "must ensure" the survivor retains the subsidy. Functionally, this regulation empowers the survivor to request that a perpetrator be removed from the Housing Choice Voucher, and leaves the public housing agency no discretion to decide whether the survivor should retain the voucher. All VAWA covered housing survivors, not just Housing Choice Voucher participants, should be prioritized in this way to also retain the subsidy. Even in the case of a site-based subsidy participant seeking to transfer, there has to be a determination of who retains the subsidy, unless HUD will more expressly authorize providers to authorize two subsidies in the case of a family break-up.

Moreover, 24 CFR § 5.2009(a), suggests that as a prerequisite to bifurcating a tenant's lease, a direct relationship between criminal activity and domestic violence, sexual assault, dating violence, and stalking must exist. CHPs may interpret this regulation to place the burden on the survivor to demonstrate this nexus. This is inconsistent with overall VAWA documentation requirements which do not generally allow CHPs to demand third-party documentation. HUD must clarify these requirements and remind providers that third-party documentation, even in the case of lease bifurcation, cannot elevate the proof requirements unless there is conflicting evidence. Even when a survivor proof through third-party documentation, 24 CFR § 5.2009(a) does not require the CHP to bifurcate the lease. When a lease bifurcation is denied, the survivor may grieve the adverse decision, but those grievances are not required to be expedited even though the threat of violence has likely been escalated due to the survivor trying to exit the abuse. In contrast, the Housing Choice Voucher family break up rule does not require a connection between any criminal activity and the domestic violence, sexual assault, dating

violence, or stalking experienced by the survivor. The omission of “criminal activity” language in 24 CFR § 982.315 intentionally relieves the survivor from having to overcome any additional hurdle after establishing their status as a survivor. This is the approach HUD should take, especially in light of the dynamics of abuse.

HUD should issue guidance to clarify that CHPs must have a lease bifurcation policy and should provide lease bifurcations to survivors who are able to verify their status as a survivor of domestic violence, sexual assault, dating violence, or stalking. HUD should also reiterate that survivors are able to certify their status using the HUD Form 5282 and that no additional certification is necessary. Furthermore, HUD should require CHPs to provide lease bifurcations by underscoring the importance of this policy to survivors’ retention of safe and affordable housing.

Over the long-term, HUD should engage in regulatory rulemaking to make the family break-up and lease bifurcation policies consistent by applying the rule contained in 24 CFR § 982.315 to all covered housing programs. In the meantime, HUD should issue guidance encouraging a consistent application of the family break up policy across all covered housing programs so that all survivors are receiving the same protections.

VI. The VAWA Lease Addendum Can Serve as a Key Source of Rights for Survivors.

HUD can greatly improve VAWA compliance by requiring CHPs to use a VAWA lease addendum that fully incorporates the various needs of survivors and obligations of CHPs. Attached please find a marked up 91067 Lease Addendum Form with our recommendations. These edits are also consistent with the comments we have outlined above. CHPs should be required to certify that they are using the VAWA lease addendum and that households are informed about the terms of the VAWA lease addendum during initial lease signing and any subsequent renewals.

We thank you for the opportunity to provide these comments and look forward to continuing to support HUD’s efforts to implement VAWA. Please reach out to Kate Walz at (773) 793-3560 if you have any questions.

Sincerely,

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