



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

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

Notice PIH 2007-5 (HA)

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Cross References:

HUD Notice PIH 2006-23

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

1. Purpose.

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

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

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

2. Background.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attachments