

Exhibit 1-7

Violence Against Women Act (VAWA)

This policy is based on regulations at 24 CFR Part 5, Subpart L, HUD guidance, and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) signed into law on March 7, 2013 and provides the rights and responsibilities of AHFC¹, applicants, participants, and tenants. VAWA 2013 reauthorizes and amends the Violence Against Women Act of 1994 (title IV, sec. 40001-40703 of Public Law 103-322). VAWA 1994 has previously been reauthorized through:

- Division B of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386), and
- The Violence Against Women Act and Department of Justice Reauthorization Act of 2005 (Public Law 109-162).

This policy also contains the following HUD guidance:

- *Federal Register*, August 6, 2013, Docket No. FR-5720-N-01, The Violence Against Women Reauthorization Act of 2013: Overview of Applicability to HUD Programs
- Letter from Sandra Henriquez, HUD Assistant Secretary, September 30, 2013, New Housing Protections in VAWA 2013
- *HOMEFires* Newsletter Volume 11, No. 1, December 2013
- *Federal Register*, November 16, 2016, Docket No. FR-5720-F-03, Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs, Final Rule
- *Federal Register*, December 6, 2016, Docket No. FR-5720-C-04, Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs; Correction

1. Applicability

HUD Regulation – 24 CFR 5.2001

(a) This subpart addresses the protections for victims of domestic violence, dating violence, sexual assault, or stalking² who are applying for, or are the beneficiaries of, assistance under a HUD program covered by the Violence Against Women Act (VAWA), as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.) (“covered housing program,” as defined in §5.2003). Notwithstanding the title of the statute, protections are not limited to women but cover victims of

¹ Throughout this policy, “AHFC” shall be used to denote AHFC, an owner, owner’s agent, manager, or management agent.

² VAWA 2013 expanded the definition to include victims of sexual assault. This correction is shown throughout the policy without further notations.

domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. Consistent with the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a), victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD programs must also be operated consistently with HUD's Equal Access Rule at §5.105(a)(2), which requires that HUD-assisted and HUD-insured housing are made available to all otherwise eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status.

(b)

(1) The applicable assistance provided under a covered housing program generally consists of two types of assistance (one or both may be provided): Tenant-based rental assistance, which is rental assistance that is provided to the tenant; and project-based assistance, which is assistance that attaches to the unit in which the tenant resides. For project-based assistance, the assistance may consist of such assistance as operating assistance, development assistance, and mortgage interest rate subsidy.

(2) The regulations in this subpart are supplemented by the specific regulations for the HUD-covered housing programs listed in §5.2003. The program-specific regulations address how certain VAWA requirements are to be implemented and whether they can be implemented (for example, reasonable time to establish eligibility for assistance as provided in §5.2009(b)) for the applicable covered housing program, given the statutory and regulatory framework for the program. When there is conflict between the regulations of this subpart and the program-specific regulations, the program-specific regulations govern. Where assistance is provided under more than one covered housing program and there is a conflict between VAWA protections or remedies under those programs, the individual seeking the VAWA protections or remedies may choose to use the protections or remedies under any or all of those programs, as long as the protections or remedies would be feasible and permissible under each of the program statutes.

AHFC Policy

See the Definitions section for Covered Housing Programs.

2. Effect on Other Laws

HUD Regulation – 24 CFR 5.2011

Nothing in this subpart shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

3. Confidentiality

HUD Regulation – 24 CFR 5.2007(c)

Any information submitted to a covered housing provider under this section, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking (confidential information), shall be maintained in strict confidence by the covered housing provider.

(1) The covered housing provider shall not allow any individual administering assistance on behalf of the covered housing provider or any persons within their employ (e.g., contractors) or in the employ of the covered housing provider to have access to confidential information unless explicitly authorized by the covered housing provider for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

(2) The covered housing provider shall not enter confidential information described in paragraph (c) of this section into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:

- (i) Requested or consented to in writing by the individual in a time-limited release
- (ii) Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- (iii) Otherwise required by applicable law.

AHFC Policy

Any information submitted to AHFC under this section, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be maintained in strict confidence by AHFC. All documentation submitted by the individual relating to their status as a victim of domestic violence, dating violence, sexual assault, or stalking will be kept separate from the tenant file.

4. Documenting an Occurrence of Domestic Violence

The documentation requirements in this paragraph are not applicable to a request made by the tenant for a request for an emergency transfer under the Emergency Transfer Plan section below.

HUD Regulation – 24 CFR 5.2007(a)

(1) Under a covered housing program, if an applicant or tenant represents to the covered housing provider that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking entitled to the protections under §5.2005, or remedies under §5.2009, the covered housing provider may request, in writing, that the applicant or tenant submit to the covered housing provider the documentation specified in paragraph (b)(1) of this section.

(2)

(i) If an applicant or tenant does not provide the documentation requested under paragraph (a)(1) of this section within 14 business days after the date that the tenant receives a request in writing for such documentation from the covered housing provider, nothing in §5.2005 or §5.2009, which addresses the protections of VAWA, may be construed to limit the authority of the covered housing provider to:

- (A) Deny admission by the applicant or tenant to the covered housing program;
- (B) Deny assistance under the covered housing program to the applicant or tenant;
- (C) Terminate the participation of the tenant in the covered housing program; or
- (D) Evict the tenant, or a lawful occupant that commits a violation of a lease.

(ii) A covered housing provider may, at its discretion, extend the 14-business day deadline under paragraph (a)(2)(i) of this section.

AHFC Policy

AHFC requires some form of documentation for all family requests for protections under VAWA. See the Permissible Documentation and Submission Requirements section below.

4.A Permissible Documentation and Submission Requirements

HUD Regulation – 24 CFR 5.2007(b)

(1) In response to a written request to the applicant or tenant from the covered housing provider, as provided in paragraph (a) of this section, the applicant or tenant may submit, as documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking, any one of the following forms of documentation, where it is at the discretion of the tenant or applicant which one of the following forms of documentation to submit:

- (i) The certification form described in §5.2005(a)(1)(ii); or
- (ii) A document:

- (A) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
- (B) Signed by the applicant or tenant; and
- (C) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under this subpart, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under §5.2003; or
 - (iii) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
 - (iv) At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

(2) If a covered housing provider receives documentation under paragraph (b)(1) of this section that contains conflicting information (including certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator), the covered housing provider may require an applicant or tenant to submit third-party documentation, as described in paragraphs (b)(1)(ii), (b)(1)(iii), or (b)(1)(iv) of this section, within 30 calendar days of the date of the request for the third-party documentation.

(3) Nothing in this paragraph (b) shall be construed to require a covered housing provider to request that an individual submit documentation of the status of the individual as a victim of domestic violence, dating violence, sexual assault, or stalking.

5. Protections

5.A Providing the Notice of Occupancy Rights

HUD Regulation – 24 CFR 5.2005(a)

Notification of occupancy rights under VAWA and certification form.

(1) A covered housing provider must provide to each of its applicants and to each of its tenants the notice of occupancy rights and the certification form as described in this section:

(i) A “Notice of Occupancy Rights under the Violence Against Women Act,” as prescribed and in accordance with directions provided by HUD, that explains the VAWA protections under this subpart, including the right to confidentiality, and any limitations on those protections; and

(ii) A certification form, in a form approved by HUD, to be completed by the victim to document an incident of domestic violence, dating violence, sexual assault or stalking, and that:

(A) States that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;

(B) States that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under this subpart meets the applicable definition for such incident under §5.2003; and

(C) Includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking, if the name is known and safe to provide.

(2) The notice required by paragraph (a)(1)(i) of this section and certification form required by paragraph (a)(1)(ii) of this section must be provided to an applicant or tenant no later than at each of the following times:

(i) At the time the applicant is denied assistance or admission under a covered housing program;

(ii) At the time the individual is provided assistance or admission under the covered housing program;

(iii) With any notification of eviction or notification of termination of assistance; and

(iv) During the 12-month period following December 16, 2016, either during the annual recertification or lease renewal process, whichever is applicable, or, if there will be no recertification or lease renewal for a tenant during the first year after the rule takes effect, through other means.

(3) The notice required by paragraph (a)(1)(i) of this section and the certification form required by paragraph (a)(1)(ii) of this section must be made available in multiple languages, consistent with guidance issued by HUD in accordance with Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency, signed August 11, 2000, and published in the Federal Register on August 16, 2000 (at 65 FR 50121).

(4) For the Housing Choice Voucher program under 24 CFR part 982, the project-based voucher program under 24 CFR part 983, the public housing admission and occupancy requirements under 24 CFR part 960, and renewed funding or leases of the Section 8 project-based program under 24 CFR parts 880, 882, 883, 884, 886, as well as project-based section 8 provided in connection with housing under part 891, the HUD-required lease, lease addendum, or tenancy addendum,

as applicable, must include a description of specific protections afforded to the victims of domestic violence, dating violence, sexual assault, or stalking, as provided in this subpart.

AHFC Policy

AHFC shall provide the Notice of Rights together with Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation (form HUD-5382) to an applicant for or tenants of housing assisted under our program at the times and in the manner specified above.

5.B Prohibited Basis for Denial or Termination of Assistance or Eviction

HUD Regulations – 24 CFR 5.2005(b)

(1) General. An applicant for assistance or tenant assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis or as 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, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

(2) Termination on the basis of criminal activity. A tenant in a covered housing program may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if:

- (i) The criminal activity is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, and
- (ii) The tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault or stalking.

HUD Regulation – 24 CFR 960.200

(a) This subpart states HUD eligibility and selection requirements for admission to public housing.

(b) See also related HUD regulations in this title concerning these subjects:

(8) Protection for victims of domestic violence, dating violence, or stalking, 24 CFR part 5, subpart L.

HUD Regulation – 24 CFR 960.203(c)(4)

Standards for PHA tenant selection criteria. PHA tenant selection criteria are subject to 24 CFR part 5, subpart L, protections for victims of domestic violence, dating violence, or stalking.

AHFC Policy

Where AHFC receives adverse information about an applicant, participant, or household member and the applicant/participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, AHFC shall determine whether there is a substantial connection between the adverse information and the fact that the applicant/participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. If AHFC determines that there is such a connection, AHFC shall disregard the adverse information (provided that the perpetrator will not be part of the household).

1. AHFC shall not require a particular landlord reference or other information, where obtaining such a reference or information will place the applicant or a member of the applicant's household at increased risk of harm.
2. AHFC shall in appropriate instances, permit the applicant to provide photocopies of original documents where originals cannot be obtained due to the actions of the perpetrator.

5.C Construction of Lease Terms and Terms of Assistance

HUD Regulations – 24 CFR 5.2005(c)

An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as:

- (1) A serious or repeated violation of a lease executed under a covered housing program by the victim or threatened victim of such incident; or
- (2) Good cause for terminating the assistance, tenancy, or occupancy rights under a covered housing program of the victim or threatened victim of such incident.

HUD Regulation – 24 CFR 966.4

Lease requirements. A lease shall be entered into between the PHA and each tenant of a dwelling unit which shall contain the provisions described hereinafter.

- (a) Parties, dwelling unit and term.
 - (1) The lease shall state:
 - (vi) HUD's regulations in 24 CFR part 5, subpart L, apply, if a current or future tenant is or becomes a victim of domestic violence, dating violence, or stalking, as provided in 24 CFR part 5, subpart L.

5.D Limitations of VAWA Protections

HUD Regulations – 24 CFR 5.2005(d)

- (1) Nothing in this section limits the authority of a covered housing provider, when notified of a court order, to comply with a court order with respect to:
- (i) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or
 - (ii) The distribution or possession of property among members of a household.
- (2) Nothing in this section limits any available authority of a covered housing provider to evict or terminate assistance to a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. However, the covered housing provider must not subject the tenant, who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, or is affiliated with an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking, to a more demanding standard than other tenants in determining whether to evict or terminate assistance.
- (3) Nothing in this section limits the authority of a covered housing provider to terminate assistance to or evict a tenant under a covered housing program if the covered housing provider can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to property of the covered housing provider would be present if that tenant or lawful occupant is not evicted or terminated from assistance. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the standards provided in the definition of “actual and imminent threat” in §5.2003.
- (4) Any eviction or termination of assistance, as provided in paragraph (d)(3) of this section should be utilized by a covered housing provider only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents.

AHFC Policy

See the Definitions section.

HUD Regulation – 24 CFR 5.2007(d)

A covered housing provider's compliance with the protections of §§5.2005 and 5.2009, based on documentation received under this section shall not be sufficient to constitute evidence of an unreasonable act or omission by the covered housing provider. However, nothing in this paragraph (d) of this section shall be construed to limit the liability of a covered housing provider for failure to comply with §§5.2005 and 5.2009.

6. Remedies

6.A Emergency Transfer Plan

HUD Regulation – 24 CFR 5.2005(e)

Each covered housing provider, as identified in the program-specific regulations for the covered housing program, shall adopt an emergency transfer plan, no later than June 14, 2017 based on HUD's model emergency transfer plan, in accordance with the following:

(1) For purposes of this section, the following definitions apply:

(i) Internal emergency transfer refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.

(ii) External emergency transfer refers to an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is the tenant must undergo an application process in order to reside in the new unit.

(iii) Safe unit refers to a unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

(2) The emergency transfer plan must provide that a tenant receiving rental assistance through, or residing in a unit subsidized under, a covered housing program who is a victim of domestic violence, dating violence, sexual assault, or stalking qualifies for an emergency transfer if:

(i) The tenant expressly requests the transfer; and

(ii)

- (A) The tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying; or
- (B) In the case of a tenant who is a victim of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying, or the sexual assault occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer.

(3) The emergency transfer plan must detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA in relation to other categories of tenants seeking transfers and individuals seeking placement on waiting lists.

(4) The emergency transfer plan must incorporate strict confidentiality measures to ensure that the covered housing provider does not disclose the location of the dwelling unit of the tenant to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, or stalking against the tenant.

(5) The emergency transfer plan must allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available.

(6) The emergency transfer plan must describe policies for assisting a tenant in making an internal emergency transfer under VAWA when a safe unit is not immediately available, and these policies must ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that housing providers may already provide to other types of emergency transfer requests.

(7) The emergency transfer plan must describe reasonable efforts the covered housing provider will take to assist a tenant who wishes to make an external emergency transfer when a safe unit is not immediately available. The plan must include policies for assisting a tenant who is seeking an external emergency transfer under VAWA out of the covered housing provider's program or project, and a tenant who is seeking an external emergency transfer under VAWA into the covered housing provider's program or project. These policies may include:

- (i) Arrangements, including memoranda of understanding, with other covered housing providers to facilitate moves; and
- (ii) Outreach activities to organizations that assist or provide resources to victims of domestic violence, dating violence, sexual assault, or stalking.

(8) Nothing may preclude a tenant from seeking an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.

(9) Where applicable, the emergency transfer plan must describe policies for a tenant who has tenant-based rental assistance and who meets the requirements of paragraph (e)(2) of this section to move quickly with that assistance.

(10) The emergency transfer plan may require documentation from a tenant seeking an emergency transfer, provided that:

(i) The tenant's submission of a written request to the covered housing provider, where the tenant certifies that they meet the criteria in paragraph (e)(2)(ii) of this section, shall be sufficient documentation of the requirements in paragraph (e)(2) of this section;

(ii) The covered housing provider may, at its discretion, ask an individual seeking an emergency transfer to document the occurrence of domestic violence, dating violence, sexual assault, or stalking, in accordance with §5.2007, for which the individual is seeking the emergency transfer, if the individual has not already provided documentation of that occurrence; and

(iii) No other documentation is required to qualify the tenant for an emergency transfer.

(11) The covered housing provider must make its emergency transfer plan available upon request and, when feasible, must make its plan publicly available.

(12) The covered housing provider must keep a record of all emergency transfers requested under its emergency transfer plan, and the outcomes of such requests, and retain these records for a period of three years, or for a period of time as specified in program regulations. Requests and outcomes of such requests must be reported to HUD annually.

(13) Nothing in this paragraph (e) may be construed to supersede any eligibility or other occupancy requirements that may apply under a covered housing program.

AHFC Policy

AHFC has adopted an Emergency Transfer Plan. See Exhibit 6-9.

6.B Lease Bifurcation

HUD Regulation – 24 CFR 5.2009(a)

(1) A covered housing provider may in accordance with paragraph (a)(2) of this section, bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual:

(i) Without regard to whether the household member is a signatory to the lease; and

(ii) Without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant.

(2) A lease bifurcation, as provided in paragraph (a)(1) of this section, shall be carried out in accordance with any requirements or procedures as may be prescribed by Federal, State, or local law for termination of assistance or leases and in accordance with any requirements under the relevant covered housing program.

HUD Regulation – 24 CFR 966.4(d)(9)

Tenant's right to use and occupancy. To consider lease bifurcation, as provided in 24 CFR 5.2009, in circumstances involving domestic violence, dating violence, or stalking addressed in 24 CFR part 5, subpart L.

6.C Reasonable Time Following Bifurcation of a Lease

HUD Regulation – 24 CFR 5.2009(b)

(1) Applicability. The reasonable time to establish eligibility under a covered housing program or find alternative housing is specified in paragraph (b) of this section, or alternatively in the program-specific regulations governing the applicable covered housing program. Some covered housing programs may provide different time frames than are specified in this paragraph (b), and in such cases, the program-specific regulations govern.

(2) Reasonable time to establish eligibility assistance or find alternative housing.

(i) If a covered housing provider exercises the option to bifurcate a lease as provided in paragraph (a) of this section, and the individual who was evicted or for whom assistance was terminated was the eligible tenant under the covered housing program, the covered housing provider shall provide to any remaining

tenant or tenants that were not already eligible a period of 90 calendar days from the date of bifurcation of the lease to:

- (A) Establish eligibility for the same covered housing program under which the evicted or terminated tenant was the recipient of assistance at the time of bifurcation of the lease; or
- (B) Establish eligibility under another covered housing program; or
- (C) Find alternative housing.

(ii) The 90-calendar-day period provided by paragraph (b)(2) of this section will not be available to a remaining household member if the statutory requirements for the covered housing program prohibit it. The 90-day calendar period also will not apply beyond the expiration of a lease, unless this is permitted by program regulations. The 90-calendar-day period is the total period provided to a remaining tenant to establish eligibility under the three options provided in paragraphs (b)(2)(i)(A), (B), and (C) of this section.

(iii) The covered housing provider may extend the 90-calendar-day period in paragraph (b)(2) of this section up to an additional 60 calendar days, unless prohibited from doing so by statutory requirements of the covered program or unless the time period would extend beyond expiration of the lease.

6.D Efforts to Promote Housing Stability for Victims of Domestic Violence

HUD Regulation – 24 CFR 5.2009(c)

Covered housing providers are encouraged to undertake whatever actions permissible and feasible under their respective programs to assist individuals residing in their units who are victims of domestic violence, dating violence, sexual assault, or stalking to remain in their units or other units under the covered housing program or other covered housing providers, and for the covered housing provider to bear the costs of any transfer, where permissible.

AHFC Policy

AHFC will adhere to the regulations above as well as the guidance issued in PIH Notice 2017-02 issued January 19, 2017 titled “Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures” regarding verification of INS form 797 Notice of Action or form I-360 (Petition for Amerasian, Widow(er), or Special Immigrant) or form I-130 (Petition for Alien Relative).

7. Definitions

HUD Regulations – 24 CFR 5.2003

The definitions of PHA, HUD, household, and other person under the tenant's control are defined in subpart A of this part. As used in this subpart L:

7.A Actual and Imminent Threat

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: The duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

7.B Affiliated Individual

Affiliated individual, with respect to an individual, means:

- 1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- 2) Any individual, tenant, or lawful occupant living in the household of that individual.

7.C Bifurcate

Bifurcate means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

7.D Covered Housing Program

Covered housing program consists of the following HUD programs:

1. Section 202 Supportive Housing for the Elderly (12 U.S.C. 1701q), with implementing regulations at 24 CFR part 891.
2. Section 811 Supportive Housing for Persons with Disabilities (42 U.S.C. 8013), with implementing regulations at 24 CFR part 891.
3. Housing Opportunities for Persons With AIDS (HOPWA) program (42 U.S.C. 12901 et seq.), with implementing regulations at 24 CFR part 574.

4. HOME Investment Partnerships (HOME) program (42 U.S.C. 12741 et seq.), with implementing regulations at 24 CFR part 92.
5. Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.), including the Emergency Solutions Grants program (with implementing regulations at 24 CFR part 576), the Continuum of Care program (with implementing regulations at 24 CFR part 578), and the Rural Housing Stability Assistance program (with regulations forthcoming).
6. Multifamily rental housing under section 221(d)(3) of the National Housing Act (12 U.S.C. 17151(d)) with a below-market interest rate (BMIR) pursuant to section 221(d)(5), with implementing regulations at 24 CFR part 221.
7. Multifamily rental housing under section 236 of the National Housing Act (12 U.S.C. 1715z-1), with implementing regulations at 24 CFR part 236.
8. HUD programs assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); specifically, public housing under section 6 of the 1937 Act (42 U.S.C. 1437d) (with regulations at 24 CFR Chapter IX), tenant-based and project-based rental assistance under section 8 of the 1937 Act (42 U.S.C. 1437f) (with regulations at 24 CFR chapters VIII and IX), and the Section 8 Moderate Rehabilitation Single Room Occupancy (with implementing regulations at 24 CFR part 882, subpart H).
9. The Housing Trust Fund (12 U.S.C. 4568) (with implementing regulations at 24 CFR part 93).

7.E Covered Housing Provider

Covered housing provider refers to the individual or entity under a covered housing program that has responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities. The program-specific regulations for the covered housing programs identify the individual or entity that carries out the duties and responsibilities of the covered housing provider as set forth in part 5, subpart L. For any of the covered housing programs, it is possible that there may be more than one covered housing provider; that is, depending upon the VAWA duty or responsibility to be performed by a covered housing provider, the covered housing provider may not always be the same individual or entity.

7.F Crime of Violence

Crime of violence (18 U.S. Code 16) means an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another or any offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

7.G Dating Violence

Dating violence means 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 a relationship shall be determined based on a consideration of the following factors:
 - a) The length of the relationship;
 - b) The type of relationship; and
 - c) The frequency of interaction between the persons involved in the relationship.

7.H Domestic Violence

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner 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 or intimate partner, 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 acts under the domestic or family violence laws of the jurisdiction. The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

In Alaska (Alaska Statute 18.66.990(5)), this includes:

1. Adults or minors who are current or former spouses;
2. Adults or minors who live together or who have lived together;
3. Adults or minors who are dating or who have dated;
4. Adults or minors who are engaged in or who have engaged in a sexual relationship;
5. Adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption, computed under the rules of civil law;
6. Adults or minors who are related or formerly related by marriage;
7. Persons who have a child of the relationship; and
8. Minor children of a person in a relationship that is described in (1) - (7) of this paragraph;

7.I Guest

Guest means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. This term is further defined under 24 CFR 966 and 982.

7.J Other Person Under the Tenant's Control

Other person under the tenant's control means that the person, although not staying as a guest (as defined in this section) in the unit, is, or was, at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

7.K Perpetrator

Perpetrator is a person who commits an act of domestic violence, dating violence, sexual assault, or stalking against an individual.

7.L Sexual Assault

Sexual Assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law including when the victim lacks capacity to consent.

7.M Stalking

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- 1) Fear for the person's individual safety or the safety of others; or
- 2) Suffer substantial emotional distress.

7.N VAWA

VAWA means the Violence Against Women Act of 1994, as amended (42 U.S. Code 13925 and 42 U.S. Code 14043e *et. seq.*)

Numbered Memo

17-19 Updated Exhibits 1-7, 6-9, 11-3, and 11-6 and Chapter 6 – VAWA