

## Chapter 16

### PROGRAM ADMINISTRATION

#### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking; and maintaining the confidentiality of information obtained from victims.



## **PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]**

The PHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR 982.155(b)(1).

In addition, as specified in Notice PIH 2022-18, PHAs may use administrative fee funding for both administrative and “other expenses” needed to employ strategies and undertake activities beyond regular administrative responsibilities to facilitate the successful leasing and use of housing choice vouchers by families, such as through the use of security deposit assistance and landlord recruitment and incentive payments, among other allowable expenses specified in the notice. PHAs are also permitted to use UNP for these expenses [Notice PIH 2022-18].

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

### CDA Policy

Expenditures from the UNP account will be made in accordance with all applicable Federal requirements.



## **PART II: SETTING PROGRAM STANDARDS AND SCHEDULES**

### **16-II.A. OVERVIEW**

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

#### CDA Policy

Copies of the payment standard and utility allowance schedules are available for review in the CDA's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The CDA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating the PHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

### **16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]**

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

#### **Updating Payment Standards**

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high 24 CFR 982.503(g)].

## CDA Policy

The CDA will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the “basic range”, the CDA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

**Funding Availability:** The CDA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The CDA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

**Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the CDA will consider increasing the payment standard. In evaluating rent burdens, the CDA will not include families renting a larger unit than their family unit size.

**Quality of Units Selected:** The CDA may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

**Changes in Rent to Owner:** The CDA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

**Unit Availability:** The CDA may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate:** The CDA may consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Effective dates of changes to payment standard amounts will be determined at time of update. The CDA will always ensure the payment standards will be within the basic range.

If the CDA has already processed reexaminations that will be effective on or after October 1<sup>st</sup>, and the effective date of the payment standards is October 1<sup>st</sup>, the CDA will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the CDA at the time the reexamination was originally processed.

### **Exception Payment Standards [982.503(c)(5), Notice PIH 2018-01; FR Notice 9/27/21]**

A non-SAFMR PHA may establish an exception payment standard for a zip code area of up to and including 110 percent of the SAFMR determined by HUD for that zip code area. Regardless of the level of the exception payment standard compared to the metropolitan area FMRs (MAFMRs), the PHA must send an email to [SAFMRs@hud.gov](mailto:SAFMRs@hud.gov) to notify HUD that it has adopted an exception payment standard based on the SAFMR. A PHA that adopts an exception

payment standard pursuant to this authority must apply it to the entire ZIP code area, for both its HCV, and if applicable, its PBV program. For the PBV program, this means that the rent to owner may not exceed the new exception payment standard amount, provided the rent is still reasonable. A PHA that adopts an exception payment standard area must revise its briefing materials to make families aware of the exception payment standard and the area that it covers.

In addition, HUD allows PHAs to establish a HUD-Veterans Affairs Supportive Housing (HUD-VASH) exception payment standard. PHAs may go up to but no higher than 120 percent of the FMR or SAFMR specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD (See Section 19-III.E.).

### **Voluntary Use of Small Area FMRs [24 CFR 982.503, Notice PIH 2018-01]**

PHAs that administer vouchers in a metropolitan area where the adoption of SAFMRs is not required may request approval from HUD to voluntarily adopt SAFMRs. SAFMRs may be voluntarily adopted for one or more zip code areas.

#### CDA Policy

The CDA will not voluntarily adopt the use of SAFMRs except to establish exception payment standards in certain zip code areas.

### **Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26]**

Unit-by-unit exceptions to the PHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA's payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [CFR 982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

#### CDA Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the CDA must determine that:

There is a shortage of affordable units that would be appropriate for the family;

The family's share would otherwise exceed 40 percent of adjusted monthly income; and

The rent for the unit is reasonable.

### **"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50<sup>th</sup>, rather than the 40<sup>th</sup> percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area.

### **Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]**

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

## **16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.



## **Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

### **CDA Policy**

The CDA will include a utility allowance for air-conditioning in its utility allowance schedule.

## **Reasonable Accommodation**

Upon request from a family that includes a person with disabilities, the PHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability [24 CFR 982.517(e)]. See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with an explanation of the need for the individual relief and information about the amount of additional allowance required [see HCV GB, p. 18-8].

PHAs should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as “Medical Baseline discounts”) offered by the local utility company. Policies for granting exception utility allowances can be found in Section 6-III.D. of this plan

## **Utility Allowance Revisions**

The PHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised [24 CFR 982.517(c)(1)].

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.



## **PART III: INFORMAL REVIEWS AND HEARINGS**

### **16-III.A. OVERVIEW**

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include informal review procedures for applicants, and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

### **16-III.B. INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (*Federal Register* 60, No. 127, 3 July 1995).

#### **Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]**

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to approve an extension of a voucher term
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the NSPIRE standards
- A PHA determination that the unit does not meet space standards

### CDA Policy

The CDA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the CDA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

### **Notice to the Applicant [24 CFR 982.554(a)]**

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

### CDA Policy

CDA's notice of a decision denying assistance will include a brief statement of the reason(s) for denial, a citation to the applicable regulation(s), and a summary of the facts that form the basis for each reason for denial. The notice will also include instructions on how to request an Informal Review.

### **Scheduling an Informal Review**

### CDA Policy

A request for an informal review must be made in writing and delivered to the CDA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the CDA's decision or the date of the letter notifying the applicant of the decision to deny assistance.

If the informal review will be conducted remotely, the CDA will inform the applicant in the notice of informal review of the following:

- The processes involved in a remote informal review;

- That the CDA will provide technical assistance prior to and during the informal review, if needed. The technical assistance that may be provided by the CDA is in the form of outlining the necessary procedures for access to the telephone conferencing call-in or video conferencing platform; and

- That if the applicant or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the applicant may inform the CDA and the CDA will allow the applicant to participate in an in-person informal review, as it deems reasonable and appropriate given the totality of the circumstances.

Applicants who intend to have an attorney represent them at their informal review must provide this information to the CDA at the time of a request for an informal review.

Attorneys providing representation to applicants at informal reviews must be licensed to practice law in the State of Wisconsin. The CDA will not discuss the applicant's case, or share any information from the applicant's file, with their attorney or anyone else without an applicant's signed release of information provided to the CDA.

## **Informal Review Procedures [24 CFR 982.554(b)]**

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

### CDA Policy

The informal review will be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of the CDA.

The applicant may bring their own counsel, other representative(s), and/or witnesses to the informal review.

In cases where the reviewer is not a CDA employee, the person conducting the review will make a recommendation to the CDA, but the CDA is responsible for making the final decision as to whether assistance should be granted or denied.

Informal reviews will only be rescheduled due to a verifiable medical emergency.

Informal reviews may not be conducted if the applicant arrives more than 15 minutes late for the scheduled informal review.

## **Remote Informal Reviews [Notice PIH 2020-32]**

There is no requirement that informal reviews be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal reviews remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.

### CDA Policy

The CDA has the sole discretion to require or permit that informal reviews be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the CDA will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. The CDA will consider other reasonable requests for a remote informal review on a case-by-case basis.

## **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio

description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal reviews.

If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal reviews, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal reviews.

### **Conducting Remote Informal Reviews**

The PHA must ensure that the lack of technology or inability to use technology for remote informal reviews does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.

The PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal reviews will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 982.554 and guidance specified in Notice PIH 2020-32.

#### **CDA Policy**

The CDA will conduct remote informal reviews via telephone conferencing call-in or via a video conferencing platform, when available. If the informal review will be conducted via a videoconferencing platform, the CDA will ensure that all applicants, applicant representatives, CDA representatives and the person conducting the informal review can adequately access the platform (i.e., hear, be heard, see, and be seen) by providing technical assistance to that extent, if needed, before the review. The technical assistance that may be provided by the CDA is in the form of outlining the necessary procedures for access to the telephone conferencing call-in or a video conferencing platform.

If any applicant, applicant representative, CDA representative, or person conducting the informal review is unable to effectively utilize the videoconferencing platform, the informal review will be conducted by telephone conferencing call-in.

Whether the informal review is to be conducted via a video conferencing platform or telephone call-in, the CDA will provide all parties login information and/or conferencing call-in information before the review.

If the informal review is to be conducted remotely, the CDA will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review through the mail or via email, as well as in person, if the CDA office is open to the public. The CDA will scan and email copies of these documents to the CDA representatives and to the person conducting the informal review the same day.

Documents will be shared electronically whenever possible.

### **Informal Review Decision [24 CFR 982.554(b)]**

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

#### **CDA Policy**

In rendering a final decision after an Informal Review, the CDA will evaluate the following matters:

**CDA Notice of Denial:** Whether or not the reason(s) for denial were stated adequately in the Notice.

**The validity of the evidence:** The person conducting the Informal Review will evaluate whether the facts presented at the Informal Review (including but not limited to the information in the applicant's admissions file and any information provided by the applicant) prove the reason(s) for denial of assistance. If the facts prove that there are grounds for denial, and the reason for denial is mandatory according to HUD regulations, the decision to deny assistance will be upheld by the person conducting the Informal Review.

If the facts prove the grounds for denial, and the reason for denial is discretionary according to HUD regulations, the CDA will consider the recommendation of the person conducting the Informal Review.

The CDA will notify the applicant of the final decision in writing. The notice will include a statement explaining the reason(s) for the decision, a citation to the applicable regulation(s), and a summary of the facts relied upon in making the decision, and information regarding appeals.

If the hearing officer is a CDA employee, the notice will be mailed within 10 business days of the informal review to the applicant and their representative.

In cases where the hearing officer is not a CDA employee, the CDA will mail a notice of final decision within 10 business days after receiving the hearing officer's written decision. The CDA will mail the notice to the applicant and his or her representative.

If the decision to deny is overturned as a result of the Informal Review, processing for admission will resume.

If the family fails to appear for their Informal Review, the denial of admission will stand and the family will be so notified.

**Appeal information:** The written final decision after an Informal Review shall include the following statement about the right to appeal:

“If either party disagrees with this decision, the party may request a review of the decision by filing an appropriate action in Circuit Court within thirty (30) days of the receipt of the written decision.”

### **16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA’s HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA’s decisions related to the family’s circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family’s assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

#### **Decisions Subject to Informal Hearing**

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family’s annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA’s subsidy standards
- A determination to terminate assistance for a participant family because of the family’s actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- ~~A determination to terminate a family’s Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family’s escrow account [24 CFR 984.303(i)]~~

#### **CDA POLICY**

The CDA will also give participant families an opportunity for an informal hearing for:

Any denial of a request for a reasonable accommodation for a person with disabilities (see Chapter 2)

Families participating in the Family Self-Sufficiency (FSS) program, when the CDA withhold the coordination of supportive services or terminates a family’s



participation in the FSS program because the CDA determines the FSS family has failed to comply without good cause with the requirements of the FSS Contract of Participation in accordance with the FSS Action Plan [24 CFR 984.303(i)].

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- Establishment of the PHA schedule of utility allowances for families in the program
- A PHA determination not to approve an extension of a voucher term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the NSPIRE standards
- A PHA determination that the unit is not in accordance with space standards because of family size
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

#### CDA Policy

~~The CDA will only offer participants the opportunity for an informal hearing when required to by the applicable federal regulations.~~

### **Remote Informal Hearings [Notice PIH 2020-32]**

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, participants may still request an in-person hearing, as applicable.

#### CDA Policy

The CDA will conduct remote hearings in accordance with due process requirements and in compliance with HUD regulations.

The CDA has the sole discretion to require or permit informal hearings to be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the CDA will conduct an informal hearing remotely upon the participant's request as a reasonable accommodation for a person with a disability, if a participant does not have child care or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. The CDA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

### **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal hearing, and the PHA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

As with in-person informal hearings, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

### **Conducting Informal Hearings Remotely**

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the hearing or provide an alternative means of access.

The PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 982.555 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

### **CDA Policy**

The CDA will conduct remote informal hearings via telephone conferencing call-in or via a video conferencing platform, when available. If the informal hearing will be conducted via a video conferencing platform, the CDA will ensure that all participants, participant representatives, advocates, witnesses, PHA representatives, and the hearing officer can adequately access the platform (i.e., hear, be heard, see, and be seen) by providing technical assistance to that extent, if needed, before the hearing. The technical assistance that may be provided by the CDA is in the form of outlining the necessary procedures for access to the telephone conferencing call-in or a video conferencing platform.

If any participant, representative, advocate, witness, PHA representative, or hearing officer is unable to effectively utilize the video conferencing platform, the informal hearing will be conducted by telephone conferencing call-in.

Whether the informal hearing is to be conducted via a video conferencing platform or telephone call-in, the CDA will provide all parties login information and/or telephone call-in information before the hearing.

## **Informal Hearing Procedures**

### ***Notice to the Family [24 CFR 982.555(c)]***

When the PHA makes a decision that is subject to Informal Hearing procedures, the PHA must inform the family of its right to an Informal Hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an Informal Hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an Informal Hearing on the decision, and a statement of the deadline for the family to request an Informal Hearing.

### **CDA Policy**

In cases where the CDA makes a decision for which an Informal Hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the CDA

- A brief statement of the reasons for the decision including the regulatory reference and a description of the facts that form the basis for the decision. (See Chapter 12, section 12-II.F. for detailed requirements for termination notices)

- The date the proposed action will take place

- A statement of the family's right to an explanation of the basis for the CDA's decision

- A statement that if the family does not agree with the decision the family may request an Informal Hearing of the decision

A deadline for the family to request the Informal Hearing

To whom the hearing request should be addressed

Any other information required by the federal regulations to be included in such a notice

That the family may request a remote Informal Hearing

### ***Scheduling an Informal Hearing [24 CFR 982.555(d)]***

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

#### **CDA Policy**

A request for an informal hearing must be made in writing and delivered to the CDA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the CDA's decision or the date of the letter notifying the client of the decision to terminate assistance.

The CDA must set a date for the informal hearing and send written notice of the informal hearing to the family, within 10 business days of the family's request for a hearing.

If the CDA informal hearing will be conducted remotely, the CDA will inform the family in the notice of informal hearing of the following:

- The processes involved in a remote informal hearing;

- That the CDA will provide technical assistance prior to and during the informal hearing if needed. The technical assistance that may be provided by the CDA is in the form of outlining the necessary procedures for access to the telephone conferencing call-in or a video conferencing platform; and

- That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal hearing, the family may inform the CDA and the CDA will allow the family to participate in an in-person informal hearing, as it deems reasonable and appropriate given the totality of the circumstances.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made to the CDA orally or in writing prior to the hearing date. At its discretion, the CDA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear within 15 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the CDA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The CDA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the CDA's decision will stand.

### ***Pre-Hearing Right to Discovery [24 CFR 982.555(e)]***

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

#### **CDA Policy**

##### **Discovery by the Family:**

The family will be allowed to copy any documents related to the hearing at a charge equal to the current rate published under local general ordinance, MGO 3.70. The family must request discovery of the CDA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

If the hearing will be conducted remotely, the CDA will compile a hearing packet, consisting of all documents the CDA intends to produce at the informal hearing. The CDA will mail copies of the hearing packet to the hearing officer at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of the CDA representative and retained by the CDA.

Documents will be shared electronically whenever possible.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

#### **CDA Policy**

##### **Discovery by CDA:**

The CDA will include in the hearing confirmation notice to the participant a request for copies of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available to the CDA no later than 12:00 pm on the business day prior to the scheduled hearing date.

If the informal hearing is to be conducted remotely, the CDA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail or via email. If the CDA's Central Office is open to the public, documents may be provided in person to the CDA's Central Office. The CDA will scan and email copies of these documents to the hearing officer and the PHA representative the same day.

Documents will be shared electronically whenever possible.

### ***Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]***

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

### CDA Policy

If the family chooses to be represented by an attorney or other representative, the family must notify the CDA in advance of the hearing date and provide contact information for the attorney or other representative who will represent the family at the hearing. Failure to provide the CDA with notice of representation may be cause for the CDA to reschedule the hearing. Attorneys providing representation to participants at informal hearings must be licensed to practice law in the State of Wisconsin. Additionally, the CDA will not communicate or share file information with attorneys or other representatives without a signed release from the family.

### ***Informal Hearing Officer [24 CFR 982.555(e)(4)]***

Informal Hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

#### **CDA Policy**

The Informal Hearing shall be conducted by a CDA appointed hearing officer who is neither the person who made or approved the decision nor a subordinate of that person.

The CDA will appoint hearing officers who are persons with experience in conflict resolution, property management, administrative hearings and/or knowledgeable about the Section 8 Housing Choice Voucher Program.

### ***Attendance at the Informal Hearing***

#### **CDA Policy**

Hearings may be attended by the Hearing Officer and the following applicable persons:

A CDA representative(s) and any witnesses for the CDA

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by the CDA as a reasonable accommodation for a person with a disability

### ***Conduct at Hearings***

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

#### **CDA Policy**

The Hearing Officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures and guidelines for conduct established by the hearing officer and by this Administrative Plan. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior may be excused from the hearing at the discretion of the hearing officer.

The CDA will record Informal Hearings.

### ***Evidence [24 CFR 982.555(e)(5)]***

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

#### **CDA Policy**

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence:

**Oral evidence:** the testimony of witnesses

**Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the CDA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence:** A tangible item relating directly to the case.

The above list of types of evidence is just a general description and not an exclusive list of the types of evidence that may be used at an Informal Hearing.

*Hearsay Evidence* is evidence based not on a witness' personal knowledge. Specifically, it is a statement, other than one made by a witness testifying at a hearing, that is offered to prove the truth of the matter asserted. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

*Evidence for which Discovery was not provided:* If either the CDA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to rule on any objections to evidence.

### ***Procedures for Rehearing or Further Hearing***

#### **CDA Policy**

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the CDA will take effect and another hearing will not be granted.

### ***Hearing Officer's Decision [24 CFR 982.555(e)(6)]***

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

#### **CDA Policy**

In rendering a decision, the hearing officer will consider the following matters:

**CDA Notice to the Family:** The hearing officer will determine if the reasons for the CDA's decision are adequately stated in the Notice.



**Discovery:** The hearing officer will determine if the CDA and the family were given the opportunity to examine any relevant documents in accordance with CDA policy.

**CDA Evidence to Support the CDA Decision:** The evidence consists of the facts presented. Evidence is not conclusive and it is not argument. The hearing officer will evaluate the facts to determine if they support the CDA's decision.

**Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the lawful grounds specified in the HUD regulations and CDA policies. If the grounds for termination are not specified in the regulations or in compliance with CDA policies, then the decision of the CDA will be overturned.

The hearing officer will issue a written decision to the family and the CDA no later than 10 business days after the hearing. The written decision will contain the following information:

**Hearing information:**

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the CDA representative; and
- Name of family representative (if any).

**Background:** A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of their testimony and that are admitted into evidence. The hearing officer is encouraged to label and number each piece of documentary evidence received at the hearing.

**Findings of Fact:** The hearing officer will make findings of fact, based on a preponderance of the evidence, in the written decision. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. "Preponderance of the evidence" may not be determined by the number of witnesses, but by the greater weight of all evidence. Findings of Fact shall be made for each of CDA's allegations or decisions that are the subject of the hearing, with an explanation as to why the facts were found (or not found) by the hearing officer.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the CDA's decision. The hearing officer must render a conclusion on each allegation or decision of the CDA. For example, after an Informal Hearing to terminate assistance, if there are multiple grounds or reasons for termination alleged by CDA, the hearing officer

shall address each of these grounds in his/her written decision, making separate findings of fact and conclusions for each ground.

**Order:** The hearing officer's written decision will include a statement of whether the CDA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the CDA to change the decision in accordance with the hearing officer's determination.

**Appeal information:** The written decision (and/or Notice of Final Decision transmitting the written decision to the family) shall include the following statement about the right to appeal:

“If either party disagrees with this decision, the party may request a review of the decision by filing an appropriate action in Circuit Court within thirty (30) days of the receipt of the written decision.”

***Issuance of Decision [24 CFR 982.555(e)(6)]***

A copy of the hearing order must be furnished promptly to the family.

CDA Policy

The hearing officer will mail a “Notice of Hearing Decision” to the CDA and to the participant on the same day. This notice will be sent by first-class mail. A copy of the “Notice of Hearing Decision” will be maintained in the CDA's file.

***Effect of Final Decision [24 CFR 982.555(f)]***

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

CDA Policy

The Executive Director has the authority to determine that the CDA is not bound by the decision of the hearing officer because the CDA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, the CDA will mail a “Notice of Final Decision” to the CDA and the participant on the same day. The “Notice of Final Decision” will be sent by first-class mail. A copy of this notice will be maintained in the CDA's file.

#### **16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

##### **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

##### **USCIS Appeal Process [24 CFR 5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

##### **CDA Policy**

The CDA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the CDA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

#### CDA Policy

The CDA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

### **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

#### ***Informal Hearing Officer***

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

#### ***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

#### CDA Policy

The family will be allowed to copy any documents related to the hearing at a charge equal to the current rate published under local general ordinance, MGO 3.70. The family must request discovery of CDA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

### ***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. Upon request, the PHA will provide competent interpretation services, free of charge.

### ***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

#### **CDA Policy**

The CDA will not provide a transcript of an audio taped hearing.

### ***Hearing Decision***

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

### **Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

### **Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

## **PART IV: OWNER OR FAMILY DEBTS TO THE PHA**

### **16-IV.A. OVERVIEW**

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. If the family breaches an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA, the PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement [24 CFR 982.552(c)(1)(vii)]. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

#### CDA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the CDA holds the owner or participant liable to return any overpayments to the CDA.

The CDA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

### **16-IV.B. REPAYMENT POLICY**

#### **Owner Debts to the CDA**

##### CDA Policy

Any amount due to the CDA by an owner must be repaid by the owner within 30 days of the CDA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the CDA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the CDA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the CDA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the CDA will ban the owner from future participation in the program and pursue other modes of collection.

When an owner refuses to repay monies owed to the CDA, the CDA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

#### **Family Debts to the CDA**

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine

retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18].

#### CDA Policy

Any amount owed to the CDA by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the CDA will offer to enter into a repayment agreement in accordance with the policies below.

#### **Criminal Prosecution for Program Fraud/Abuse**

Local, state or federal criminal prosecution should be considered by the CDA in flagrant cases, if the abuse committed was over several years, the fraud and/or underpayments are substantial and the CDA documents that a family and/or owner willfully intended to misrepresent the truth [HUD OIG Integrity Bulletin, Summer 2015].

#### CDA Policy

The CDA will consult with the HUD Field Office and regional OIG Special Agent in Charge (SAC) to determine whether it will refer the matter to the state or local district attorney to pursue criminal fraud charges.

#### **Refusal to Enter into an Agreement**

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA must terminate assistance [Notice PIH 2018-18].

#### CDA Policy

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the CDA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

When a family refuses to repay monies owed to the CDA, in addition to termination of program assistance, the CDA will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil lawsuit

State income tax set-off program

#### **Repayment Agreement [24 CFR 792.103]**

The term *repayment agreement* refers to a written formal document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

#### **General Repayment Agreement Guidelines for Families**

##### ***Down Payment Requirement***

#### CDA Policy

Before executing a repayment agreement with a family, the CDA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the CDA that a down payment of 10 percent would impose an undue hardship, the CDA may, in its sole discretion, require a lesser percentage or waive the requirement.

### ***Payment Thresholds***

Notice PIH 2018-18 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family’s monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2018-18 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

#### **CDA Policy**

The CDA has established the following thresholds for repayment of debts:

Amounts ~~over between \$3,000 and the federal or state threshold for criminal prosecution~~ must be repaid within 36 months.

Amounts between \$2,000 and \$2,999 must be repaid within 30 months.

Amounts between \$1,000 and \$1,999 must be repaid within 24 months.

Amounts under \$1,000 must be repaid within 12 months.

If a family can provide evidence satisfactory to the CDA that the threshold applicable to the family’s debt would impose an undue hardship, the CDA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the CDA will consider all relevant information, including the following:

The amount owed by the family to the CDA

The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family’s control

The family’s current and potential income and expenses

The family’s current family share, as calculated under 24 CFR 982.515

The family’s history of meeting its financial responsibilities

### ***Execution of the Agreement***

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

#### **CDA Policy**

Any repayment agreement between the CDA and a family must be signed and dated by the CDA and by the head of household and spouse/co-head (if applicable).

### ***Due Dates***

#### **CDA Policy**



All payments are due by the close of business on the 15<sup>th</sup> day of the month. If the 15<sup>th</sup> does not fall on a business day, the due date is the close of business on the first business day after the 15<sup>th</sup>.

### ***Late or Missed Payments***

#### **CDA Policy**

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the CDA, the CDA will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the CDA will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the CDA will terminate assistance in accordance with the policies in Chapter 12 .

### ***No Offer of Repayment Agreement***

#### **CDA Policy**

The CDA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the CDA, in consultation with HUD and local law enforcement, determine to pursue criminal charges in connection with the conduct and the amounts owed. ~~the amount owed by the family exceeds the federal or state threshold for criminal prosecution.~~

### **Repayment Agreement Terms**

All repayment agreements must be in writing, dated, signed by both the family and the PHA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2018-18 requires certain provisions, at a minimum, be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

## **PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)**

### **16-V.A. OVERVIEW**

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

### **16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]**

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s performance under each SEMAP indicator in accordance with program requirements.

### **HUD Verification Method**

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

### **16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]**

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than \$300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

<b>SEMAP Indicators</b>
<p><b>Indicator 1: Selection from the waiting list</b>  <b>Maximum Score: 15</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list.</li> <li>• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control samples.</li> </ul>
<p><b>Indicator 2: Rent reasonableness</b>  <b>Maximum Score: 20</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units at the required times.</li> <li>• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.</li> </ul>
<p><b>Indicator 3: Determination of adjusted income</b>  <b>Maximum Score: 20</b></p> <ul style="list-style-type: none"> <li>• This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.</li> <li>• Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.</li> </ul>
<p><b>Indicator 4: Utility allowance schedule</b>  <b>Maximum Score: 5</b></p> <ul style="list-style-type: none"> <li>• This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.</li> <li>• Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.</li> </ul>

**Indicator 5: NSPIRE quality control inspections****Maximum Score: 5**

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS NSPIRE inspections.
- Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.

**Indicator 6: NSPIRE enforcement****Maximum Score: 10**

- This indicator shows whether, following each inspection of a unit under contract where the unit fails to meet NSPIRE standards, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all deficiencies in accordance with required time frames, according to the PHA's certification.

**Indicator 7: Expanding housing opportunities****Maximum Points: 5**

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

**Indicator 8: FMR limit and payment standards****Maximum Points: 5 points**

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

**Indicator 9: Annual reexaminations****Maximum Points: 10**

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are less than two months overdue, according to data from PIC.

**Indicator 10: Correct tenant rent calculations****Maximum Points: 5**

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

**Indicator 11: Pre-contract inspections****Maximum Points: 5**

- This indicator shows whether newly leased units pass inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed inspection on or before the effective date of the lease and HAP contract, according to data from PIC.

**Indicator 12: Annual inspections****Maximum Points: 10**

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual inspections of units under contract that are more than 2 months overdue, according to data from PIC.

**Indicator 13: Lease-up****Maximum Points: 20 points**

- This indicator shows whether the PHA enters HAP contracts for at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.
- Points are based on utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

**Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances****Maximum Points: 10**

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

**Success Rate of Voucher Holders****Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

**Deconcentration Bonus Indicator****Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50<sup>th</sup> percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.



## **PART VI: RECORD KEEPING**

### **16-VI.A. OVERVIEW**

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

### **16-VI.B. RECORD RETENTION [24 CFR 982.158; 24 CFR 908.101]**

During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

The PHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].

The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].

Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

#### CDA Policy



The CDA will keep for at least three years records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal access final rule, or VAWA

The PHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking under the PHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [see 24 CFR 5.2002(e)(12)].

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

## **16-VI.C. RECORDS MANAGEMENT**

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

### **CDA Policy**

All applicant and participant information will be kept in a secure location and access will be limited to authorized CDA staff.

CDA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

### **Upfront Income Verification (UIV) Records**

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

### **CDA Policy**

Prior to utilizing HUD's EIV system, the CDA will adopt and implement EIV security procedures required by HUD.

## **Criminal Records**

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

## **Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

## **Documentation of Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking**

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking see section 16-IX.E.



## **PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL**

### **16-VII.A. OVERVIEW**

The PHA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

### **16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]**

The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days. The PHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

#### CDA Policy

Upon notification by the owner, the CDA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, the CDA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

### **16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified elevated blood lead level.

If the PHA obtains names and addresses of elevated blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

#### CDA Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the CDA is not providing such a report.



## **PART VIII: DETERMINATION OF INSUFFICIENT FUNDING**

### **16-VIII.A. OVERVIEW**

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. If a PHA denies a family a portability move based on insufficient funding, the PHA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

### **16-VIII.B. METHODOLOGY**

#### CDA Policy

The CDA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the CDA's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the CDA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority and funding reserves, or if the CDA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the CDA will be considered to have insufficient funding.



## **PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY**

### **16-IX.A. OVERVIEW**

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault stalking, and human trafficking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Stalking, and Human Trafficking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking"; and 12-II.F, "Termination Notice."

### **16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]**

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship



- The term *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:
  - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
  - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
  - A person with whom the victim shares a child in common
  - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
- The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:
  - Restrict a person's access to money, assets, credit, or financial information
  - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
  - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.
- The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:
  - Internet enabled devices
  - Online spaces and platforms
  - Computers
  - Mobile devices

- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

## **16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]**

### **Notification to Public**

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

#### CDA Policy

The CDA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of the **CDA's** emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for ~~Certain~~ Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) ~~(included in Exhibits 16-1 and 16-2)~~

**Domestic Abuse Intervention Services Help Line (Exhibit 16-1 thru 16-4)**

Contact information for local victim advocacy groups or service providers

### **Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]**

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

#### CDA Policy

The CDA will provide applicants with information about VAWA at the time the family is admitted to the program, as part of the written briefing packet and at their initial certification meeting. The CDA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The CDA will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. The CDA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

#### CDA Policy

Whenever the CDA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the CDA may decide not to send mail regarding VAWA protections to the victim's unit if the CDA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the CDA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

#### **Notification to Owners and Managers**

While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

#### CDA Policy

The CDA will inform owners and managers with information about their rights and obligations under VAWA utilizing any or all of the following means of notification:

- As appropriate in day-to-day interactions with owners and managers
- Inserts in 1099s, owner workshops, classes, orientations, mass mailings, and/or newsletters

The VAWA information provided to owners will consist of the notice in Exhibit 16-5 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking and Alternate Documentation.

#### **16-IX.D. DOCUMENTATION [24 CFR 5.2007]**

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [FR Notice 11/16/16].

##### CDA Policy

Any request for documentation of domestic violence, dating violence, sexual assault, stalking, human trafficking, will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The CDA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the CDA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the CDA will be in writing.

Once the victim provides documentation, the CDA will acknowledge receipt of the documentation within 10 business days.

### **Conflicting Documentation [24 CFR 5.2007(e)]**

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

#### CDA Policy

If presented with conflicting certification documents from members of the same household, the CDA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.

When requesting third-party documents, the CDA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the CDA does not receive third-party documentation within the required timeframe (and any extensions) the CDA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the CDA will hold separate hearings for the applicants or tenants.

### **Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

#### CDA Policy

If the CDA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, stalking or human trafficking, the CDA will document acceptance of the statement or evidence in the individual's file.

### **Failure to Provide Documentation [24 CFR 5.2007(c)]**

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

#### **16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

##### CDA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the CDA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

<b>EXHIBIT 16-1: NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT (FORM HUD-5380): HOUSING RIGHTS FOR VICTIMS</b>
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**Community Development Authority, City of Madison**

**Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

**When should I receive this form?** A covered housing provider must provide a copy of the Notice of Occupancy Rights Under The Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) when you are admitted as a tenant, when you receive an eviction or termination notice and prior to termination of tenancy, or when you are denied as an applicant. A covered housing provider may provide these forms at additional times.

**What is the Violence Against Women Act (“VAWA”)?** This notice describes protections that may apply to you as an applicant or a tenant under a housing program covered by a federal law called the Violence Against Women Act (“VAWA”). VAWA provides housing protections for victims of domestic violence, dating violence, sexual assault or stalking. VAWA protections must be in leases and other program documents, as applicable. VAWA protections may be raised at any time. You do not need to know the type or name of the program you are participating in or applying to in order to seek VAWA protections.

**What if I require this information in a language other than English?** To read this information in Spanish or another language, please contact [housing@cityofmadison.com](mailto:housing@cityofmadison.com). You can read translated VAWA forms at [https://www.hud.gov/program\\_offices/administration/hudclips/forms/hud5a#4](https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4). If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

**What do the words in this notice mean?**

- *VAWA violence/abuse* means one or more incidents of domestic violence, dating violence, sexual assault, or stalking.
- *Victim* means any victim of *VAWA violence/abuse*.
- *Affiliated person* means the tenant’s spouse, parent, sibling, or child; or any individual, tenant, or lawful occupant living in the tenant’s household; or anyone for whom the tenant acts as parent/guardian.
- *Covered housing program*<sup>1</sup> includes the following HUD programs:
  - Public Housing
  - Tenant-based vouchers (TBV, also known as Housing Choice Vouchers or HCV) and Project-based Vouchers (PBV) Section 8 programs
  - Section 8 Project-Based Rental Assistance (PBRA)
  - Section 8 Moderate Rehabilitation Single Room Occupancy
  - Section 202 Supportive Housing for the Elderly
  - Section 811 Supportive Housing for Persons with Disabilities
  - Section 221(d)(3)/(d)(5) Multifamily Rental Housing
  - Section 236 Multifamily Rental Housing
  - Housing Opportunities for Persons With AIDS (HOPWA) program

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<sup>1</sup> For information about non-HUD covered housing programs under VAWA, see Interagency Statement on the Violence Against Women Act’s Housing Provisions at <https://www.hud.gov/sites/dfiles/PA/documents/InteragencyVAWAHousingStmnt092024.pdf>.

- HOME Investment Partnerships (HOME) program
- The Housing Trust Fund
- Emergency Solutions Grants (ESG) program
- Continuum of Care program
- Rural Housing Stability Assistance program

◦ *Covered housing provider* means the individual or entity under a covered housing program that is responsible for providing or overseeing the VAWA protection in a specific situation. The covered housing provider may be a public housing agency, project sponsor, housing owner, mortgagor, housing manager, State or local government, public agency, or a nonprofit or for-profit organization as the lessor.

**What if I am an applicant under a program covered by VAWA?** You can't be denied housing, housing assistance, or homeless assistance covered by VAWA just because you (or a household member) are or were a victim or just because of problems you (or a household member) had as a direct result of being or having been a victim. For example, if you have a poor rental or credit history or a criminal record, and that history or record is the direct result of you being a victim of VAWA abuse/violence, that history or record cannot be used as a reason to deny you housing or homeless assistance covered by VAWA.

**What if I am a tenant under a program covered by VAWA?** You cannot lose housing, housing assistance, or homeless assistance covered by VAWA or be evicted just because you (or a household member) are or were a victim of VAWA violence/abuse. You also cannot lose housing, housing assistance, or homeless assistance covered by VAWA or be evicted just because of problems that you (or a household member) have as a direct result of being or having been a victim. For example, if you are a victim of VAWA abuse/violence that directly results in repeated noise complaints and damage to the property, neither the noise complaints nor property damage can be used as a reason for evicting you from housing covered by VAWA. You also cannot be evicted or removed from housing, housing assistance, or homeless assistance covered by VAWA because of someone else's criminal actions that are directly related to VAWA abuse/violence against you, a household member, or another affiliated person.

**How can tenants request an emergency transfer?** Victims of VAWA violence/abuse have the right to request an emergency transfer from their current unit to another unit for safety reasons related to the VAWA violence/abuse. An emergency transfer cannot be guaranteed, but you can request an emergency transfer when:

1. You (or a household member) are a victim of VAWA violence/abuse;
2. You expressly request the emergency transfer; **AND**
3. **EITHER**
  - a. you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit; **OR**
  - b. if you (or a household member) are a victim of sexual assault, either you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) were to stay in the unit, or the sexual assault occurred on the premises and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

You can request an emergency transfer even if you are not lease compliant, for example if you owe rent. If you request an emergency transfer, your request, the information you provided to make the request, and your new unit's location must be kept strictly confidential by the covered housing provider. The covered housing provider is required to maintain a VAWA emergency transfer plan and make it available to you upon request. To request an emergency transfer or to read the covered housing provider's VAWA emergency transfer plan, contact [housing@cityofmadison.com](mailto:housing@cityofmadison.com). The VAWA



emergency transfer plan includes information about what the covered housing provider does to make sure your address and other relevant information are not disclosed to your perpetrator.

**Can the perpetrator be evicted or removed from my lease?** Depending on your specific situation, your covered housing provider may be able to divide the lease to evict just the perpetrator. This is called “lease bifurcation.”

**What happens if the lease bifurcation ends up removing the perpetrator who was the only tenant who qualified for the housing or assistance?** In this situation, the covered housing provider must provide you and other remaining household members an opportunity to establish eligibility or to find other housing. If you cannot or don’t want to establish eligibility, then the covered housing provider must give you a reasonable time to move or establish eligibility for another covered housing program. This amount of time varies, depending on the covered housing program involved. The table below shows the reasonable time provided under each covered housing programs with HUD. Timeframes for covered housing programs operated by other agencies are determined by those agencies.

<b>Covered Housing Program(s)</b>	<b>Reasonable Time for Remaining Household Members to Continue to Receive Assistance, Establish Eligibility, or Move.</b>
HOME and Housing Trust Fund, Continuum of Care Program (except for permanent supportive housing), ESG program, Section 221(d)(3) Program, Section 221(d)(5) Program, Rural Housing Stability Assistance Program	Because these programs do not provide housing or assistance based on just one person’s status or characteristics, the remaining tenant(s), or family member(s) in the CoC program, can keep receiving assistance or living in the assisted housing as applicable.
Permanent supportive housing funded by the Continuum of Care Program	The remaining household member(s) can receive rental assistance until expiration of the lease that is in effect when the qualifying member is evicted.
Housing Choice Voucher, Project-based Voucher, and Public Housing programs (for Special Purpose Vouchers (e.g., HUD-VASH, FUP, FYI, etc.), see also program specific guidance)	<p>If the person removed was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.</p> <p>For HUD-VASH, if the veteran is removed, the remaining family member(s) can keep receiving assistance or living in the assisted housing as applicable. If the veteran was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days to establish program eligibility or find alternative housing.</p>
Section 202/811 PRAC and SPRAC	The remaining household member(s) must be given 90 calendar days from the date of the lease bifurcation or until the lease expires, whichever is first, to establish program eligibility or find alternative housing.

Section 202/8	<p>The remaining household member(s) must be given 90 calendar days from the date of the lease bifurcation or when the lease expires, whichever is first, to establish program eligibility or find alternative housing.</p> <p>If the person removed was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.</p>
Section 236 (including RAP); Project-based Section 8 and Mod Rehab/SRO	<p>The remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.</p>
HOPWA	<p>The remaining household member(s) must be given no less than 90 calendar days, and not more than one year, from the date of the lease bifurcation to establish program eligibility or find alternative housing. The date is set by the HOPWA Grantee or Project Sponsor.</p>

**Are there any reasons that I can be evicted or lose assistance?** VAWA does not prevent you from being evicted or losing assistance for a lease violation, program violation, or violation of other requirements that are not due to the VAWA violence/abuse committed against you or an affiliated person. However, a covered housing provider cannot be stricter with you than with other tenants, just because you or an affiliated person experienced VAWA abuse/violence. VAWA also will not prevent eviction, termination, or removal if other tenants or housing staff are shown to be in immediate, physical danger that could lead to serious bodily harm or death if you are not evicted or removed from assistance. **But only if no other action can be taken to reduce or eliminate the threat** should a covered housing provider evict you or end your assistance, if the VAWA abuse/violence happens to you or an affiliated person. A covered housing provider must provide a copy of the Notice of Occupancy Rights Under The Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) when you receive an eviction or termination notice and prior to termination of tenancy.

**What do I need to document that I am a victim of VAWA abuse/violence?** If you ask for VAWA protection, the covered housing provider may request documentation showing that you (or a household member) are a victim. BUT the covered housing provider must make this request in writing and must give you at least 14 business days (weekends and holidays do not count) to respond, and you are free to choose any one of the following:

1. A self-certification form (for example, Form-HUD 5382), which the covered housing provider must give you along with this notice. Either you can fill out the form or someone else can complete it for you;
2. A statement from a victim/survivor service provider, attorney, mental health professional or medical professional who has helped you address incidents of VAWA violence/abuse. The professional must state “under penalty of perjury” that he/she/they believes that the incidents of VAWA violence/abuse are real and covered by VAWA. Both you and the professional must sign the statement;
3. A police, administrative, or court record (such as a protective order) that shows you (or a household member) were a victim of VAWA violence/abuse; **OR**
4. If allowed by your covered housing provider, any other statement or evidence provided by you.

It is your choice which documentation to provide and the covered housing provider must accept any one of the above as documentation. The covered housing provider is prohibited from seeking additional documentation of victim status or requiring more than one of these types of documentation, unless the covered housing provider receives conflicting information about the VAWA violence/abuse.

If you do not provide one of these types of documentation by the deadline, the covered housing provider does not have to provide the VAWA protections you requested. If the documentation received by the covered housing provider contains conflicting information about the VAWA violence/abuse, the covered housing provider may require you to provide additional documentation from the list above, but the covered housing provider must give you another 30 calendar days to do so.

**Will my information be kept confidential?** If you share information with a covered housing provider about why you need VAWA protections, the covered housing provider must keep the information you share strictly confidential. This information should be securely and separately kept from your other tenant files. No one who works for your covered housing provider will have access to this information, unless there is a reason that specifically calls for them to access this information, your covered housing provider explicitly authorizes their access for that reason, and that authorization is consistent with applicable law.

Your information **will not be disclosed** to anyone else or put in a database shared with anyone else, except in the following situations:

1. If you give the covered housing provider written permission to share the information for a limited time;
2. If the covered housing provider needs to use that information in an eviction proceeding or hearing; or
3. If other applicable law requires the covered housing provider to share the information.

**How do other laws apply?** VAWA does not limit the covered housing provider's duty to honor court orders about access to or control of the property, or civil protection orders issued to protect a victim of VAWA abuse/violence. Additionally, VAWA does not limit the covered housing provider's duty to comply with a court order with respect to the distribution or possession of property among household members during a family break up. The covered housing provider must follow all applicable fair housing and civil rights requirements.

**Can I request a reasonable accommodation?** If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. To request a reasonable accommodation, please contact **[housing@cityofmadison.com](mailto:housing@cityofmadison.com)**. Your covered housing provider must also ensure effective communication with individuals with disabilities.

**Have your protections under VAWA been denied?** If you believe that the covered housing provider has violated these rights, you may seek help by contacting:

U.S. Department of Housing and Urban Development (HUD)  
Region V Fair housing and Equal Opportunity Office  
Milwaukee Field Office  
310 W. Wisconsin Avenue, Suite 950  
Milwaukee, WI 53203-2289  
(414) 297-3214

You can also find additional information on filing VAWA complaints at <https://www.hud.gov/VAWA> and [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/VAWA](https://www.hud.gov/program_offices/fair_housing_equal_opp/VAWA). To file a VAWA complaint, visit <https://www.hud.gov/fairhousing/fileacomplaint>.

**Need further help?**

- ° For additional information on VAWA and to find help in your area, visit <https://www.hud.gov/vawa>.
- ° To talk with a housing advocate, contact **Domestic Abuse Intervention Services** at **Help Line: (608) 251-4445**    **Text Help Line: (608) 420-4638**.

**Public reporting burden** for this collection of information is estimated to range from 45 to 90 minutes per each covered housing provider's response, depending on the program. This includes time to print and distribute the form. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410. This notice is required for covered housing programs under section 41411 of VAWA and 24 CFR 5.2003. Covered housing providers must give this notice to applicants and tenants to inform them of the VAWA protections as specified in section 41411(d)(2). This is a model notice, and no information is being collected. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

<b>EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (FORM HUD-5382)</b>
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**Community Development Authority, City of Madison**  
**CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE,**  
**SEXUAL ASSAULT, OR STALKING**

**Confidentiality Note:** Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

**Purpose of Form:** If you are a tenant of or applicant for housing assisted under a covered housing program, or if you are applying for or receiving transitional housing or rental assistance under a covered housing program, and ask for protection under the Violence Against Women Act (“VAWA”), you may use this form to comply with a covered housing provider's request for written documentation of your status as a "victim". This form is accompanied by a "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

**VAWA protects individuals and families regardless of a victim’s age, sex, or marital status.**

You are not expected **and cannot be asked or required** to claim, document, or prove victim status or VAWA violence/abuse other than as stated in "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

This form is **one of your available options** for responding to a covered housing provider’s written request for documentation of victim status or the incident(s) of VAWA violence/abuse. If you choose, you may submit one of the types of third-party documentation described in Form HUD-5380, in the section titled, “What do I need to document that I am a victim?”. Your covered housing provider must give you at least 14 business days (weekends and holidays do not count) to respond to their written request for this documentation.

**Will my information be kept confidential?** Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person’s access for that reason, **and** (3) the authorization complies with applicable law. This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, **or** (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

**What if I require this information in a language other than English?** To read this in Spanish or another language, please contact [housing@cityofmadison.com](mailto:housing@cityofmadison.com). You can read translated VAWA forms at [https://www.hud.gov/program\\_offices/administration/hudclips/forms/hud5a#4](https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4). If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

**Can I request a reasonable accommodation?** If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary

to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities.

**Need further help?** For additional information on VAWA and to find help in your area, visit <https://www.hud.gov/vawa>. To speak with a housing advocate, contact **Domestic Abuse Intervention Services** at **Help Line: (608) 251-4445** **Text Help Line: (608) 420-4638**.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**1. Name(s) of victim(s):** \_\_\_\_\_

**2. Your name** *(if different from victim's)*: \_\_\_\_\_

**3. Name(s) of other member(s) of the household:** \_\_\_\_\_

**4. Name of the perpetrator** *(if known and can be safely disclosed)*: \_\_\_\_\_

**5. What is the safest and most secure way to contact you? (You may choose more than one.)**

If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

☐ Phone    Phone Number: \_\_\_\_\_

Safe to receive a voicemail:    ☐ Yes    ☐ No

☐ E-mail    E-mail Address: \_\_\_\_\_

Safe to receive an email:    ☐ Yes    ☐ No

☐ Mail Mailing Address: \_\_\_\_\_

Safe to receive mail from your housing provider:    ☐ Yes    ☐ No

☐ Other    Please List: \_\_\_\_\_

**6. Anything else your housing provider should know to safely communicate with you?**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Applicable definitions of domestic violence, dating violence, sexual assault, or stalking:**

*Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who lives with or has lived with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, 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.

Spouse or intimate partner of the victim includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

*Dating violence* means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; **and**
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.

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

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

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

**Certification of Applicant or Tenant:** By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that one or more members of my household is or has been a victim of domestic violence, dating violence, sexual assault, or stalking as described in the applicable definitions above.

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**Signature**

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**Date**

**Public Reporting Burden** for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Housing providers in programs covered by VAWA may request certification that the applicant or tenant is a victim of VAWA violence/abuse. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.





<p><b>EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.</b> <b>FORM HUD-5381</b></p>
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**The Community Development Authority (CDA), of the City of Madison  
Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual  
Assault, Stalking, or Human Trafficking**

The CDA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. In accordance with the Violence Against Women Act of 1994, as amended (“VAWA”),<sup>2</sup> the CDA allows any tenant who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking to request an emergency transfer from the tenant’s current unit to another unit. VAWA protections are not limited to women. Victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance regarding safety and security. This plan is based on Federal regulations at 24 Code of Federal Regulations (CFR) part 5, subpart L, related program regulations, and the model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD). HUD is the Federal agency that oversees that Public Housing and Housing Choice Voucher (HCV) programs are in compliance with VAWA.

**Definitions**

- **External emergency transfer** refers to an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is, the tenant must undergo an application process in order to reside in the new unit. For example, a CDA Public Housing tenant may request to move to another CDA affordable housing unit (tax credit or PBV), or a Section 8 voucher holder may request to transfer to a different private rental unit and retain their Section 8 assistance.
- **Internal emergency transfer** refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process. For example, a Public Housing tenant may request to transfer to a different unit within the same property or from one housing complex to another housing complex within the CDA’s Public Housing property portfolio.
- **Safe unit** refers to a unit that the victim of VAWA violence/abuse believes is safe.

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<sup>2</sup>Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

- **VAWA violence/abuse** means an incident or incidents of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in 24 CFR 5.2003 and “Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking” (Form HUD-5382).

### **Eligibility for Emergency Transfers**

A tenant may seek an emergency transfer to another unit if they or their household member is a victim of VAWA violence/abuse, as outlined in the “Notice of Occupancy Rights Under the Violence Against Women Act,” Form HUD-5380. This emergency transfer plan provides further information on emergency transfers, and the CDA must provide a copy if requested. The CDA may ask for submission of a written request for an emergency transfer, such as form HUD-5383, to certify eligibility for the emergency transfer.

#### **A Tenant is eligible for an emergency transfer if:**

1. The tenant (or their household member) is a victim of VAWA violence/abuse;
2. The tenant expressly requests the emergency transfer; **AND**
3. **EITHER**
  - a. The tenant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if they or (their household member) stays in the same dwelling unit; **OR**
  - b. If the tenant (or their household member) is a victim of sexual assault, either the tenant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if the tenant (or their household member) were to stay in the unit, or the sexual assault occurred on the premises and the tenant requested an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

The CDA, in response to an emergency transfer request, should not evaluate whether the tenant is in good standing as part of the assessment or provision of an emergency transfer. Whether or not a tenant is in good standing does not impact on their ability to request an emergency transfer under VAWA.

### **Emergency Transfer Policies**

If the tenant is a participant in a CDA Public Housing, Multifamily Housing, or Section 8 program and the tenant requests an emergency transfer as described in this plan, the CDA will assist the tenant to move to a safe unit quickly within their existing housing program. The CDA will make exceptions to program regulations restricting moves as required. At the tenant's request, the CDA will refer the tenant to organizations that may be able to further assist.

The tenant may also request an emergency transfer under the following CDA programs for which they are required to apply and may do so if the waiting lists are open. Emergency transfers will not take priority over waiting list admissions for these programs:

- Public Housing Program

- Multifamily Housing Program
- Project-Based Voucher (PBV) assistance

If the tenant is assisted under the CDA's Section 8 Project-Based Voucher (PBV) program, they may request an emergency transfer under the following for which they are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and the tenant determines that the vacant unit is safe)
- Project-based assistance in another development owned by CDA

**Internal transfers when a safe unit is immediately available:**

Upon receipt of a completed VAWA transfer request and absent any conflicting or missing information, the CDA will immediately process the request for transfer submitted by the tenant due to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

The CDA will make the maximum effort to approve or deny internal transfer requests as soon as accurate and complete information is received, but no later than fourteen (14) business days. However, approval of an emergency transfer does not guarantee a safe and appropriate unit is available. If one is not available at the time, the CDA will refer the tenant to organizations that may be able to further assist.

The CDA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available if the resident believes that there is a threat of further imminent harm if they remain in the unit. The CDA defines immediately available as a vacant unit, that is ready for move-in within a reasonable period, not to exceed 90 days.

The tenant, except when the transfer is due to the need of the CDA, will pay all moving costs related to the transfer.

When a family transfers from one CDA owned unit to another, the CDA will transfer the family's security deposit to the new unit. The resident will be billed for any maintenance or others charges due for the "old" unit. The resident must pay the difference of the security deposit if transferring to a unit with a higher security deposit.

**Internal transfers when a safe unit is not immediately available:**

If a Public or Multifamily Housing internal transfer to a safe unit is not immediately available, the CDA will place the tenant on the emergency transfer waiting list. At the request of the tenant, the CDA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the CDA will also refer the tenant to organizations that may be able to further assist.

**External transfers:**

Tenants with a Housing Choice Voucher or other tenant-based rental assistance who qualify for an Emergency Transfer will be provided with a transfer voucher and Request for Tenancy

Approval form without requiring a move-out notice (or mutual rescission if they are in an active lease). The tenant will also be provided with all available information on current unit availability known to the CDA.

VAWA provisions do not supersede eligibility or other occupancy requirements that may apply under a covered housing program. The CDA may be unable to transfer a tenant to a particular unit if the tenant cannot establish eligibility for that unit.

### **Emergency Transfer Request Documentation**

To request a VAWA emergency transfer, a Public or Multifamily Housing tenant shall notify their Property Management Office. A Section 8 participant shall notify the CDA Section 8 Office. Contact information, including direct telephone numbers and email addresses is available at: <https://www.cityofmadison.com/dpced/housing/staff-directory/467/>. VAWA emergency transfer requests may also be mailed to the CDA's Central Office at 215 Martin Luther King, Jr., Blvd, Suite 161, Madison WI 53703.

If the CDA does not already have documentation of the occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the CDA may ask for this documentation in accordance with 24 CFR 5.2007, which states a tenant may satisfy the documentation request by providing any one of the following forms of documentation:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if the tenant (or household member) stays in the same dwelling unit; OR
2. In the case of a tenant (or household member) who is a victim of sexual assault, **either** a statement that the tenant reasonably believes there is a threat of imminent harm from further violence or trauma if the tenant (or household member stays in the same dwelling unit), **or** a statement that the sexual assault occurred on the premises and the tenant requested an emergency transfer within 90 days (including holidays and weekend days) of when the assault occurred.

### **Form HUD-5383 (Exhibit 16-4) may be used for making a written request for a VAWA emergency transfer.**

All documentation must be provided by the tenant within fourteen (14) business days of the request for documentation from the CDA. Unless the CDA receives documentation that contains conflicting information, (including certification forms from two or more household members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, as described in 24 CFR 5.2007(b)(2)), the CDA cannot require third-party documentation to determine status as a VAWA victim for emergency transfer eligibility. If a third-party request is made by the CDA, the tenant shall have 30 calendar days from the date of the request to provide the information.

The CDA will provide reasonable accommodations to this policy for individuals with disabilities, which may include the option to provide a request orally.

## **Priority for Transfers**

Tenants who qualify for an emergency transfer under VAWA will be given the following priority over other categories of tenants seeking transfers and individuals seeking placement on waiting lists:

- CDA waitlists do not give waitlist preference for VAWA emergency transfers. Current tenants who qualify for a VAWA emergency transfer will be given first priority if and when a safe and appropriate unit is available. Emergency transfers under VAWA will take priority over waiting list admissions.
- For Public and Multifamily Housing, VAWA emergency transfers will take priority over CDA required transfers (transfers not requested by tenant) and general transfer requests made by tenants who are not a VAWA transfer request.
- The processing of all items related to the Emergency Transfer of a Housing Choice Voucher (or other tenant-based rental assistance) tenant will be given priority over other transfers in order to expedite the transfer of their assistance to a safe unit.
- For Section 8 Project Based Voucher (PBV) tenants, if the CDA is operating under shortfall as determined by HUD, tenants who have requested emergency transfers will be given priority for the next available voucher.

## **Confidentiality**

If a tenant inquires about or requests any VAWA protections or represents that they or a household member are a victim of VAWA violence/abuse entitled to VAWA protections, the CDA must keep any information they provide concerning the VAWA violence/abuse, their request for an emergency transfer, and their or a household member's status as a victim strictly confidential. This information should be securely and separately kept from tenant files. All the information provided by or on behalf of the tenant to support an emergency transfer request, including information on the Certification Form (HUD-5382) and the Emergency Transfer Request Form (HUD-5383) (collectively referred to as "Confidential Information") may only be accessed by CDA employees or contractors if explicitly authorized by the CDA for reasons that specifically call for those individuals to have access to that information under applicable Federal, State, or local law.

Confidential information must not be entered into any shared database or disclosed to any other entity or individual, except if:

- Written permission by the victim in a time-limited release;
- Required for use in an eviction proceeding or hearing regarding termination of assistance;  
or
- Otherwise required by applicable law.

In addition, HUD's VAWA regulations require emergency transfer plans to provide strict confidentiality measures to ensure that the location of the victim's dwelling unit is never

disclosed to a person who committed, or threatened to commit, the VAWA violence/abuse. Accordingly, the CDA's confidentiality policy requires a written release of information, signed by the victim, to release any information outside the organization, unless the information is needed to execute an eviction, facilitate a hearing, or if the CDA is compelled by law to release the information. It is the CDA's policy to provide strict confidentiality in all areas and VAWA is no exception, including a tenant's request for the CDA to communicate with advocates or other community partners, which requires a signed Release of Information from the tenant.

### **Emergency Transfer Procedure**

The CDA cannot specify how long it will take from the time a transfer request is approved until the tenant can be placed in a new, safe unit. The CDA will, however, act as quickly as possible to assist a tenant who qualifies for an emergency transfer. If the CDA identifies an available unit and the tenant believes that unit would not be safe, the tenant may request a transfer to a different unit. The CDA may be unable to transfer a tenant and their household to a particular unit if the tenant and their household has not established, or cannot establish, eligibility for that unit.

If the CDA does not have any safe and available units for which the tenant is eligible, the CDA will assist the tenant in identifying other covered housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the CDA will also assist the tenant in contacting local organizations offering assistance to victims of VAWA.

### **Making the Emergency Transfer Plan Available**

The CDA's VAWA Emergency Transfer Plan (Form HUD-5381) may be found on the CDA's website at: <https://www.cityofmadison.com/dpced/housing/violence-against-women-act/538/> and can be provided upon request. VAWA information is also available in alternative languages and accessible formats at: <https://www.hud.gov/vawa#close>

### **Safety and Security of Tenants**

When the CDA receives any inquiry or request regarding an emergency transfer, the CDA will encourage the person making the inquiry or request to take all reasonable precautions to be safe, including seeking guidance and assistance from a victim service provider. However, tenants are not required to receive guidance or assistance from a victim service provider.

### **Resource Information**

For additional information on VAWA and to find help in your area, visit <https://www.hud.gov/vawa>.

You may also contact **Domestic Abuse Intervention Services of Dane County** at (608) 251-4445 or text (608) 420-4638. <https://abuseintervention.org>

If you are in danger, please call 911. Organizations offering assistance to victims of VAWA:

National Domestic Violence Hotline

<https://www.thehotline.org/>

1-800-799-SAFE (7233)

TTY: 1-800-787-3224

Text "START" to 88788

National Sexual Assault Hotline

<https://rainn.org/>

1-800-656-HOPE (4673)

Text HOPE to 64673

National Teen Dating Abuse Helpline

<https://www.loveisrespect.org/>

1-866-331-9474

Text LOVEIS to 22522

National Human Trafficking Hotline

<https://humantraffickinghotline.org/en>

1-888-373-7888

711 (TTY)

Text: 233733

National Runaway Safeline

<https://www.1800runaway.org/>

1-800-RUNAWAY (800-786-2929) (call or text)

National Center for Victims of Crime

<https://victimconnect.org/>

1-855-VICTIM (1-855-484-2846) (call or text)





<b>EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (Form HUD-5383)</b>
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**Community Development Authority, City of Madison**

**EMERGENCY TRANSFER REQUEST FOR VICTIMS OF  
DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**Confidentiality Note:** Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

**Purpose of Form:** If you are a tenant of housing assisted under a covered housing program, or if you are receiving transitional housing or rental assistance under a covered housing program, you may use this form to request an emergency transfer and certify that you qualify for an emergency transfer under the Violence Against Women Act (“VAWA”). This form refers to domestic violence, dating violence, sexual assault, or stalking as “VAWA violence/abuse.”

**VAWA protects individuals and families regardless of a victim’s age, sex, or marital status.**

**You may request an emergency transfer when:**

1. You (or a household member) are a victim of VAWA violence/abuse;
2. You expressly request the emergency transfer; **AND**
3. **EITHER**
  - a. you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit; **or**
  - b. if you (or a household member) are a victim of sexual assault, either you reasonably believe there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the unit, or the sexual assault occurred on the premises and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

A covered housing provider, in response to an emergency transfer request, should not evaluate whether you are in good standing as part of the assessment or provision of an emergency transfer. Whether or not you are in good standing does not impact your ability to request an emergency transfer under VAWA.

However, submitting this form does not necessarily mean that you will receive an emergency transfer. See your covered housing provider’s VAWA Emergency Transfer Plan for more information about VAWA emergency transfers and see “Notice of Occupancy Rights Under the Violence Against Women Act,” Form HUD-5380, for additional housing rights you may be entitled to.

**Am I required to submit any documentation to my covered housing provider?** Your covered housing provider may request documentation proving that you, or a household member, are a victim of VAWA violence/abuse, in addition to completing this emergency transfer request form. The request can be met by completing and submitting the VAWA Self-certification Form (Form HUD-5382), unless the covered housing provider receives conflicting information about the VAWA violence/abuse. If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you may, instead, choose to submit that documentation to your covered housing provider. See “Notice of Occupancy Rights Under the Violence Against Women Act,” Form HUD-5380, for more information.

**Will my information be kept confidential?** Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly

confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, **and** (3) the authorization complies with applicable law. This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, **or** (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

**What if I need this information in a language other than English?** To read this in Spanish or another language, please contact [housing@cityofmadison.com](mailto:housing@cityofmadison.com). You can read translated VAWA forms at [https://www.hud.gov/program\\_offices/administration/hudclips/forms/hud5a#4](https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a#4). If you speak or read in a language other than English, your covered housing provider must give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation).

**Can I request a reasonable accommodation?** If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request a reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities.

**Need further help?** For additional information on VAWA and to find help in your area, visit <https://www.hud.gov/vawa>. To speak with a housing advocate, contact **Domestic Abuse Intervention Services** at **Help Line: (608) 251-4445** **Text Help Line: (608) 420-4638**.

**TO BE COMPLETED BY OR ON BEHALF OF THE TENANT REQUESTING AN EMERGENCY TRANSFER**

1. **Name(s) of victim(s):** \_\_\_\_\_
2. **Your name (if different from victim's):** \_\_\_\_\_
3. **Name(s) of other household member(s):** \_\_\_\_\_  
\_\_\_\_\_
4. **Name(s) of other household member(s) who would transfer with the victim:** \_\_\_\_\_  
\_\_\_\_\_
5. **Name of the perpetrator (if known and can be safely disclosed):** \_\_\_\_\_
6. **Address of location from which the victim seeks to transfer:** \_\_\_\_\_  
\_\_\_\_\_
7. **Current Unit Size (# of bedrooms):** \_\_\_\_\_
8. **What is the safest and most secure way to contact you? (You may choose more than one.)**  
If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

☐ Phone Phone Number: \_\_\_\_\_  
 Safe to receive a voicemail: ☐ Yes ☐ No

☐ E-mail E-mail Address: \_\_\_\_\_  
 Safe to receive an email: ☐ Yes ☐ No

☐ Mail Mailing Address: \_\_\_\_\_  
 Safe to receive mail from your housing provider: ☐ Yes ☐ No

☐ Other Please List: \_\_\_\_\_

**9. Anything else your housing provider should know to safely communicate with you?**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**10. What features are requested for a safe unit?** You may list here any information that would facilitate a suitable transfer, such as accessibility needs, and a description of where it is safe or unsafe for you to live.

*(Please note that the ability to provide an emergency transfer is based on unit availability.)*

- |   |  |
|---|--|
| <input type="checkbox"/> New Neighborhood | <input type="checkbox"/> New Building                  |
| <input type="checkbox"/> First Floor unit | <input type="checkbox"/> Second Floor unit (and above) |
| <input type="checkbox"/> Near an Exit     | <input type="checkbox"/> Well-lit hallways/walkways    |
| <input type="checkbox"/> 24-hour Security | <input type="checkbox"/> Accessible unit               |
| <input type="checkbox"/> Other:           |  |

\_\_\_\_\_  
 \_\_\_\_\_

**11. To approve your request for an emergency transfer, your covered housing provider may require that you provide written documentation that you (or a household member) are a victim of VAWA violence/abuse. Your covered housing provider must make this request for documentation in writing. You can choose to submit any one of the following types of documentation:**

- Form HUD-5382 *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation*, which asks your name and the perpetrator's name (if known and safe to provide);
- A document signed by a victim service provider, attorney, mental health professional, or medical professional who has helped you address the VAWA violence/abuse. The professional must state "under penalty of perjury" that he/she/they believe in the occurrence of the incident of VAWA violence/abuse and that it is covered by VAWA. Both you and the professional must sign the statement;
- A police, administrative, or court record (such as a protective order) that shows you (or a household member) are a victim of VAWA violence/abuse; OR

- If permitted by your covered housing provider, a statement or other evidence provided by you.

**Certification of Tenant:** By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that I meet the conditions described on this form to qualify for an emergency transfer.

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Public reporting burden** for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Covered housing providers in programs covered by VAWA may ask for a written request for an emergency transfer for a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking. Housing providers may distribute this form to tenants and tenants may use it to request an emergency transfer. The information is subject to the confidentiality requirements of VAWA. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.