

LEGAL DEPARTMENT  
WOMEN'S  
RIGHTS PROJECT

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April 4, 2008

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U.S. Department of Housing and Urban Development  
Freedom of Information Act Office  
451 7th Street, SW, Room 10139  
Washington, DC 20410-3000

Re: FOIA Request Related to Violence Against Women Act 2005  
Implementation and Treatment of Domestic Violence, Dating Violence, and  
Stalking in Public and Section 8 Housing

Dear Freedom of Information Officer:

This letter constitutes a request ("Request") pursuant to the Freedom of Information Act, 5 U.S.C. § 522 ("FOIA"). The Request is submitted on behalf of the Women's Rights Project ("WRP") of the American Civil Liberties Union ("ACLU"). WRP is also requesting expedited processing for this request, pursuant to 5 U.S.C. § 522(a)(6)(E) and applicable regulations, and a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). The Request is simultaneously being filed with the HUD Office of Inspector General.

The ACLU is a nationwide, nonprofit, nonpartisan organization dedicated to protecting human rights and civil rights in the U.S. It is the largest civil liberties organization in the country, with 53 affiliates nationwide and over 500,000 members. The ACLU Women's Rights Project has taken an active role at the local, state, and national levels in advancing the housing rights of battered women.

**BACKGROUND**

The last reauthorization of the Violence Against Women Act (VAWA), passed by Congress in 2005 and signed by President Bush in 2006, contained important new housing protections for victims of domestic violence, dating violence, and stalking.<sup>1</sup> Congress recognized the compelling need to assist these survivors in obtaining and maintaining stable

<sup>1</sup> Violence Against Women Act and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, §§ 601-607 (2006).

and safe housing. In its findings for VAWA 2005, Congress acknowledged that domestic violence is a primary cause of homelessness, that 92% of homeless women have experienced severe physical or sexual abuse at some point in their lives, and that victims of violence have experienced discrimination by landlords and often return to abusive partners because they cannot find long-term housing.<sup>2</sup>

Congress stated that the purpose of the law was “to reduce domestic violence, dating violence, sexual assault, and stalking, and prevent homelessness by protecting the safety of victims of domestic violence, dating violence, sexual assault, and stalking who reside in homeless shelters, public housing, assisted housing, tribally designated housing, or other emergency, transitional, permanent, or affordable housing, and ensuring that such victims have meaningful access to the criminal justice system without jeopardizing such housing.”<sup>3</sup> Thus, Congress sought to reduce the incidence of these crimes and to prevent victims of these crimes from becoming homeless or vulnerable to further abuse.

Among other provisions, VAWA 2005 barred public housing authorities and section 8 owners and landlords from discriminating against housing applicants or tenants based on their status as a victim of domestic violence, stalking, or dating violence.<sup>4</sup> With one narrow exception, public housing and voucher tenants could no longer be evicted based on the criminal activity perpetrated against them.<sup>5</sup> Furthermore, public housing authorities were given the ability to “bifurcate” a victim’s lease, thereby removing an abuser from tenancy while permitting the rest of the family to remain,<sup>6</sup> and the ability to permit a voucher holder to move with her voucher to another unit before the end of her lease term if necessary to ensure the voucher holder’s safety.<sup>7</sup>

VAWA required public housing authorities to provide notice of VAWA’s protections to public housing and voucher tenants, as well as voucher owners and managers.<sup>8</sup> Information about VAWA must be included in leases and

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<sup>2</sup> 42 U.S.C. § 14043e.

<sup>3</sup> 42 U.S.C. § 14043e-1.

<sup>4</sup> 42 U.S.C. § 1437d(c)(3); 42 U.S.C. § 1437f(c)(9)(B); 42 U.S.C. § 1437f(d)(1)(B); 42 U.S.C. § 1437f(o)(7)(C); 42 U.S.C. § 1437f(o)(20)(A).

<sup>5</sup> A tenant can be evicted if the public housing authority or landlord can demonstrate “an actual or imminent threat to other tenants or those employed at or providing service to the property” if that tenant’s tenancy is not terminated. 42 U.S.C. § 1437d(1)(6)(E); 42 U.S.C. § 1437f(o)(7)(D); 42 U.S.C. § 1437f(o)(20)(D)(iv).

<sup>6</sup> 42 U.S.C. § 1437d(1)(6)(B); 42 U.S.C. § 1437f(o)(7)(D); 42 U.S.C. § 1437f(o)(20)(D).

<sup>7</sup> 42 U.S.C. § 1437f(r)(5); 42 U.S.C. § 1437f(ee).

<sup>8</sup> 42 U.S.C. § 1437d(u)(2)(B); 42 U.S.C. § 1437f(ee)(2)(B).

the housing assistance payments contracts signed by public housing authorities and landlords participating in the voucher program.<sup>9</sup> Congress also mandated that Consolidated, Annual and Five-Year Plans submitted to HUD describe the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking and the programs provided by public housing authorities to these victims.<sup>10</sup>

Since the enactment of VAWA, HUD has published a few notices regarding the law but has not yet issued regulations.<sup>11</sup> The ACLU and other advocacy groups have received reports that many public housing authorities are either unaware of the law or have failed to implement its protections in their localities. A recent HUD-issued newsletter advised multifamily housing owners that they “will not be required to implement [VAWA’s] requirements,” even though the law is in full force today.<sup>12</sup> As a result, victims of violence continue to be exposed to discrimination and the risk of homelessness that the law was designed to prevent.

### **RECORDS REQUESTED**

Please provide the following:

1. All records, including policies, procedures, guidelines, notices, or correspondence, containing any reference to the Violence Against Women Act of 2005 issued or sent by HUD or any of its components to any public housing authority or Section 8 owner or manager (as used herein, “Section 8” refers to both project-based assistance and tenant-based assistance, 42 U.S.C. §§ 1437f(f)(6), (7)).
2. All records, including policies, procedures, guidelines, notices, or correspondence, pertaining to alleged violations of the Violence Against Women Act, including any complaints received by HUD or any of its components, any policies or procedures for how such complaints are to be addressed, and any correspondence regarding alleged violations of VAWA.

<sup>9</sup> 42 U.S.C. § 1437d(l)(5), (6); 42 U.S.C. § 1437f(o)(2); 42 U.S.C. § 1437f(o)(7)(C), (D).

<sup>10</sup> 42 U.S.C. § 1437c-1(a)(2), (d)(13); 42 U.S.C. § 12705(b)(1).

<sup>11</sup> PIH 2006-23 (Dep’t of Hous. & Urban Dev. June 23, 2006); PIH 2006-42 (Dep’t of Hous. & Urban Dev. Dec. 27, 2006); PIH 2007-5 (Dep’t of Hous. & Urban Dev. Feb. 16, 2007).

<sup>12</sup> Dep’t of House. & Urban Dev., San Francisco Multifamily Hub, *Pacific Currents: Multifamily Housing News* 12 (Oct. 2007), available at <http://www.hud.gov/local/ca/working/localpo/pacificcurrents1007.pdf> (last visited March 28, 2008).

3. All records identifying the manner by which HUD or any of its components currently track terminations of tenancy from both public housing and Section 8 project-based housing and terminations of both tenant-based and project-based Section 8 housing assistance, on the grounds of disturbance of quiet enjoyment, property damage, unauthorized occupancy, or criminal activity, including but not limited to violence committed against a household member.
4. All records identifying the number of terminations of tenancy from both public housing and Section 8 project-based housing and the number of terminations of both tenant-based and project-based Section 8 housing assistance, from January 1, 2004 to the present, on the grounds of disturbance of quiet enjoyment, property damage, unauthorized occupancy, or criminal activity, including but not limited to violence committed against a household member.
5. All records, including policies, procedures, guidelines, notices, or correspondence, pertaining to actual or attempted terminations of tenancy from public housing and Section 8 project-based housing and actual or attempted terminations of both tenant-based and project-based Section 8 housing assistance on the ground of criminal activity, when such criminal activity involved violence committed against a household member and occurred after January 1, 2006.
6. All records, including policies, procedures, guidelines, notices, or correspondence, pertaining to HUD's review for compliance with the Violence Against Women Act of Consolidated, 5-Year, and Annual Plans, excluding submitted Plans or comments submitted by the public.

#### **FEE WAIVER**

The ACLU requests a total waiver of fees on the grounds that disclosure of the requested records is in the "public interest" and because it will "contribute significantly to the public understanding" of the U.S. government's implementation of the Violence Against Women Act, which was enacted more than two years ago. 5 U.S.C. § 552(a)(4)(A)(iii) ("Documents shall be furnished without any charge...if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and it is not primarily in the commercial interest of the requester.").

Furthermore, the records are not sought for "commercial use," and "disclosure of the information is not primarily in the commercial interest of the requesters." *Id.* Disclosure of this information will not further any "commercial, trade, or profit interests." 24 C.F.R. § 15.110(b)(1). Rather, the above-referenced records are so requested to inform the public about the status of VAWA enforcement and to hold the government accountable if the law is not being enforced.

Because of the public interest in and non-commercial use of disclosures resulting from its FOIA requests, the ACLU has not been charged by a variety of federal agencies for fees associated with responding to FOIA requests.<sup>13</sup>

In any event, the ACLU qualifies as a "representative of the news media," 24 C.F.R. § 15.110(b)(4), and as such, any fees should be "limited to reasonable standard charges for document duplication," 5 U.S.C. § 552(a)(4)(A)(ii)(II). The ACLU publishes newsletters, news briefings, right-to-know handbooks, and other materials that are disseminated to the public. This material is widely available to everyone, including tax-exempt organizations, not-for-profit groups, law students and faculty, for no cost or for a nominal fee through its public education department. The ACLU also disseminates information through its heavily subscribed website, [www.aclu.org](http://www.aclu.org). Finally, the ACLU publishes an electronic newsletter, which is distributed to subscribers by e-mail. Accordingly, should fees be assessed for this Request, such fees should be limited to duplication costs.

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<sup>13</sup> The following are recent examples of requests for which agencies did not charge the ACLU fees associated with responding to a FOIA request: (1) The Department of State did not charge the ACLU fees associated with a FOIA request submitted by the ACLU in April 2005; (2) The National Institute of Standards and Technology did not charge the ACLU fees associated with a FOIA request submitted by the ACLU in April 2005; (3) The Office of Science and Technology Policy in the Executive Office of the President did not charge the ACLU fees associated with a FOIA request submitted by the ACLU in August 2003; (4) The Federal Bureau of Investigation did not charge the ACLU fees associated with a FOIA request submitted by the ACLU in August 2002; (5) The Office of Intelligence Policy and Review did not charge the ACLU fees associated with a FOIA request submitted by the ACLU in August 2002; (6) and The Office of Information and Privacy in the Department of Justice did not charge the ACLU fees associated with a FOIA request submitted by the ACLU in August 2002.

### EXPEDITED PROCESSING

We request expedited processing for this FOIA request. This request qualifies for expedited treatment pursuant 5 U.S.C. § 552(a)(6)(E) and applicable regulations.

As demonstrated above, there is a "compelling need" for expedited processing sought by the ACLU. 5 U.S.C. § 552(a)(6)(E)(i)(I). The lack of expedited disclosure of records related to VAWA implementation could "reasonably be expected to pose an imminent threat to the life or physical safety of an individual or a threatened loss of substantial due process rights." 5 U.S.C. § 552(a)(6)(E)(v)(I); 24 C.F.R. 15.105(b)(1). There also exists a clear "urgency to inform the public concerning actual or alleged Federal Government activity." 5 U.S.C. § 552(a)(6)(E)(v)(II); 24 C.F.R. 15.105(b)(2).

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VAWA was enacted because Congress recognized that survivors of domestic violence, dating violence, and stalking often must choose between staying silent about the abuse they experience or facing housing discrimination and homelessness when they report to authorities or decide to leave abusive relationships. Expedited disclosure of information relating to VAWA implementation is needed to identify inadequate enforcement of the law, to protect victims of these violent crimes, and to ensure that victims can benefit from the rights created by VAWA before they are removed from their homes.

The ACLU is therefore entitled to expedited processing of this request.

\* \* \*

Thank you for your consideration of this request. We respectfully ask that you send us the requested documents as they become available. Please do not wait until all requested documents become available before forwarding documents to us.

If this request is denied in whole or part, the ACLU asks that you justify all deletions by reference to specific exemptions of the FOIA. We expect you to release all segregable portions of otherwise exempt material. The ACLU reserves the right to appeal a decision to withhold any information or to deny a waiver of fees.

Notwithstanding your decision on the matter of expedited processing, we look forward to your reply to the records request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(I).

Please respond to Sandra Park, Staff Attorney, ACLU Women's Rights Project, 125 Broad St. 18th Floor, New York, NY 10004, telephone: (212) 519-7871, email: [spark@aclu.org](mailto:spark@aclu.org). Also, please notify us in advance if any costs exceed \$75. Thank you for your prompt attention to this matter.

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Under penalty of perjury, I certify, to the best of my knowledge and belief, that the above information is true and correct.



SANDRA S. PARK  
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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-3000

OFFICE OF ADMINISTRATION

Sandra S. Park, Esq.  
Women's Rights Project  
American Civil Liberties Union  
125 Broad Street, 18<sup>th</sup> Floor  
New York, NY 10004

SEP - 1 - 2008

RE: Freedom of Information Act Request  
FOIA Control Nos.: 08-FI-HQ-00614  
and FI-472434

Dear Ms. Park:

This letter is in response to your Freedom of Information Act (FOIA) request dated April 4, 2008. In your request, you asked for a copy of the following documents relating to the Violence Against Women Act (VAWA) of 2005:

1. All records, including policies, procedures, guidelines, notices, or correspondence, containing any reference to the Violence Against Women Act of 2005 issued or sent by the Department of Housing and Urban Development or any of its components to any public housing authority or Section 8 owner or manager (as used herein, "Section 8" refers to both project-based assistance and tenant-based assistance, 42 U.S.C. §§ 1437f(f)(6),(7));
2. All records, including policies, procedures, guidelines, notices, or correspondence, pertaining to alleged violations of the Violence Against Women Act, including any complaints received by HUD or any of its components, any policies or procedures for how such complaints are to be addressed, and any correspondence regarding alleged violations of VAWA;
3. All records identifying the manner by which HUD or any of its components currently track terminations of tenancy from both public housing and Section 8 project-based housing and terminations of both tenant-based and project-based Section 8 housing assistance, on the grounds of disturbance of quiet enjoyment, property damage, unauthorized occupancy, or criminal activity, including, but not limited to, violence committed against a household member;
4. All records identifying the number of terminations of tenancy from both public housing and Section 8 project-based housing and the number of terminations of both tenant-based and project-based Section 8 housing assistance, from January 1, 2004, to the present, on the grounds of disturbance of quiet enjoyment, property damage, unauthorized occupancy, or criminal activity, including, but not limited to, violence committed against a household member;



5. All records, including policies, procedures, guidelines, notices, or correspondence, pertaining to actual or attempted terminations of tenancy from public housing and Section 8 project-based housing and actual or attempted terminations of both tenant-based and project-based Section 8 housing assistance on the grounds of criminal activity, when such criminal activity involved violence committed against a household member and occurred after January 1, 2006; and

6. All records, including policies, procedures, guidelines, notices, or correspondence, pertaining to HUD's review for compliance with the Violence Against Women Act of Consolidated, 5-year, and annual plans, excluding submitted plans or comments submitted by the public.

When responding to a FOIA request, HUD searches for responsive documents existing up to the date the request is received in the Department's FOIA Office. Your request was received on April 8, 2008.

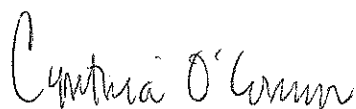
Your request is granted in full. The following documents are provided in response to your request:

- U.S. Department of Housing and Urban Development's Office of Public and Indian Housing Notice: PIH 2006-42, Subject: Violence Against Women and Justice Department Reauthorization Act 2005 form HUD-50066 Certification of Domestic Violence, Dating Violence, or Stalking;
- U.S. Department of Housing and Urban Development's Office of Public and Indian Housing Notice: PIH 2007-5 (HA), Subject: Revised Voucher Housing Assistance Payments Contract (form HUD 52641) and Tenancy Addendum (form HUD 52641A); Housing Choice Voucher Program Administration and the Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA 2005);
- U.S. Department of Housing and Urban Development's Office of Public and Indian Housing Notice: PIH 2006-23, Subject: Implementation of the Violence Against Women and Justice Department Reauthorization Act 2005;
- Federal Register, No. 51, Volume 72, dated March 16, 2007, The Violence Against Women and Department of Justice Reauthorization Act of 2005: Applicability to HUD Programs; and
- Document titled "VAWA and the PHA Plan;" and
- Certification of Domestic Violence, Dating Violence, or Stalking, form HUD-50066.

For your information, your FOIA request, including your identity and any information made available, is releasable to the public under subsequent FOIA requests. In responding to these requests, the Department does not release personal privacy information, such as home address, telephone number, or social security number, all of which are protected from disclosure under FOIA Exemption 6.

Thank you for your interest in the Department's programs and policies.

Sincerely,

A handwritten signature in cursive script, reading "Cynthia A. O'Connor".

Cynthia A. O'Connor  
Executive Secretary

Enclosures



**U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing**

Special Attention of:  
Regional and Field Office Directors of  
Public Housing; Section 8 Financial Management  
Centers; Public Housing Agencies; Regional  
Directors; State and Area Coordinators

Notice: PIH 2006-23

Issued: June 23, 2006

Expires: June 30, 2007

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Subject: Implementation of the Violence Against Women and Justice Department  
Reauthorization Act 2005

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**1. Purpose.** This Notice informs Public Housing Agencies (PHAs) of the passage of the Violence Against Women Act and Department of Justice Reauthorization Act of 2005 (VAWA). Among many other things of significance to PHAs, VAWA prohibits the eviction of, and removal of assistance from, certain persons living in public or Section 8-assisted housing if the asserted grounds for such action is an instance of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in Section 3 of the United States Housing Act of 1937 as amended by VAWA (42 U.S.C. 13925).

**2. Applicability.** PHAs administering the Public Housing, Section 8 Voucher programs, including the HCV program and all owners participating in the Section 8 voucher and project-based programs must comply with this law. Accordingly, PHAs should make tenants participating in all public housing and voucher programs as well as owners participating in the Section 8 voucher programs aware of the requirements of VAWA as soon as possible.

**3. Implementation.** On January 5, 2006, President Bush signed VAWA into law as Public Law 109-162. Section 603 of the law amends Section 5A of the U.S. Housing Act (42 U.S.C. 1437c-1) to require PHAs' five-year and annual PHA Plans to contain information regarding any goals, activities, objectives, policies, or programs of the PHA that are intended to support or assist victims of domestic violence, dating violence, sexual assault, or stalking. Sections 606 and Section 607 amend the Section 8 and public housing sections of the U.S. Housing Act (42 U.S.C. 1437f and 1437d) to protect certain victims of criminal domestic violence, dating violence, sexual assault, or stalking – as well as members of the victims' immediate families – from losing their HUD-assisted housing as a consequence of the abuse of which they were the victim.

**4. Additional Information.** HUD is developing proposed regulations that make conforming changes in existing regulations and provide guidance regarding the requirements of this law. In the interim, PHAs should be mindful that these statutory provisions were effective the date the law was enacted (January 5, 2006).

Also, because Section 606 of VAWA requires the issuance of a "HUD approved certification form" for victims of abuse to use in the event that a PHA or Section 8 owner requests (as they may under the Act) that a victim of abuse certify that the alleged incidents of abuse are bona fide, PIH is developing such a form, and additional information about the form will be forthcoming. In the interim, PHAs, owners, and managers are encouraged to accept other types of certifications from alleged victims.

PHAs, owners, and managers are encouraged to access VAWA 2005 via the Internet at the following Website addresses: <http://www.gpoaccess.gov/plaws/index.html> or <http://thomas.loc.gov/bss/d109/d109laws.html> and search for Public Law 109-162 to access the text of the final law.

\_\_\_\_\_/s/\_\_\_\_\_  
Orlando J. Cabrera, Assistant Secretary  
for Public and  
Indian Housing



**U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing**

Special Attention of:  
Regional and Field Office Directors of  
Public Housing; Section 8 Financial Management  
Centers; Public Housing Agencies; Regional  
Directors; State and Area Coordinators

Notice: PIH 2006-42

Issued: December 27, 2006

Expires: December 31, 2007

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**SUBJECT:** Violence Against Women and Justice Department Reauthorization Act 2005  
Form HUD-50066 Certification of Domestic Violence, Dating Violence, or  
Stalking

1. **PURPOSE:** This notice transmits form HUD - 50066, Certification of Domestic Violence, Dating Violence, or Stalking for use in the Public Housing Program, Housing Choice Voucher Program (including project-based vouchers), Section 8 Project-Based Certificate Program, and Section 8 Moderate Rehabilitation Program (excluding Mod Rehab SRO), as required by the provisions of Sections 606 and 607 of the Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA), Public Law 109-162. VAWA provides that Public Housing Agencies (PHAs) and Section 8 owners or managers may request a tenant to certify that the individual is a victim of domestic violence, dating violence or stalking and that the incidence(s) of threatened or actual abuse are bona fide in determining whether the protections afforded to such individuals under VAWA are applicable.
2. **APPLICABILITY:** This form HUD - 50066 is for use by PHAs administering the Public Housing, Housing Choice Voucher (including project-based vouchers), Section 8 Project-based Certificate, and Section 8 Moderate Rehabilitation Programs (excluding the McKinney Act Mod Rehab SROs), as well as owners and managers participating in the aforementioned programs. A certification form for use in Section 8 programs administered by the Office of Housing will be issued under separate guidance.
3. **BACKGROUND:** The Violence Against Women and Justice Department Reauthorization Act of 2005 protects tenants and family members of tenants who are victims of domestic violence, dating violence, or stalking from being evicted or terminated from housing assistance based on acts of such violence against them. These provisions apply both to public housing agencies administering public housing and Section 8 programs and to owners renting to families under Section 8 rental assistance programs.

In general, the law provides in part 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. The law also provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as serious or repeated violations of the lease by the victim or threatened victim of that violence and will not be "good cause" for termination of the assistance, tenancy, or occupancy rights of a victim of such violence.

4. **CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE OR STALKING:** Among other requirements, Sections 606 and 607 of VAWA add certification and confidentiality provisions that allow for PHAs, owners or managers responding to an incident or incidents 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 14 business days of the request, a HUD-approved certification form. On the form, the individual certifies that he/she is a victim of domestic violence, dating violence, or stalking, and that the incident or incidences in question are bona fide incidences of such actual or threatened abuse. On the certification form, the individual shall provide the name of the perpetrator.

In lieu of a certification form, or in addition to the certification form, a tenant may provide to PHAs, managers or owners, (1) a Federal, State, tribal, territorial, or local police record 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, or stalking has signed or attested to the documentation.

An owner or PHA is not required to demand that an individual produce official documentation or physical proof of an individual's status as a victim of domestic violence, dating violence, sexual assault, or stalking in order to receive the protections of VAWA. Note that, a PHA, owner or manager, at their discretion, may provide assistance to an individual based solely upon the individual's statement or other corroborating evidence.

The PHA, owner or manager should be mindful that the delivery of the certification form to the tenant in response to an incident via mail may place the victim at risk, e.g., the abuser may monitor the mail. Therefore, PHAs, owners and managers may require that the tenant come into the office to pick up the

certification form and are encouraged to work with tenants to make delivery arrangements that do not place the tenant at risk.

If the individual does not provide the form HUD - 50066 or the information that may be provided in lieu of the certification by the 14th business day or any extension of that date provided by the PHA, owner or manager, none of the protections afforded to the victim of domestic violence, dating violence or stalking by sections 606 or 607 will apply. The PHA, owner or manager 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 Sections 606 and 607.

**5. DEFINITIONS: The following definitions were incorporated into the United States Housing Act and apply to this notice.**

**Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim share a child in common, by a person who is cohabitated with or has cohabited 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 acts under the domestic or family violence laws of the jurisdiction.

**Dating Violence:** Violence committed by a person:

- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (B) where the existence of such a relationship shall be determined 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.

- 6. NOTICE AND CONFIDENTIALITY:** VAWA requires that PHAs, must notify tenants of their rights under VAWA, which includes the existence of the attached HUD form and the right to confidentiality and limits thereof. In doing so, PHAs may make the certification form available to all eligible families at the time of admission. Also, in the event of a termination or start of an eviction proceeding, PHAs may enclose the form with the appropriate notice and direct the family to complete, sign and return the form (if applicable) by a specified date. PHAs could also include language discussing the VAWA protections in the termination/eviction notice and request that a tenant come into the office to pick up the form if the tenant believes the VAWA protections apply.

All information provided to a PHA, manager or an owner 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 by the PHA or owner, and must neither be 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, (iii) 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.

PHAs must also notify owners and managers of their rights and obligation under VAWA. PHAs, owners and managers are encouraged to access VAWA via the Internet at the following Website addresses:  
<http://www.gpoaccess.gov/plaws/index.html> or  
<http://thomas.loc.gov/bss/d1099/d109laws.html> and search for Public Law 109-162 to access the text of the final law. The VAWA technical corrections bill (Public Law 109-271), was signed into law on August 12, 2006, and may be reviewed via an Internet link on Thomas (the Library of Congress Website, located at <http://thomas.loc.gov/>).

**7. PAPERWORK REDUCTION**

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3520) and assigned OMB control number 2577-0249. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

\_\_\_\_\_/s/\_\_\_\_\_  
Orlando J. Cabrera, Assistant Secretary  
for Public and Indian Housing





**U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing**

Special Attention of:  
Regional and Field Office Directors of Public  
Housing; Section 8 Financial Management  
Center; Public Housing Agencies Administering  
Housing Choice Voucher Programs; Regional  
Directors; State and Area Coordinators

**Notice PIH 2007-5 (HA)**

Issued: February 16, 2007

Expires: February 28, 2008

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Cross References:  
HUD Notice PIH 2006-23

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**Subject: Revised Voucher Housing Assistance Payments Contract (Form HUD 52641) and Tenancy Addendum (form HUD 52641A); Housing Choice Voucher Program Administration and the Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA 2005)**

**1. Purpose.**

This notice transmits a revised Housing Assistance Payments Contract (HAP Contract, form HUD 52641) and a revised Tenancy Addendum (form HUD 52641A). These forms have been revised to reflect the statutory requirements of the Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA 2005) that are related to housing choice voucher program HAP contracts and leases. These forms are available through HUDCLIPS ([www.hudclips.org](http://www.hudclips.org)).

This notice further provides guidance to public housing agencies (PHAs) on several additional provisions of the law that impact on voucher program administration.

On June 23, 2006, HUD issued Notice PIH 2006-23, Implementation of the Violence Against Women and Justice Department Reauthorization Act 2005. This notice does not supersede HUD Notice PIH 2006-23.

**2. Background.**

On January 5, 2006, President Bush signed into law the Violence Against Women and Department of Justice Reauthorization Act of 2005 (P.L. 109-62) and on August 12, 2006, signed into law technical corrects to the Violence Against Woman and Department of Justice Reauthorization Act of 2005 (P.L. 109-271) (collectively referred to as VAWA 2005 in this notice).

Among numerous amendments to a number of Federal statutes, VAWA 2005 amended Section 8 of the United States Housing Act of 1937. This notice addresses changes brought about by VAWA 2005 in the housing choice voucher program, specifically with regard to the voucher HAP contracts and leases. The revised forms attached to this notice

are only for use in the housing choice voucher program; they are not applicable to other HUD Section 8 programs. Furthermore, guidance in this notice is specific to the programs cited in the relevant sections and only applies to those programs. Guidance on other HUD programs may be issued separately in the future.

### **3. Protections for Victims of Abuse in the Housing Choice Voucher Program.**

The new requirements of VAWA 2005 that are incorporated into the Housing Choice Voucher HAP Contract and Tenancy Addendum are as follows:

- An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as serious or repeated violations of the lease or other “good cause” for termination of the assistance, tenancy, or occupancy rights of a victim of abuse. (Section 8(o)(7)(C) of the U.S. Housing Act of 1937.)
- Criminal activity directly relating to abuse, 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. (Section 8(o)(7)(D)(i) of the U.S. Housing Act of 1937.)
- Notwithstanding the VAWA restrictions on admission, occupancy, or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, a PHA may terminate assistance to or an owner or manager may “bifurcate” a lease, or otherwise remove a household member from a lease, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, 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. This action may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of the violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance under the housing choice voucher program. (Section 8(o)(7)(D)(ii) of the U.S. Housing Act of 1937.)
- Nothing in Section 8(o)(7)(D)(i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up. (Section 8(o)(7)(D)(iii) of the U.S. Housing Act of 1937.)

- Nothing in Section 8(o)(7)(D)(i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate. (Section 8(o)(7)(D)(iv) of the U.S. Housing Act of 1937.)
- Nothing in Section 8(o)(7)(D)(i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the tenant is not evicted or terminated from assistance. (Section 8(o)(7)(D)(v) of the U.S. Housing Act of 1937.)
- Nothing in Section 8(o)(7)(D)(i) shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than Section 8(o)(7)(D)(i) for victims of domestic violence, dating violence, or stalking. (Section 8(o)(7)(D)(vi) of the U.S. Housing Act of 1937.)

4. **Use of the Revised Forms.** As soon as practical, but no later than 14 calendar days from the issuance date of this notice, PHAs must use the revised Housing Assistance Payments Contract (HAP Contract, form HUD 52641) and the revised Tenancy Addendum (form HUD 52641A), when executing any new HAP contracts or approving new leases in the housing choice voucher program. This includes situations where owner and tenant changes in the lease require the PHA to approve a new tenancy in accordance with program requirements and execute a new HAP contract with the owner for participants currently under HAP contract (see 24 CFR §982.308(g)(2)).

5. **Applicability of VAWA 2005 provisions to existing leases and Voucher HAP Contracts.** The authority provided to PHAs, owners, and managers under VAWA 2005 to bifurcate a lease or otherwise remove an individual is applicable to all existing leases for families participating in either the public housing or section 8 programs (including the voucher program), and specific lease language to that effect is not necessary for the PHA, owner, or manager to exercise such authority. Also, the authority to bifurcate a lease or otherwise remove an individual under VAWA is not predicated on existing state or local law that allows for bifurcation. This Federal statutory authority to bifurcate a lease or otherwise remove an individual takes precedence over any Federal, State or local law to the contrary. However, PHAs, managers, and owners must keep in mind that the eviction of or the termination action against the individual must be effected in accordance with the applicable procedures prescribed by Federal, State, and local law.

It is further noted that under the housing choice voucher program, PHAs already have authority under the existing 24 CFR §982.552(c)(2) to terminate voucher assistance for certain family members while permitting other members of the family to continue receiving assistance (provided the culpable family member will no longer reside in the unit). A PHA's right to exercise this administrative discretion under 24 CFR §982.552(c)(2) is not dependent on a bifurcated lease or other eviction action by the owner against an individual family member.

6. **Portability in the Housing Choice Voucher Program.** In addition to the protections to victims of domestic violence which must be taken into consideration when a PHA contemplates terminating a family's participation in the housing choice voucher program, VAWA 2005 also amended section 8(r) of the U.S. Housing Act to provide an exception to the prohibition against a family moving under the portability provisions in violation of the lease. VAWA 2005 provides that the family may receive a voucher and move in violation of the lease under the portability procedures if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

If the circumstances described above exist, the PHA may allow a family to move under portability procedures if the only basis for the denial is that the family is violating the lease agreement. The PHA may request that the family provide the HUD-approved certification form (form HUD-50066), or other acceptable documentation in order to verify the family's claim that the request to move is prompted by incidences of abuse in the unit.

7. **Other Matters.** The information collection requirements imposed by HUD in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2577-0169. In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.
8. **Additional Information.** Any questions related to this notice should be addressed to the Housing Voucher Management and Operations Division at (202) 708-0477.

/s/  
Orlando J. Cabrera, Assistant Secretary  
for Public and Indian Housing

Attachments



# Federal Register

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Friday,  
March 16, 2007

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## Part III

### Department of Housing and Urban Development

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**The Violence Against Women and  
Department of Justice Reauthorization Act  
of 2005: Applicability to HUD Programs;  
Notice**

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5056-N-01]

## The Violence Against Women and Department of Justice Reauthorization Act of 2005: Applicability to HUD Programs

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice addresses inquiries to HUD about: (1) The applicability to HUD programs of certain provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005, as amended by a technical corrections bill signed into law in August 2006, and (2) HUD's plans to issue rules or guidance on this new law. The Violence Against Women and Department of Justice Reauthorization Act of 2005 and the technical corrections described in this notice became effective upon enactment.

This notice presents information from HUD's Offices of Community Planning and Development, General Counsel, Housing, and Public and Indian Housing, and provides an overview of key provisions that affect HUD programs, identifies those provisions that require program participants to take action to be in compliance, and advises of efforts underway within HUD to further facilitate compliance with this new law, including rules and guidance that are under consideration or development.

**FOR FURTHER INFORMATION CONTACT:** For general information about the Violence Against Women and Department of Justice Reauthorization Act of 2005, please contact Aaron Santa Anna, Assistant General Counsel for Regulations, Office of Legislation and Regulations, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10282, Washington, DC 20410-0500; telephone (202) 708-3055 (this is not a toll-free number). For information about HUD's Public Housing program and Housing Choice Voucher program, please contact the Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Room 4240, telephone (202) 708-1380. For information about HUD's Homeless Management Information Systems, please contact the Office of Program Coordination and Analysis Division, Office of Special Needs Programs, Office of Community Planning and Development, telephone (202) 402-4496. For information about HUD's Section 8 Project-Based program,

please contact the Office of Housing Assistance Policy Division, Office of Housing, Room 6138, telephone (202) 708-3000. The address for all offices is the Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. The above-listed telephone numbers are not toll-free numbers. Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

### SUPPLEMENTARY INFORMATION:

#### I. Overview

On January 5, 2006, President Bush signed into law the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162) (VAWA 2005), and, on August 28, 2006, signed into law technical corrections to the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-271). Except as provided in Section 4 of the technical corrections law, VAWA 2005 became effective upon enactment; no provisions of VAWA 2005 that affect the changes described in this notice have a delayed effective date. VAWA 2005 reauthorizes and amends the Violence Against Women Act of 1994 (42 U.S.C. 13701 *et seq.*) (VAWA 1994) for Fiscal Years 2007 through 2011, and, among other things, consolidates major law enforcement grant programs; makes amendments to criminal and immigration laws; and makes amendments to other statutes, including certain HUD statutes, to support and strengthen efforts to combat domestic violence and other forms of violence against women.

The provisions of VAWA 2005 applicable to HUD programs are found in Title VI entitled "Housing Opportunities and Safety for Battered Women and Children." Section 601 of VAWA 2005 amends VAWA 1994 to add a new Subtitle N to VAWA 1994 entitled "Addressing the Housing Needs of Victims of Domestic Violence, Dating Violence, Sexual Assault and Stalking." *HUD Statutes Amended by VAWA 2005.* With regard to HUD programs, VAWA 2005 addresses various housing needs for victims of domestic violence, and amends the following HUD statutes: the U.S. Housing Act of 1937 (42 U.S.C. 1437 *et seq.*), the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 13704 *et seq.*), and the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 *et seq.*).

*HUD Programs Affected by VAWA 2005.* The amendments made by VAWA 2005 apply to HUD's Public Housing program, HUD's Supportive Housing

program, and HUD's programs assisted by section 8 of the U.S. Housing Act of 1937. The VAWA 2005 provisions applicable to HUD do not cover HUD's Indian housing programs. The VAWA 2005 provisions applicable to HUD do not cover programs other than the Supportive Housing program for the Homeless and housing that is assisted by HUD under sections 6 and 8 of the U.S. Housing Act of 1937.

*Immediate Applicability of VAWA 2005.* The primary objectives of VAWA 2005 are to reduce violence against women and to protect, or increase the protection of, the safety and confidentiality of women who are victims of abuse. These new protections for families participating in HUD programs became effective upon enactment of the law on January 5, 2006, and for the majority of the VAWA 2005 amendments that are applicable to HUD programs, prior action by HUD is not necessary in order for implementation to begin. Following enactment of the new law, HUD's Office of Public and Indian Housing issued a direct notice on VAWA 2005, PIH 2006-23, in which it advised public housing agencies (PHAs) that these statutory provisions [of VAWA 2005] were effective the date the law was enacted (January 5, 2006). That notice can be found at <http://www.hud.gov/offices/pih/publications/notices/06/pih2006-23.pdf>. HUD's Office of Public and Indian Housing also issued PIH notice PIH 2006-42 on the VAWA form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. That notice can be found at <http://www.hud.gov/offices/pih/publications/notices/06/pih2006-42.pdf>. HUD's Office of Public and Indian Housing also issued PIH notice PIH 2007-5, which describes revised form HUD 52641, the Housing Assistance Payments Contract, and revised form HUD 52641A, the Tenancy Addendum. Both forms were revised to reflect statutory requirements of VAWA. That notice can be found at <http://www.hud.gov/offices/pih/publications/notices/07/pih2007-5.pdf>.

Sections II, III, and IV of this notice provide an overview of the key amendments made by VAWA 2005 that are applicable to HUD programs, and identify provisions for which rules or guidance may be issued by HUD's program offices.

#### II. VAWA 2005 Amendments to the U.S. Housing Act of 1937

Under the U.S. Housing Act of 1937, HUD promotes the goal of providing decent and affordable housing for all citizens by providing funds for housing assistance.

### A. Public Housing Agency Plans.

Section 603 of VAWA 2005 amends section 5A of the U.S. Housing Act of 1937. This amendment requires the 5-year plans of PHAs to begin including a statement about goals, activities, objectives, policies, or programs that will enable a PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.

The amendment requires the annual plan of PHAs to include a description of: (1) Any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking; (2) any activities, services, or programs provided or offered that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking to obtain or maintain housing; and (3) any activities, services, or programs provided or offered to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

**Note:** PHAs must include the statement required by VAWA 2005 in their next regularly scheduled plan submission. PHAs are encouraged to amend or modify their plans before the next regular submission as provided in 24 CFR 903.21.

**B. Section 8 and Public Housing Identical Amendments.** Sections 606 and 607 amend section 8 (42 U.S.C. 1437f) and section 6 (42 U.S.C. 1437d) of the U.S. Housing Act of 1937, governing HUD's section 8 assisted programs and HUD's public housing program, respectively, as noted below.

#### 1. Admission, Occupancy, and Termination of Assistance Policies.

Sections 606 and 607 of the VAWA 2005 amendments provide that:

- Being a victim of domestic violence, dating violence, or stalking, as these terms are defined in the law (hereafter collectively referred to as "abuse"), is not a basis for denial of assistance or admission to public or assisted housing if the applicant otherwise qualifies for assistance or admission;

- Incidents or threats of abuse will not be construed as serious or repeated violations of the lease or other "good cause" for termination of the assistance, tenancy, or occupancy rights of a victim of abuse; and

- Criminal activity directly relating to abuse, 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.

**Note:** PHAs and owners administering or participating in section 8 programs and public housing programs must ensure that, upon the date of enactment of VAWA 2005, any denial of admission to the programs and any termination of assistance, tenancy, or occupancy rights under the programs complies with the provisions of VAWA 2005, and any future denial or termination action will comply with the provisions of VAWA 2005.

VAWA 2005 provides that these new policies governing admission, occupancy, and termination of assistance are not to interfere with certain rights and responsibilities of PHAs, owners, or managers<sup>1</sup> regarding criminal activity or acts of violence against family members or others, as discussed in paragraph 2, which follows.

#### 2. Rights and Responsibilities of PHAs, Owners, and Managers.

The VAWA 2005 amendments, as recently amended by the technical corrections statute, and as applicable to section 8 contracts for assistance payments and public housing leases, provide that:

Notwithstanding the restrictions that VAWA 2005 places on admission, occupancy, and terminations of occupancy or assistance, as discussed in paragraph 1, or any federal, state, or local law to the contrary, a PHA, owner or manager may "bifurcate" a lease under this section, or remove a household member from a lease under this section, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, 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, and such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by federal, state, and local law for the termination of leases or assistance under the relevant program of HUD-assisted housing.

**Note:** The authority provided to PHAs, owners, and managers under VAWA 2005 to bifurcate a lease or otherwise remove an individual is applicable to all existing leases for families participating in either the public housing or section 8 programs, and specific

<sup>1</sup> Please note that in HUD's Housing programs, the term "manager" as used in VAWA is synonymous with the phrase "management agent."

lease language to that effect is not necessary for the PHA, owner, or manager to exercise such authority. Neither the authority nor the procedures under any other law is necessary to bifurcate or otherwise remove an individual from the lease. Furthermore, this federal statutory authority to bifurcate a lease or otherwise remove an individual takes precedence over any federal, state, or local law to the contrary. However, PHAs, managers, and owners must keep in mind that the eviction or the termination action against the individual must be effected in accordance with the procedures prescribed by federal, state, and local law. This means that the same procedures prescribed by federal, state, and local law that the PHA, owner, or manager must follow to evict, remove, terminate occupancy rights, or terminate assistance for the family as a whole must also be followed when exercising such action against an individual household member.

It is further noted that under the Housing Choice Voucher (HCV) program, PHAs have authority under the existing § 982.552(c)(2) to terminate voucher assistance for certain family members while permitting other members of a participant family to continue receiving assistance (provided the culpable family member will no longer reside in the unit). A PHA's right to exercise this administrative discretion under § 982.552(c)(2) is not dependent on a bifurcated lease or other eviction action by the owner against an individual family member.

VAWA 2005 also provides that the restrictions the law places on admission, occupancy, and termination of occupancy or assistance, as discussed in paragraph 1:

- May not be construed to limit a PHA, owner, or manager from honoring various court orders issued to either protect the victim or address the distribution of property in case a family breaks up;

- Does not limit any otherwise available authority of a PHA, owner, or manager to terminate assistance or evict due to any lease violation not premised on the act of violence in question against the tenant or member of the tenant's household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate assistance;

- May not be construed to limit the authority of a PHA, owner, or manager to terminate the assistance of, or evict, any occupant who can be demonstrated to pose an actual or imminent threat to other tenants or the property's employees; and

- Shall not be construed to supersede any provisions of federal, state, or local

laws that provide greater protection for victims of abuse.

3. *Certification of Abuse and Confidentiality.* Sections 606 and 607 of VAWA 2005, and as recently amended by the technical corrections statute, add certification and confidentiality provisions that allow for a PHA, owner, or manager to request an individual to certify that the individual is a victim of abuse and that the incidences of abuse are bona fide. The certification must include the name of the perpetrator, and any other statutorily required information, and the victim must provide the certification within 14 business days after the individual receives a request for such certification from the PHA, owner, or manager.

Without the certification, a PHA, owner, or manager may terminate assistance. All information provided to a PHA, owner, or manager is confidential. Notice of these rights must be given to tenants. The statute allows for the victim to self-certify and also allows for the certification requirement to be satisfied with documentation signed 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 the 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. The statute also allows for the certification requirement to be satisfied by producing a federal, state, tribal, territorial, or local police or court record.

**Note:** HUD-Approved Certification. Sections 606 and 607 require the issuance of a "HUD-approved certification form" for victims of abuse to use. The HUD-approved certification form for PIH-covered programs is form HUD-50066, which may be found at: [http://www.hudclips.org/sub\\_nonhud/html/forms.htm](http://www.hudclips.org/sub_nonhud/html/forms.htm). On February 7, 2007 (72 FR 5733), HUD published a 60-day notice in the *Federal Register* informing the public that HUD will be submitting the Office of Housing's certification form for its programs (Form HUD-90066) to OMB for review.

4. *Portability in the Housing Choice Voucher Program.* VAWA 2005 amended section 8(r) of the United States Housing Act to provide an exception to the prohibition against a family moving under the portability provisions in violation of the lease. VAWA 2005 provides that the family may receive a voucher and move in

violation of the lease under the portability procedures if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

5. *PHA Notification to Tenants and Owners Participating in Section 8 Programs.* VAWA 2005 further requires that PHAs must provide notice to tenants assisted under section 8 of the United States Housing Act of 1937 of their rights, and notice to owners and managers of their rights and obligations, under section 8 as amended by VAWA 2005. Specifically, such notice must cover rights and obligations under subsections (8)(c)(9), (8)(d)(1)(B)(ii), (8)(d)(1)(B)(iii), (8)(o)(7)(C), (8)(o)(7)(D), (8)(o)(20), (8)(r)(5), and (8)(ee).

**Note:** PHAs must provide notice to all families and owners participating under any section 8 program administered by the PHA, including the HCV tenant-based and project-based program, the project-based certificate program, and the section 8 moderate rehabilitation program (excluding the Single Room Occupancy Moderate Rehabilitation program authorized under the McKinney-Vento Act).

6. *PHA Notification to Public Housing Residents.* VAWA 2005 also requires that PHAs must provide notice to public housing residents of their rights under section 6 of the United States Housing Act of 1937 as amended by VAWA 2005. Specifically, the notice must cover rights under subsections (6)(l)(5), (6)(l)(6), and (6)(u), including their rights to confidentiality and the limits thereof.

7. *Definitions Added to U.S. Housing Act of 1937.* Section 606(3) and section 607(5) of VAWA 2005, and as recently amended by the technical corrections statute, also amend section 8(f) and section 6(d) of the U.S. Housing Act of 1937 to provide important definitions of terms, most notably:

(1) A definition of "domestic violence" (42 U.S.C. 1437f(f)(8) and 42 U.S.C. 1436d(u)(3)(A)), which is given the same meaning as this term is defined in section 40002 of the Violence Against Women Act of 1994 (VAWA 1994) as added by VAWA 2005. VAWA 2005 defines "domestic violence" to include "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 acts under the domestic or family violence laws of the jurisdiction";

(2) A definition of "dating violence" (42 U.S.C. 1437f(f)(9) and 42 U.S.C. 1436d(u)(3)(B)), which is given the same meaning as this term as defined in section 40002 of VAWA 1994, as added by VAWA 2005. VAWA 2005 defines "dating violence" to mean "violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined 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."

(3) A definition of "stalking" (42 U.S.C. 1437f(f)(10) and 42 U.S.C. 1436d(u)(3)(C)), that differs from the meaning of this term as defined in section 40002 of VAWA 1994, as added by VAWA 2005. The definition that is applicable to HUD's public housing and section 8 assisted programs is a more detailed definition than that provided in section 40002 of VAWA 1994, as amended by VAWA 2005. For HUD covered programs, the definition of "stalking" is defined as follows. "Stalking means (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; or (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and (B) 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"; and

(4) A definition of "immediate family member" (42 U.S.C. 1437f(f)(11) and 1437d(u)(3)(D)). "Immediate family member" is defined to mean, "with respect to a person (A) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or (B) any other person living in the household of that person and related to that person by blood or marriage."



### III. VAWA 2005 Amendments to the McKinney-Vento Homeless Assistance Act

The McKinney-Vento Homeless Assistance Act (42 U.S.C. 11383) authorizes programs that provide grants for homeless assistance. Section 605 of VAWA 2005 amends section 423 of the McKinney-Vento Homeless Assistance Act. Section 423 is part of Subtitle C of the McKinney-Vento Homeless Assistance Act, which establishes HUD's Supportive Housing Program. Section 423 of that subtitle describes the eligible activities of the Supportive Housing assistance program, and section 605 of VAWA 2005 adds a new subsection (a)(8) entitled "Confidentiality."

*Homeless Management Information Systems.* Homeless Management Information Systems (HMIS) are computerized data collection applications that facilitate the collection of information on homeless individuals and families using residential or other homeless assistance services and stores that data in an electronic format. The new Confidentiality provision directs victim service providers not to disclose, for purposes of HMIS, personally identifying information about any client. In accordance with this statutory requirement, victim service providers must maintain the confidentiality of personally identifying information of the providers' clients. The Office of Community Planning and Development is also planning to issue guidance that may be helpful to participants.

It is important to note, however, that the VAWA 2005 amendment does not affect current aggregate reporting under the Annual Progress Reporting (APR) process covering the Supportive Housing, Shelter Plus Care, and Section 8 SRO programs. In addition, current aggregate reporting for the Emergency Shelter Grant program under the Integrated Disbursement and Information System (IDIS) reporting is not covered.

*Notice and Comment Requirement.* Section 605 allows HUD, through a public notice and comment process, to require recipients or subrecipients to disclose for purposes of HMIS, non-personally identifying data that has been de-identified, encrypted or otherwise encoded. HUD's Office of Community Planning and Development is considering how technology may ensure the proper protection of personally identifying data. For purposes of HMIS, any requirement to disclose non-personally identifying information will be issued through a notice and comment process as directed

by statute. It is important to reiterate that existing paper record keeping requirements and aggregate reporting under the APR and IDIS systems are not covered by this section since they preceded the HMIS initiative and are currently separate from HMIS; also, the APR and IDIS systems do not require personal identifiers being entered into a central database.

Section 605 also defines the terms "personally identifying information" and "victim service provider." The term "personally identifying information" is defined to mean "individually identifying information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including (I) a first and last name; (II) a home or other physical address; (III) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number); (IV) a social security number; and (V) any other information including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information would serve to identify any individual."

The term "victim service provider" is defined to mean "a nonprofit, nongovernmental organization, including rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking."

### IV. VAWA 2005 Amendments to the Cranston-Gonzalez National Affordable Housing Act

Under the Cranston-Gonzalez National Affordable Housing Act, HUD may provide assistance to certain jurisdictions that, in turn, will create comprehensive affordable housing strategies. Section 604 of VAWA 2005 amends section 105(b)(1) of the Cranston-Gonzalez National Affordable Housing Act to now require that comprehensive housing affordability strategies (more familiarly known as the Consolidated Plan) submitted to the Secretary shall contain estimated housing needs for victims of domestic violence, dating violence, sexual assault, and stalking.

### V. Additional Information

As a result of the amendments to the HUD statutes discussed in this notice, HUD's Office of Community Planning and Development and HUD's Office of Public and Indian Housing have already begun outreach to program participants

and to organizations representative of victims of abuse on those provisions for which additional compliance guidance from HUD may be beneficial to program participants.

HUD will be amending the regulations of the programs covered by VAWA 2005 to conform the existing regulations to the new statutory language and requirements. Again, however, the absence of the statutory language in the regulations does not mean the statutory provisions are not effective and applicable. The protections provided by the statute are immediately available to covered families.

In HUD's Semiannual Agenda of Regulations, published on April 24, 2006 (71 FR 22734), HUD's Office of Public and Indian Housing announced that it would revise HUD's regulations for its public and assisted housing programs to conform the regulations to the statutory amendments made by VAWA 2005 (see 71 FR 22757). This office reiterated this statement about forthcoming rules in Notice PIH 2006-23.

HUD's Office of Housing has already engaged in outreach activities, engaging affected program participants in discussions about the nature and scope of VAWA 2005 provisions and how they might best be implemented. Housing also plans to issue, in the near future, a **Federal Register** notice that addresses VAWA 2005 requirements applicable to participants in Housing programs. Housing will also be issuing, by separate publication, guidance and a HUD-approved certification form that can be provided by an owner or management agent to a tenant to help ascertain whether the tenant is a victim of abuse.

HUD's Office of Community Planning and Development is examining new technology to determine whether such technology can provide the protection for non-personally identifying data, which the statute directs be provided and which HUD seeks to provide.

In addition to rules that conform regulatory language to the recently enacted statutory language, offices may issue guidance to assist program participants in compliance with the new amendments, depending upon questions raised by their respective constituents. Additionally, HUD may determine that for certain areas of the new law, binding requirements established through proposed and final rulemaking, as opposed to guidance, serve as the better approach for achieving compliance.

VAWA 2005, in its entirety, is available at the following Web site addresses:

- For plain text version: <http://frwebgate.access.gpo.gov/cgi-bin/>

useftp.cgi?IPaddress=162.140.64.21&  
filename=publ162.109&directory=/  
diskb/wais/data/109\_cong\_public\_laws

- For PDF version: [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_public\\_laws&docid=f:publ162.109.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ162.109.pdf)

VAWA 2005's technical correction, in its entirety, is available at the following Web site addresses:

- For plain text version: [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_public\\_laws&docid=f:publ271.109](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ271.109)
- For PDF version: <http://frwebgate.access.gpo.gov/cgi-bin/>

[getdoc.cgi?dbname=109\\_cong\\_public\\_laws&docid=f:publ271.109.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ271.109.pdf).

Dated: February 26, 2007.

**Roy A. Bernardi,**

*Deputy Secretary.*

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This page is located on the U.S. Department of Housing and Urban Development's Homes and Communities Web site at <http://www.hud.gov/offices/pih/pha/vawa.cfm>.



## VAWA and the PHA Plan

On January 5, 2006, President Bush signed VAWA into law as Public Law 109-162. Section 603 of the law amends Section 5A of the U.S. Housing Act (42 U.S.C. 1437c-1) to require PHAs five-year and annual PHA Plans to contain information regarding any goals, activities, objectives, policies, or programs of the PHA that are intended to support or assist victims of domestic violence, dating violence, sexual assault, or stalking. On March 16, 2007 a Federal Register Notice was published regarding the applicability of VAWA to HUD Programs. This FR provided further guidance on VAWA and provided that PHAs must include the statement required by VAWA 2005 in the PHAs next regularly scheduled plan submission. PHAs are encouraged to amend or modify their plans before the next regular submission as provided in 24 CFR 903.21.

When including VAWA in your plan, PHAs must include as an attachment to the plan a description of (1) any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking; (2) any activities, services, or programs provided or offered that helps child or adult victims of domestic violence, dating violence, sexual assault, or stalking to obtain or maintain housing; (3) any activities, services, or programs provided or offered to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families. PHAs are also encouraged to describe in its VAWA statement the PHA procedures in place that assures that tenants are notified of their rights under VAWA.

Content updated December 5, 2007

**U.S. Department of Housing and Urban Development**

451 7th Street, S.W., Washington, DC 20410

Telephone: (202) 708-1112 [Find the address of a HUD office near you](#)

**CERTIFICATION OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
OR STALKING**

**U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing**

OMB Approval No. 2577-0249

Exp. (07/31/2007)

**Public reporting burden** for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. Information provided is to be used by PHAs and Section 8 owners or managers to request a tenant to certify that the individual is a victim of domestic violence, dating violence or stalking. The information is subject to the confidentiality requirements of the HUD Reform Legislation. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

**Purpose of Form:** The Violence Against Women and Justice Department Reauthorization Act of 2005 protects qualified tenants and family members of tenants who are victims of domestic violence, dating violence, or stalking from being evicted or terminated from housing assistance based on acts of such violence against them.

**Use of Form:** A family member must complete and submit this certification, or the information that may be provided in lieu of the certification, within 14 business days of receiving the written request for this certification by the PHA, owner or manager. The certification or alternate documentation must be returned to the person and address specified in the written request for the certification. If the family member has not provided the requested certification or the information that may be provided in lieu of the certification by the 14th business day or any extension of the date provided by the PHA, manager and owner, none of the protections afforded to victims of domestic violence, dating violence or stalking (collectively "domestic violence") under the Section 8 or public housing programs apply.

Note that a family member may provide, in lieu of this certification (or in addition to it):

(1) A Federal, State, tribal, territorial, or local police or court record; or

(2) Documentation signed 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 attest 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.

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**TO BE COMPLETED BY THE VICTIM OF DOMESTIC VIOLENCE:**

**Date Written Request Received By Family Member:** \_\_\_\_\_

**Name of the Victim of Domestic Violence:** \_\_\_\_\_

**Name(s) of other family members listed on the lease** \_\_\_\_\_

**Name of the abuser:** \_\_\_\_\_

**Relationship to Victim:** \_\_\_\_\_

**Date the incident of domestic violence occurred:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Location of Incident:** \_\_\_\_\_

Name of victim: \_\_\_\_\_

Description of Incident:

[INSERT TEXT LINES HERE]

I hereby certify that the information that I have provided is true and correct and I believe that, based on the information I have provided, that I am a victim of domestic violence, dating violence or stalking and that the incident(s) in question are bona fide incidents of such actual or threatened abuse. I acknowledge that submission of false information relating to program eligibility is a basis for termination of assistance or eviction.

Signature \_\_\_\_\_ Executed on (Date) \_\_\_\_\_

All information provided to a PHA, owner or manager relating to the incident(s) of domestic violence, including the fact that an individual is a victim of domestic violence shall be retained in confidence by an owner and shall neither be entered into any shared database nor provided to any related entity, except to the extent that such disclosure is (i) requested or consented to by the individual in writing; (ii) required for use in an eviction proceeding or termination of assistance; or (iii) otherwise required by applicable law.