

## Comparison of Information Provided via RD AN No 4814 Implementation of 42 USC 14043e-11 of the Violence Against Women Reauthorization Act in Rural Development's Multi-Family Housing Programs.

The chart attached to this document compares information provided through the Administrative Notice issued by Rural Development, with information included in the Final Rule.

This is not a fully comprehensive explanation of the requirements set forth for HUD programs or for the Rural Development's Multi-Family Housing programs. This is just a comparison of the information in the AN and the Final Rule.

Additional instruction is provided in the Final Rule.

When a property receives both HUD and RD funding, HUD rules apply. When there is no HUD rule, the RD rule applies.

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Rule or Requirement	HUD	USDA
<b>General</b>		
Definition: Person who is a victim of Domestic Violence, Dating Violence, Stalking and/or Sexual Assault and persons associated with such a person. VAWA 2013 protections are available to all eligible individuals and households regardless of gender identity, race, color, national origin, sex, sexual orientation, familial status, disability, or age. VFR-pg. 80724	✓	✓
An applicant's or program participant's status as a victim of domestic violence, dating violence or stalking is not a basis for denial of Rental Assistance (RA) or for denial of admission, if the applicant otherwise qualifies for assistance or admission. VFR-pg. 80727 column 2	✓	✓
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 terminating the assistance, tenancy, or occupancy rights of a victim of abuse. VFR-pg. 80727 column 2	✓	✓
Criminal activity directly related 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 of the victim of the criminal acts. VFR-pg. 80735	✓	✓
OAs should update Management Plan to include VAWA Policy		✓
No correlating HUD rule		
Should update Management Plan within 6 months of this notice to include a VAWA Emergency Transfer Process, which shall be adopted upon Agency approval.		✓
No correlating HUD rule		
HPG Borrowers should include a clause in the Management Agreement that the owner agrees and certifies that the assistance is being made available subject to VAWA.		✓
No correlating HUD rule		
Management Plans that are updated for VAWA 2013 require the borrower to submit a new Management Certification, Attachment 3-B, to the Agency		✓
No correlating HUD rule		
The authority to evict or terminate assistance is not limited with respect to a victim that commits unrelated criminal activity. Borrowers/Management Agents may not subject victims to more demanding standards than other tenants. VFR-pg. 80800	✓	✓

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May terminate assistance to or evict a tenant if the owner or manager of the housing can demonstrate that an actual and imminent threat to other tenants or individuals employed at or providing service to the property would be present if the assistance is not terminated or the tenant is not evicted. Eviction or termination of a victim's assistance under the actual and imminent threat provision should occur 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 abuser 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 abuser from acting on a threat. VFR-pg. 80800	✓	✓
The VAWA 2013 protections shall not supersede any provision of any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence or stalking. The laws offering greater protection are applied in instances of domestic violence, dating violence, sexual assault, or stalking. VFR-pg. 80803	✓	✓
A collaborative network of support <u>should be established</u> , so that victims of VAWA-related crimes have increased access to needed assistance at the time of an emergency involving domestic violence, dating violence, sexual assault, or stalking. VFR-pg. 80748	✓	✓
The provisions protecting victims of domestic violence, dating violence or stalking engaged in by a member of the household, may not be construed to limit the Borrowers/Management Agents, when notified, from honoring various court orders issued to either protect the victim or address the distribution of property in case a family breaks up. VFR-pg. 80800	✓	✓
HUD Section 8 TSP/House Rules must contain the VAWA policy. OA's of <b>HUD's Section 8 properties</b> must include the VAWA policy in the TSP and House Rules – See HH 4350.3 P 4-14. <i>RBD recommends incorporating VAWA policies in all TSPs and House Rules.</i> VFR-pg. 80780 (HUD only says they will provide guidance)	✓	
OAs strongly encouraged to update Tenant Selection Plan for the 515 program. VFR-pg. 80780 (HUD only says they will provide guidance)		✓
Should maintain and make available to tenants a list of other housing providers in the local area who assist victims of VAWA-related crimes. VFR-pg. 80754	✓	✓
Should maintain a list of programs and phone numbers of advocacy organizations that assist victims of domestic violence, dating violence, sexual assault, and stalking on an emergency basis. VFR-pg. 80754	✓	✓

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Borrowers, management companies, employees of management companies, HUD staff, CAs and RD staff shall not disclose information pertaining to any VAWA-related incident to any other entity or individual, except to the extent that the disclosure is: 1) consented to in writing by the victim(s) in a time-limited release; 2) required for use in an eviction proceeding or hearing regarding termination of assistance; or 3) otherwise required by applicable law. VFR-pg. 80787	✓	
Owners/Borrowers are required to ensure that details of VAWA incidents are not entered into any shared database. VFR-pg. 80787	✓	
Information about a resident/applicant's status as a victim of a VAWA crime must be maintained in a secure location in a file separate from the resident/applicant file. VFR-pg. 80787 & 80788	✓	
<b>Supporting Forms Provided by HUD/USDA</b>		
<b>Notice of Occupancy Rights Under the Violence Against Women Act.</b> Use HUD's Version HUD Form 5380 (VAWA Notice). VFR-pg. 80819 Appendix A & RHIIP ListServ 376.	✓	✓
VAWA Notice should be posted in a place(s) where it can be visible to tenants and prospective tenants. VFR-pg. 80770	✓	✓
<b>Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking</b> VFR-pg. 80820 Appendix A (OAs are required to develop their own plan based on this model)	✓	
<b>The Violence Against Women Reauthorization Act of 2013 Rural Development Emergency Transfer Plan</b> (This plan does not contain required elements discussed in the final rule and required for HUD programs. OAs with 515/8 properties should refer develop their own plan based on both models)		✓
<b>Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation Form;</b> Use HUD's version HUD Form 5382 (VAWA Certification). VFR-pg. 80822 Appendix C and RHIIP ListServ 376	✓	✓
<b>Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking;</b> OA's may use HUD's form or may create their own based on HUD's Model. HUD Form 5383. VFR-pg. 80824 Appendix D.	✓	✓
<b>VAWA Model Lease Addendum.</b> (HUD Form 91067) Note: Has not been updated to comply with VAWA 2013. VFR-pg. 80768 – No New Addendum Provided by HUD	✓	✓

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Rule or Requirement	HUD	USDA
<b>Providing the VAWA Notice and VAWA Certification to Residents and Applicants</b>		
Notice of Occupancy Rights Under the Violence Against Women Act (VAWA Notice) Use HUD's Version HUD Form 5380. Must be edited to include property specific information. VFR-pg. 80819 Appendix A & RHIP ListServ 376.	✓	✓
<b>Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation Form; (VAWA Certification)</b> Use HUD's version HUD Form 5382. VFR-pg. 80824 Addendum D & RHIP ListServ 376	✓	✓
Must provide HUD's VAWA Notice and HUD's VAWA Certification to existing residents at next annual certification HUD Forms 5380 and 5382. VFR-pg. 80727 & RHIP ListServ 376	✓	✓
Must provide to residents living in covered units if no lease renewal/certification is required. VFR-pg. 80727	✓	✓
Must distribute the VAWA Notice and VAWA Certification Form to all applicants and existing tenants upon each of the following occasions: 1) when an individual is denied residency; 2) when an individual is assigned a unit (MI); and 3) with any notification of eviction or termination of assistance. VFR-pg. 80727 & RHIP ListServ 376	✓	✓
Strongly <b>encourage</b> use of a VAWA Lease Addendum. Encouraged to provide VAWA Lease Addendum to all existing tenants during the 12-month period following the effective date of the HUD Final Rule (December 16, 2016), during the annual recertification process. If there will be no recertification or lease renewal for a tenant during the first year after HUD's Final Rule takes effect, through other means. Current HUD Form 91067 VAWA Addendum is not compliant with regulations set forth in VAWA 2013. Unless otherwise instructed, use HUD's version (HUD Form 91067) when a compliant version is released. If there is 515/S8 layered financing, follow instructions for Section 8 program.		✓
Require VAWA Lease Addendum. Section 8 properties <b>must</b> provide residents with HUD Form 91067 when lease is executed. This is not required at each annual certification unless a new lease is executed at each annual. For other HUD programs, unless otherwise instructed, use HUD Form 91067 when a compliant version is released. Note: Current HUD Form 91067 is not compliant with regulations set forth in VAWA 2013. VFR-pg. 80727	✓	
<b>Certification as a Victim of a VAWA Crime or as a Person Affiliated with the Victim</b>		
Owner/agents may require that victims certify their status as a victim or a person affiliated with a victim. This is not required. VFR-pg. 80741	✓	

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If a Borrower/Owner chooses to request documentation that the tenant is a victim of a VAWA-related crime, they must put the request in writing. HUD understands commenter’s rationale for the request to allow housing providers to make oral, rather than written, requests for documentation. However, the provision requiring a written request is in VAWA 2013, and such requirement provides a record for tenants and applicants and housing providers as to compliance with the documentation provisions of this rule. VFR-pg. 80765	✓	✓
Must provide a minimum of 14 <b>business days</b> to provide certification. at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the written request to provide the documentation. VFR-pg. 80819 (VAWA Notice)	✓	✓
Must accept any form of documentation the tenant or applicant chooses to provide, including self-certification, such as the HUD VAWA Certification.		✓
Must allow victim to choose from the acceptable forms of verification provided by HUD which include, at minimum, completed HUD VAWA Certification (HUD Form 5383); or a letter from a professional that meets the criteria set by HUD; or documentation that meets HUD’s requirements demonstrating that the person is a victim. It is up to the victim to decide which method to use to certify status as a victim. VFR-pg. 80819 (VAWA Notice)	✓	
Acceptable forms of certification include: 1) A complete HUD-approved certification form given to you by the owner/agent with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. 2) A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others. 3) A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection. 4) Any other statement or evidence <u>that owner/agent has agreed to accept.</u> VFR-pg. 80819 (VAWA Notice)	✓	

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<b>Bifurcation of the Lease</b>		
Assistance may be terminated or a lease “bifurcated” in order to remove an offending household member from the home. This action is taken while allowing the victim, who is a tenant or a lawful occupant, to remain. VFR-pg. 80727	✓	✓
The reasonable time period, as mandated by VAWA 2013, for remaining tenants to establish eligibility, when the eligible person is removed, apply under a different covered program or find new housing is 90-calendar days, beginning on the date of bifurcation of the lease, and not at the start of the lease bifurcation process. Borrowers are encouraged to allow an additional 60-day extension. VFR-pg.	✓	✓
The 90-day time period will not apply in situations where there are statutory prohibitions to its application. The 90-day period also will not apply where the lease will expire prior to termination of the 90-day period, <b>AND</b> , as a result of the lease expiration, assistance is terminated. VFR-pg.	✓	
When the remaining household members are unable to establish eligibility, such as when the removal of the abuser leaves the family with no member who can qualify, a qualified adult may be added to the household to serve as the head of household using procedures outlined in HB-2-3560.		✓
Eviction or termination of assistance may be initiated against remaining tenants who are unable to establish eligibility or find new housing at the expiration of the lease, unless a reasonable time period beyond expiration of the lease is granted by the Borrower and approved by the Agency.		✓
<b>VAWA Emergency Transfer</b>		
Model VAWA Emergency Transfer (VET) Plan; OA's should create their own based on HUD's Model HUD Form 5381. VFR-pg.	✓	✓
Borrowers may implement the VAWA Emergency Transfer (VET) Plan provided in the Administrative Notice - Attachment A of AN.		✓
VAWA Emergency Transfer (VET) Plan requires agency approval.		✓
Resident do not qualify for a VET unless one is requested. VFR-pg.	✓	
Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking; OA's may use HUD's form or may create their own based on HUD's Model. HUD Form 5383. VFR-pg.	✓	✓
Borrowers may ask a victim who requests a transfer to submit a written request; however, the victim is not required, by statute, to submit a written request.		✓

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This final rule clarifies, in § 5.2005(e), that housing providers may request that participants request emergency transfers in writing, but they are not required to do so, and housing providers may process emergency transfers requests that are not in writing as long as the tenant expressly requests the transfer. OA must consider requests for reasonable accommodation when there is the presence of a disability (80747). VFR-pg. 80747	✓	
VAWA Emergency Transfer Process adopted and implemented must 1) allow eligible tenants who reasonably believe that they are facing an imminent threat of domestic violence, dating violence, sexual assault, or stalking to transfer to another available and safe dwelling unit; <b>or</b> allow the transfer of a tenant who is a victim of sexual assault which occurred on the premises during the 90-day period preceding the request for transfer; and 2) incorporates reasonable strategies for maintaining confidentiality. VFR-pg. VFR-pg. 80753	✓	✓
The 90-day timeframe for sexual assault is the minimum timeframe mandated by VAWA 2013, but HUD/RD urges allowing additional time for a sexual assault victims to request a transfer. victims of sexual assault who have safety concerns might be able to move under this provision even if the sexual assault occurred more than 90 days before the move or the request to move. VFR-pg. 80753 & 80794	✓	✓
Must allow tenants who request and qualify for emergency transfers to transfer to an available unit that the victim feels is safe. The first option should be to facilitate an internal transfer to a unit that is under the owner's control and is in a like program; in which case the tenant would not have to make a new rental application. The second option should be to facilitate an external transfer to a unit on another property, as long as the eligibility criteria for that program can be met by the victim. VFR-pg. 80801	✓	
Must allow tenants who request and qualify for emergency transfers to transfer to an available unit that the victim feels is safe. The first option should be to facilitate the transfer to a unit that is under the Borrower's control and is in an RD program; in which case the tenant would not have to make a new rental application. The second option should be to facilitate a transfer to a unit under a different RD Borrower's control, then to a unit in a non-RD program, as long as the eligibility criteria for that program can be met by the victim.		✓
Cases involving conflicting certifications or which the occupant is the abuser <b>require that third-party documentation be submitted to the Borrower.</b> Examples of third-party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom the victim has sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.		✓

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Under this final rule, housing providers will not be allowed to require that tenants requesting an emergency transfer under VAWA submit third-party documentation to qualify for an emergency transfer. VFR-pg. 80741	✓	
In cases of conflicting information, covered owner/agents <b>may</b> require an applicant or tenant to submit third party documentation within 30 calendar days of the date of the request for the third-party documentation. Owners must accept 3 <sup>rd</sup> party documentation as described in the VAWA Final Rule if the victim has not already submitted such documentation. Owners may accept other methods of verification but may not require that the victim provide other methods of verification. Owners may allow more than 30 days but not less than 30 days. VFR-pg. 80802 & 80741	✓	
Tenants will be responsible for bearing the cost of the VAWA Emergency Transfer. The U.S. Department of Justice (DOJ) administers programs through the states, who then provide funding for victims of crimes covered by VAWA 2013. The DOJ Office of Justice Programs' Victims Crime Fund may be used to pay for relocation expenses of the victims, or to provide other sources of support, which could free up funding to pay for moving costs. See AN for additional information. Borrowers/owners are also encouraged to work with victims to identify sources of possible funding for emergency transfers. VFR-pg. 80744	✓	✓
Borrowers are encouraged to bear a part or all of the cost of transfers, but are not required to.		✓
HUD is requiring that covered housing providers 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. VFR-pg. 80780	✓	
Borrowers <b>should</b> keep a record of all VAWA Emergency Transfers requested, and the outcome of such requests.		✓
These records <b>must</b> be retained in a secure location for a period of 3 years, and must be kept confidential indefinitely or until destroyed. VFR-pg. 80780	✓	
These records <b>should</b> be retained in a secure location for a period of 3 years, and must be kept confidential indefinitely or until destroyed. VFR-pg.	✓	
Each year, owner/agents <b>must</b> report information about VAWA Emergency Transfers to HUD. 80780		✓
Borrowers <b>should</b> report all emergency transfer and lease bifurcation activities and outcomes to RD staff when requested for Agency reporting purposes.		✓