

MODEL EMERGENCY TRANSFER PLAN

VAWA 2013 and 24 C.F.R. § 5.2005(e) establishes that victims of domestic violence, dating violence, sexual assault, and stalking may be entitled to an emergency transfer pursuant to each covered housing provider's emergency transfer plan. All covered housing providers, regardless of size, are subject to the ETP requirements, including providers of Housing Choice Vouchers. Under this provision, each covered housing provider shall have adopted and implemented an Emergency Transfer Plan ("ETP") based upon HUD's model ETP. Plans must be adopted by June 14, 2017.

Basic Overview

Pursuant to the rule, the plan must allow tenants, upon request, who are victims of domestic violence, dating violence, sexual assault, and stalking to transfer to another unit under the covered housing program in which the tenant has been residing in or to a unit in another covered housing program if such transfer is permissible under applicable program regulations, provided that a unit is safe and available.

Reasonable Belief of Imminent Threat

To qualify for the transfer, the tenant must reasonably believe there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying.

Additional Right of Sexual Assault Survivors

In the case of a tenant who is a victim of sexual assault, the tenant can allege that there is threat of imminent harm or that the sexual assault occurred on the premises during the 90-day period preceding the date of the request for transfer or more time if the owner agrees.

Who Is Eligible

Tenants are eligible for transfers if they are victims of violence. They can also request a transfer if a live-in aide is the survivor. Unemancipated minors are not eligible for ETs because they cannot enter into a HUD lease.

Strict Confidentiality

The ETP must incorporate strict confidentiality measures to ensure that the covered housing provider does not disclose the location of the dwelling unit of the tenant to a person who committed or threatened to commit the violence against the tenant;

Internal and External Transfers

Housing providers must provide **internal transfers** to safe units under the same covered housing program within the owner's control which have one waitlist. These tenants should not be placed on a waitlist.

If feasible, housing providers should also provide transfers outside the owner's control and in a different program ("**external transfers**"). **Housing providers must have a process to assist with external transfers, including describing what policies and resources there are for**

victims when there is no available, safe unit, whether they have to apply for the unit or not. Internal and external transfers can happen concurrently.

Further Support For Survivors

The ETP must describe other policies and resources to assist tenants who qualify for ETs under VAWA, including outreach activities to organizations that assist or provide resources to survivors. The provider must turn to these resources to help the tenant if the ET cannot be secured immediately.

Proof Requirements for Transfers

Housing providers can accept a written or oral request for an ET from a tenant. Housing providers are encouraged not to require written request if there are exigent circumstances where the victim's health or safety is at risk. Housing providers can use or modify HUD's model ET request form, including adding a question to the form asking where a survivor feels safe or unsafe to move to. Providers cannot require third party documentation to be eligible for an ET and cannot independently evaluate a tenant's safety. Tenants must also provide information that they are covered under VAWA, such as an oral representation or the HUD self-certification form.

Timing of ETs

According to HUD, **individuals who qualify for an emergency transfer under VAWA should receive a meaningful opportunity to transfer as expeditiously as possible** and to avoid the possibility that such individuals may, for example, be placed on the bottom of an applicant waiting list with no other measures taken to assist the individuals, contrary to the intent of the ET provision. These ETs should be prioritized over other general transfer requests. However, Section 504 transfers trump VAWA ETs in terms of priority.

Requirement to transfer a survivor continues until the transfer is complete, the survivor no longer receives housing assistance through the covered housing program, or the survivor informs the housing provider that the transfer is no longer being sought. Housing providers should describe the expedited nature of ETs in the ETP and are encouraged to expedite ETs.

Eligibility for Transfer Housing

With written consent from the survivor, a housing provider can use the prior covered housing provider's determination of tenant eligibility and screening so as to expedite screening.

Limitations on Housing Providers

Housing providers cannot: force a move to a unit if the tenant does not feel safe in that new unit; deny a transfer because the perpetrator learned of the new location, even if the victim revealed that new location to the perpetrator; deny the transfer because the victim has made previous transfer requests; or terminate or evict as a result of a tenant turning down a transfer unit. **The tenant decides if a unit is safe, based upon the tenant's personal knowledge and reasonable belief about what is safe. The housing providers will not judge the merits of the claims of violence.**

Costs of Transfers

Although housing providers are not required to bear moving costs, providers are encouraged to bear these costs where possible or to assist survivors to identify funds to cover the costs of transfers.

Waiting Lists

To be placed on the waitlist, the tenant only need to submit, upon request, the written request for a ET where the tenant certifies she meets the requirements for an ET. HUD encourages providers to providers an admissions preference for survivors.

Records

Housing providers must keep records of all requested ETs, their outcomes, and retain those records for three years. More information regarding this requirement will be forthcoming in a separate notice.

Availability of the ETP

The ETP must be made public where feasible or available upon request.

KEY COMPONENTS OF A MODEL ETP

1. The ETP Should Focus on Ensuring Victim Safety and Housing Stability.

Made in consultation with domestic violence and sexual assault advocacy organizations, the ETP should focus on ensuring the victim's safety and housing stability. A safe unit is one the survivor believes is safe, based upon the survivor's personal knowledge and reasonable belief about what is safe. Housing stability means continued and equivalent housing assistance, in terms of the level of subsidy and affordability as well safety of that housing.

Housing providers should train staff to embrace this shared value that victims of violence deserve safe and stable housing and they have the power pursuant to the ETP to help. VAWA 2013 and its implementing regulations provide a basic framework for the ETP that housing providers can build upon to ensure that victims of violence secure safe and stable housing.

Suggested ETP Vision Statement: The Emergency Transfer Plan is established so that tenants who are victims of domestic violence, dating violence, sexual assault, and stalking can be safe and have stable housing. Tenants who are victims of domestic violence, dating violence, sexual assault, and stalking are eligible to transfer to new safe housing upon request and where available.

2. The Housing Provider Should Ensure Strict Confidentiality Procedures.

All information provided related to VAWA and ETPs must be kept confidential, including the fact that a tenant is exercising their rights under VAWA. It cannot be entered into any shared databases or disclosed to third-parties. The housing provider should strictly limit access to this information to only those staff who must have access to this information under state, federal, or local law. Housing providers should designate key staff, such as a general counsel, to maintain this information and only distribute to other staff when necessary and permitted. Staff who are found to have disclosed confidential information to other staff or third-parties should be disciplined and, at a minimum, removed from the distribution list in the future.

The housing provider may disclose this information if: the tenant provides written permission to release the information on a time limited basis; there is a pending eviction or termination proceedings; and a law requires the housing provider to release the information.

3. Emergency Transfers Should Be Considered a Priority One Transfer.

Resident-initiated emergency transfers should be identified as priority one or one of the top priority transfers in the housing provider's planning documents, such as the Admissions and Continued Occupancy Policy or Tenant Selection Plan. This means that VAWA ETs should take a priority consistent with transfers executed as a result of other emergency matters, such as housing conditions posing a threat to health and safety. These transfers should be treated as true emergencies, the timing of which should be coordinated with the tenant. Timing goals – i.e., transfers processed within two of the request – should be agreed to.

4. The Housing Provider's Planning Documents Should Prioritize Emergency Transfers over Waitlists by Providing an Admission's Preference for Survivors and Accepting Prior Proof of Housing Eligibility.

HUD instructs housing providers to execute ETs in accordance with their waitlists, which could make it difficult for survivors to secure an external transfer. In many instances however, internal transfers will provide little to no safe and stable housing for survivors. External transfers may provide the only safe and stable housing option.

To ensure a survivor has a chance of securing an external transfer, housing providers should provide an admissions preference to victims of domestic violence, dating violence, sexual assault, and stalking in need of an ET. Housing providers should also, with the tenant's consent, accept prior proof of a tenant's eligibility for housing.

5. The Housing Provider Should Have Flexible Proof Requirements

Housing providers should not require written proof if there are exigent circumstances. In other instances, tenants can make the written request for an ET by completing the ET form and the HUD VAWA certification form. Housing providers should be flexible and prioritize safety over the timing of when forms are completed, including having the tenants complete the forms after they move.

6. The Housing Provider Should Not Charge Costs to Tenants in Need of Emergency Transfers.

Housing providers should not charge costs to tenants in need of emergency transfers and should bear moving costs of tenants. Vacancy payments may be available for public housing authorities and project-based Section 8 owners could seek to use reserve funds to cover lost rents.

7. Institutionalization of ETPs.

ETPs should be institutionalized and implemented at all levels of the housing provider. ETP procedures should be incorporated into include employee desk manuals and training materials. Housing providers should work with domestic violence and sexual assault programs to provide staff training on domestic violence and sexual assault.

8. Regional Planning on Emergency Transfers.

Housing providers should work with other housing providers and domestic violence and sexual assault advocates to create regional cooperative agreements between various housing providers of similar and different housing programs and domestic violence and sexual assault victim advocates to support ETPs. HUD field offices should support these endeavors by assisting with identifying available, safe units among the housing providers and accepting regional cooperative agreements on behalf of a range of housing providers.

9. Sexual Assault Survivors.

Owners should grant sexual assault survivors, where the sexual assault occurred on the premises more than 90-days preceding the date of the request for a transfer, more time to request a transfer. Sexual assault survivors often need this additional time as they physically and mentally recover from the sexual assault.

10. Availability of the ETP.

Housing providers should prominently display the ETP within its buildings, share it with local domestic violence and sexual assault advocacy programs, and share it with the local HUD office. Providers should also display brief one-page descriptions of the ETP and share it with tenants upon recertification, at lease termination, at admission, and at any point where a tenant is asserting their rights under VAWA, including seeking information about an ET.

Existing Emergency Transfer Policies:

Chicago Multifamily HUD Office:

In 2010, the Chicago Multifamily HUD Office worked with the Sargent Shriver National Center on Poverty Law to draft and implement a model transfer policy for tenants residing in project-based Section 8 properties in the Chicago metropolitan area. Any owner can voluntarily participate in the program. Owners are encouraged to amend their tenant selection plans to provide an admissions preference to victims of domestic violence, dating violence, sexual assault, and stalking. Under the policy, a tenant can directly apply to the HUD office for a transfer or a transfer can be sought on their behalf by a local legal aid office or domestic violence program. Upon request, designated staff within the HUD office are then responsible for identifying potential available and safe project-based Section 8 dwelling units. Tenants inform HUD where it may be safe or unsafe for them to move. HUD heavily relies upon larger property owners to make the transfer program work.

To promote the program, the Chicago Multifamily HUD Office issued a letter to property owners and managers asking them to participate in the program. The Shriver Center and HUD also annually promote the program at the HUD Smart Management training, a convening HUD provides to update owners and managers on their rights and responsibilities.

Chicago Housing Authority – Housing Choice Voucher Program

The Chicago Housing Authority (“CHA”) has a designated VAWA specialist within in Housing Choice Voucher program. When a Housing Choice Voucher tenant informs the CHA that they need to move due to domestic violence, dating violence, sexual assault, or stalking, and provides written documentation, including the HUD VAWA certification form or third-party documentation, the CHA will process the tenant for emergency moving papers. The moving papers are issued on average between 48 hours to one week. The tenant is then instructed to terminate their written lease early by using the Illinois Safe Homes Act.

Philadelphia Housing Authority:

The Philadelphia Housing Authority’s (“PHA”) Board of Commissioners passed a resolution on June 19, 2014 to amend PHA’s policy for public housing and the housing choice voucher program, updating it to incorporate the requirements of VAWA 2013. The PHA also adopted affirmative transfer protections for survivors in the public housing and housing choice voucher programs through the creation of the PHA’s Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (“Emergency Transfer Plan”), which the PHA added to Admissions and Continued Occupancy Policy, Administrative Plan, and tenant lease.

The Emergency Transfer Plan directs the PHA to provide an emergency transfer to a survivor if the client requests a transfer, provides certification of their status, and “reasonably believes that there is a threat of imminent harm from further violence if they remain in their current unit.” The Emergency Transfer Plan also explicitly establishes that transfers made pursuant to VAWA are top priority emergency transfers and should be processed prior to other pending transfer requests.

If a safe unit cannot be immediately located, the Emergency Transfer Plan provides that the PHA may offer the survivor a unit in another housing program administered by the agency. In addition, the Emergency Transfer Plan extends survivors who have been approved for a transfer the right to refuse a unit for good cause, further ensuring that survivors are able to move to a safe location. Finally, the Emergency Transfer Plan establishes strict confidentiality procedures, mandating that the PHA “keep confidential any information that the client submits in connection with requesting VAWA protections, including keeping confidential the location of the client’s new unit.”

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