



March 15, 2021

Rural Development

Chad Parker
Acting Administrator

Rural Housing Service
1400 Independence Ave, SW
Room 5011-S
Washington, D.C. 20250

TO: State Office Directors
Field Office Staff
Rural Development

ATTN: Leadership Designees
Field Operations Division Program Staff
Rural Development

FROM: Chad Parker /s/ *Chad Parker*
Acting Administrator
Rural Housing Service

SUBJECT: Ensuring Access to Safe Housing for Rural Development Tenants
Violence Against Women Reauthorization Act of 2013

PURPOSE

The purpose of this Unnumbered Letter (UL) is to provide corrected guidance to all Multi-Family Housing (MFH) program staff so borrowers and management agents can continue to effectively serve the needs of victims of domestic violence, dating violence, sexual assault, or stalking as well as comply with the Violence Against Women Reauthorization Act of 2013 (VAWA).

Errors and omissions were discovered in the published UL having the same subject and dated November 23, 2020. Therefore, the UL is being reissued with the following corrections and additions, which are incorporated herein:

1. The requirement that under the VAWA, owners and management agents are prohibited from subjecting victims to more demanding qualification standards than other applicants and tenants.
2. The standard an owner and manager must meet in order to still evict a victim who is otherwise protected under the VAWA is referred to as an “actual and imminent threat”. A housing provider can still evict a victim if not doing so would pose an “actual and imminent threat” to other tenants or staff at the property.
3. The requirement to allow a tenant who reasonably believes they would be threatened with “imminent harm from further violence” if they were to remain in the unit (who reasonably believe that they are facing an actual and imminent threat of domestic violence, dating violence, sexual assault, or stalking) to transfer to another available and safe Rural Development unit.

EXPIRATION DATE:
February 28, 2022

FILING INSTRUCTIONS:
Housing Programs

4. The requirement where a perpetrator who was the head of household has been removed from the unit because of domestic violence, borrowers and management agents must allow victims and remaining household members, who are tenants or residents, a reasonable timeframe of at least 90-days from the date of the lease bifurcation to establish eligibility for the existing housing program or another subsidized housing program.

As an Agency that provides safe and affordable rural housing, it is our priority to fully protect the rights of applicants and tenants pursuant to all provisions of the VAWA. Unfortunately, a victim of domestic violence could wrongfully receive an eviction notice for other lease violations that are related to the violence committed against them, such as criminal activity and property damage. The VAWA protects victims from being evicted because of the violence committed against them.

Agency staff should continue to remind borrowers and management agents that they play a critical role in helping tenants obtain safe housing and supportive services. The guidance herein provides suggestions on how to best ensure the VAWA protections are available to tenants that need them given concerns of limited staffing levels and capacity to improve victim outcomes. This UL applies to the Rural Development MFH Section 515 Rural Rental Housing, Section 514/516 Farm Labor Housing, Section 538 Guaranteed Rural Rental Housing, and Section 533 Housing Preservation Grant programs.

BACKGROUND

The VAWA provides legal rights and protections for applicants and tenants who are actual or threatened victims of domestic violence, dating violence, sexual assault, or stalking, as well as members of their household.

These legal rights and protections include protections for victims from being denied admission to, denied assistance under, terminated from participation, or evicted from covered housing programs if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy. Under the VAWA, owners and management agents are prohibited from subjecting victims to more demanding qualification standards than other applicants and tenants.

VAWA 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. Under the VAWA, borrowers are subject to the Fair Housing Act and Civil Rights laws and must make reasonable accommodations as necessary to ensure that victims with disabilities can appropriately access any rules, policies, practices, or services in order to receive VAWA protections.

Borrowers must not terminate tenancy solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.

Borrowers should ensure effective communication with persons with disabilities, e.g., providing sign language interpreters for persons who are deaf, accessible documents and assistance filling out forms for persons who are blind or have low vision, and providing language assistance for persons with limited English language proficiency.

AGENCY RECOMMENDED GUIDANCE

The Agency is in the process of updating current regulations to include updated VAWA policies through a proposed rule that was published in the Federal Register on September 23, 2020. Until the final rule is published please utilize the recommended guidance below.

- Borrowers should continue to follow current Agency policies for extended absences which the approved lease can allow the owner to approve with tenant notification. While this benefits a wide range of households, it would also benefit survivors of domestic violence, dating violence, sexual assault, and stalking who need to flee their homes immediately for safety.
- Borrowers must be responsive and allow eligible tenants who reasonably believe they would be threatened with imminent harm from further violence if they were to remain in the unit to transfer to another available and safe Rural Development unit. The Rural Development Local Servicing Official will issue a VAWA Letter of Priority Entitlement (LOPE) in accordance with Attachment A – Rural Development’s Emergency Transfer Plan, stating that the tenant may receive priority placement in an available Rural Development unit within given timeframes. An expired LOPE may be reissued to maintain priority placement. Requests for an external transfer when a safe unit is not available must be handled with the same urgency.
- Borrowers must continue to distribute Form HUD-5380 “Notice of Occupancy Rights” and Form HUD-5382 “Certification of Domestic Violence and Alternate Documentation” to all applicants and existing tenants upon each of the following four occasions: 1) when an individual is denied residency in a Rural Development unit; 2) at the time the individual is assigned a Rural Development unit; 3) at the time of annual tenant recertification; and 4) with any notification of eviction or termination of assistance. Documents, such as termination notice and the aforementioned U.S. Department of Housing and Urban Development (HUD) forms should be given to each adult member of the household, in addition to the head of the household.
- Borrowers should prioritize victims’ requests and process emergency transfers and lease bifurcations as quickly as possible. This would include accepting verbal statements regarding incidents of violence or if written documentation is requested, accept a self-certification or sworn statement. If the emergency transfer cannot be made immediately, frequent status updates must be given the victim, while exercising extreme caution to maintain confidentiality.
- Evictions, lease bifurcations, and terminations of assistance against victims due to the presence of an “actual and imminent threat” caused by a perpetrator should be utilized only when there are no other actions that could be taken to reduce or eliminate the threat. “Actual and imminent threat” refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered

include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. Other possible actions include but are not limited to transferring the victim to a different Rural Development unit, barring the abuser from the property, and contacting law enforcement to increase police presence.

- When processing a lease bifurcation where a perpetrator who was the head of household has been removed because of violence, borrowers must allow victims and the remaining household members, who are tenants or residents, reasonable time to establish eligibility for the existing housing program or another subsidized housing program. Reasonable time is at least 90-days from the date of the lease bifurcation.
- HUD’s VAWA forms listed in this UL are available from HUD’s VAWA website. Form HUD-5380 “Notice of Occupancy Rights” and form HUD-5382 “Certification of Domestic Violence and Alternate Documentation Form” are available in multiple languages. HUD’s VAWA website link is:
https://www.hud.gov/program_offices/housing/mfh/violence_against_women_act.
- When communicating with an applicant or tenant who has requested VAWA protections, the borrower must provide safe options to communicate with victims while exercising strict measures for maintaining confidentiality. Precautionary steps must be taken to avoid inadvertent disclosure of confidential information to another individual or entity. See the checklist of best practices below.
- The following best practices are meant to address the challenges of collecting information from and communicating with a victim while maintaining flexibility and meeting the strict confidentiality requirements of the VAWA:
 - ✓ Conduct the intake session in a private room, where the individual and staff person can talk without the risk of other staff or clients overhearing.
 - ✓ Explain the Management Agent’s information sharing policies.
 - ✓ Communicate to the individual who is responsible for handling questions or complaints about confidentiality.
 - ✓ Provide adequate time for the individual to review and sign forms.
 - ✓ Post confidentiality notices in the intake room and around the property’s common areas.
 - ✓ Ensure relevant staff understand confidentiality policies and procedures through regular staff training.
 - ✓ Unless given permission from the victim to do so, do not send mail or leave messages of any type that contain confidential information or refer to the VAWA. The perpetrator may have access to the victim’s mail or be the co-head of household, or the perpetrator may be employed at the residence of the victim.
 - ✓ When discussing these matters directly with the victim, ensure that no one can overhear the conversation. Make arrangements that do not place the victim at risk, such as making the documentation request in a private room, not in an open space at the management office.
 - ✓ Direct staff to respond to third-party inquiries only after verifying that written client consent has been obtained.

- ✓ Clarify information sharing policies with referring/referral agencies and other service and business partners.
 - ✓ Maintain distinct phone lines for certain purposes.
 - ✓ Avoid using language referencing domestic violence or sexual assault in agency names, program names, organization names, and staff titles.
 - ✓ Use a Management Agent controlled post office box to receive written correspondence.
 - ✓ Serve individuals off-site as needed or when appropriate.
 - ✓ Provide interpretation and/or documents translated into the appropriate language when necessary.
 - ✓ Provide accessible documents or assistance filling out forms for individuals with disabilities.
- Borrowers should consider adopting a preference for admission and make every effort to accept admission applications from victims at any time, even when a waiting list may be closed. In addition, eligible victims currently in congregate living situations should be permitted to move into safe housing which will allow for compliance with social distancing requirements.
 - To better accommodate victims who do not feel safe attending hearings where their perpetrators would be present, borrowers should use available technology so that victims have safe options to testify at hearings where their housing subsidy is at stake.
 - Borrowers should make available to tenants a list of other Rural Development and non-Rural Development housing providers in the local area who assist victims of VAWA-related crimes.
 - 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 should be made readily available. The following organizations may be contacted for assistance:
 - ✓ The National Domestic Violence Hotline, (800) 799-SAFE (7233) or (TTY) (800) 787-3224 for immediate assistance.
 - ✓ Rape, Abuse & Incest National Network's National Sexual Assault Hotline, (800) 656-HOPE (4673) or <https://ohl.rainn.org/online>.
 - ✓ National Center for Victims of Crime, (855) 4-VICTIM (855) 484-2846), or <https://victimsofcrime.org/getting-help/>.
 - ✓ The Office of Women's Health (OWH), (800) 994-9662, or <https://www.womenshealth.gov/relationships-and-safety/get-help>.
 - ✓ OVC – U.S. Resource Map of Crime Victim Services and Information: <http://www.ovc.gov/map.html> and Help for Crime Victims Helplines: <http://www.ovc.gov/help/tollfree.html>.

If you have any questions, you should contact your local Servicing Official.

Attachment A – Rural Development Emergency Transfer Plan

Attachment B – VAWA LOPE

The Violence Against Women Reauthorization Act of 2013 Rural Development Emergency Transfer Plan

Rural Development tenants and household members who are actual or imminent victims of domestic violence, dating violence, sexual assault, or stalking, in accordance with Violence Against Women Reauthorization Act of 2013 (VAWA), shall be permitted by Rural Development property owner or manager to request a transfer to another safe dwelling unit in another Rural Development Multi-Family Housing (MFH) property, if (1) the tenant reasonably believes that he or she is threatened with imminent harm from further violence if he or she remains within the same dwelling; or (2) in the case of a tenant who is a victim of sexual assault, the sexual assault occurred on the premises during the 90-day period preceding the request for transfer. Transfers under this plan are subject to the availability of other Rural Development MFH units.

Tenants and household members who are actual or imminent victims of domestic violence, dating violence, sexual assault, or stalking and are requesting an emergency transfer under the Rural Development Emergency Transfer Plan may receive benefits by the use of a Letter of Priority Entitlement (LOPE) from the Agency, as Rural Development considers this to be a situation beyond the tenant's control under 7 CFR 3560.159(c).

A LOPE entitles tenants who are actual or imminent victims to receive priority for available housing at any Section 515 Rural Rental Housing or Section 514 Farm Labor Housing property, anywhere in the United States, if the victim otherwise meets the normal Rural Development program eligibility criteria. This letter may also help the victim receive preference in a U.S. Department of Housing and Urban Development (HUD) property if permitted by the occupancy policy.

Tenants who receive a LOPE and are beneficiaries of Rental Assistance (RA) may not transfer the RA to another Rural Development property. The RA will remain with the original Rural Development property.

Tenants should contact the property manager to request an emergency transfer. The property manager may request written certification and offer the tenant a form HUD-5382 "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation Form," though this is not required when requesting an emergency transfer. The property manager shall immediately contact their MFH Rural Development local servicing office, who shall provide the LOPE along with a letter to the tenant indicating at a minimum, that the tenant may receive priority placement on a Rural Development waiting list or in an available Rural Development unit and the given timeframes. A LOPE may be reissued to maintain priority placement.

Strict confidentiality measures must be practiced so the location of the victim's new dwelling is not disclosed to the person who commits an actual or imminent act of violence.

RURAL DEVELOPMENT
[LOCATION]

DATE: [insert today's date]

SUBJECT: LETTER OF PRIORITY ENTITLEMENT (LOPE) FOR:
[insert Name of Tenant/Family]
[insert Tenant/Family's Address]

Dear Tenant:

As a certified victim of a crime under the Violence Against Women Act of 2013 (VAWA), you are entitled to priority for placement on waiting lists of any Section 515 Rural Rental Housing property that has units for which you are eligible to occupy. There is no geographic limit on this entitlement. This letter may also serve to give you preference in non-Rural Development properties and rental programs served by the U.S. Department of Housing and Urban Development (HUD) if their occupancy policy allows. Please present this Letter of Priority Entitlement to your new landlord.

Dear Rural Development or Housing and Urban Development Property Owners:

The above-named tenant/family is eligible for this Letter of Priority Entitlement based on the Violence Against Women Act of 2013.

In accordance with 7 CFR 3560.11, this letter must be used within 120 days from the above date to give this tenant/family priority placement on your waiting list(s). The only other tenants who may receive priority over this tenant/family are those who have already entered your waiting list with a letter similar to this one or handicapped tenants who need the particular design features of a vacant apartment. The applicant is to remain in this position on your waiting list until they receive an apartment, or the list is purged in accordance with a Rural Development-approved policy.

After 120 days, they may continue to be placed on waiting lists for apartments for which they are eligible, but without priority. A LOPE may be reissued to maintain priority placement.

NOTE: This priority places the above-named tenant/family at the top of all waiting lists in your properties, with exceptions as noted above regardless of other priorities such as income and apartment size, so long as your property has at least one apartment, presently occupied or not, for which this tenant/family is eligible. If this tenant/family occupies an apartment for which size or type they are not eligible for, the lease must read that this tenant/family will move to the first appropriate apartment available.

If this tenant/family is receiving Rental Assistance (RA) at the property from which they are moving, the RA may not be transferred and shall remain with the original property.

If the current security deposit is returnable to the tenant/family but has not been released to the tenant/family by the move-in date, it should be assigned directly to you by the original property if allowed by the laws of the State. Otherwise, you may have to wait to receive the security deposit until it is returned to this tenant/family.

Tenant Data:

Composition of Family _____

Tenant/Family/Elderly/Handicapped _____

Unit-Size Eligibility _____

Last Verified Income _____ as of _____

RA/Section 8 Voucher [Yes or No] _____

Current Security Deposit: _____

If you have any questions, please contact the Servicing Office at the address below:

[Rural Development Servicing Office]

[Address]

[Phone Number]

[Rural Development Servicing Official signature and title]