**Violence Against Women Act (VAWA) and the Application Process**

*Guidance for Developers and Marketing Agents of HPD/HDC-Marketed Affordable Housing*

August 2019

**Please note:**

* In this document, domestic violence, dating violence, sexual assault, and stalking are summarized as “domestic violence” or “DV.” The term “applicant” includes any member of the household.
* VAWA protections are not only available to women but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.

**Policy**

According to the U.S. Department of Housing and Urban Development (HUD) Violence Against Women Act (VAWA) Final Rule dated November 16, 2016, an applicant who is otherwise eligible for housing **may not be disqualified on the basis or as a direct result of the fact that they are a victim of domestic violence.** This guidance aims to clarify how HUD Notice PIH-2017-08 (HA) dated 5/19/17, “Violence Against Women Reauthorization Act of 2013 Guidance,” can be applied to applicants of HDC/HPD marketed units who are DV survivors and may otherwise be rejected under the existing applicant selection criteria.

Depending on the circumstances, **poor credit**, **failure to pay rent**, **poor rental history**, and/or a **criminal record** may be a *direct result* of DV, even though on the surface these “adverse factors” may appear unrelated to DV. For example, a victim may be forced by an abuser into activities that later result in negative credit, rental, or criminal records; or prevented from working or receiving pay due to force, threats, or injury. The negative effects of DV may be present during much of an abusive relationship or may present themselves only when a victim is attempting to leave or has left.

If, during the eligibility review process or in appealing a determination of ineligibility, an applicant claims that the reason they are ineligible for affordable housing is directly related to the fact that they are a victim of domestic violence, the Marketing Agent must follow the guidance in this document.

**Guidance**

The objectives of an applicant’s invoking VAWA rights are (1) to establish the existence of domestic violence; and (2) to show a nexus between the DV and the reasons for which they are deemed ineligible for affordable housing. Upon receipt of a claim invoking VAWA, the Marketing Agent should consider the applicant’s statement and any supporting documentation in determining if there is a connection between the DV and the reason they are ineligible for the affordable housing.

If further information from the applicant is necessary to determine whether this nexus exists, the Marketing Agent may request, in writing, additional supporting documentation to be provided within 14 days.

When examining the documentation to determine whether there is a nexus between the DV and reasons for ineligibility or rejection, the Marketing Agent should look for (1) information establishing the presence, historical or current, of DV, and (2) a timeline of abuse and resulting consequences relating to the reason the applicant is not eligible for the affordable housing.

The Marketing Agent may expect to receive items from the following lists of supporting documentation and information. However, the Marketing Agent should not expect to receive all of the following items and should consider supporting evidence that is not included on these lists.

**Supporting information and narrative:**

* Self-certification (optional), as defined in VAWA rule and HUD Notices, to establish presence of DV
* Letters from an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional, from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, which:
  + attest to presence of DV;
  + provide timeline of abuse and resulting consequences relating to rejection reason;
  + differentiate, if possible, between records of adverse factors due to the DV situation versus any that may be fully attributed to the applicant, keeping in mind that DV can extend beyond one event or instance over time;
  + if possible, identify specific records or incidents that may appear on credit and background reports, e.g. disputed accounts, court cases.
* Documentation to connect **poor credit, failure to pay rent, and poor rental history** with DV:
  + Credit report indicates disputed accounts
  + Letters from credit repair or financial counseling programs in which applicant is participating
  + If no longer living with abuser, evidence of credit improvement since separation
  + Documentation to support claim of **identity theft**: \*
    - Identity theft report
    - FTC identity theft affidavit
    - FBI internet crime complaint CTR report
    - Notation on credit report that identity theft has been reported
    - Proof of credit freeze

*\*The Agencies consider documented claims of identity theft regardless of DV status.*

* Documentation to connect **criminal record** with DV:
  + Domestic Incident Report (DIR) at or around the time the crime was committed and or prior DIR’s documenting that the applicant has a history of experiencing domestic violence
  + Order of Protection
  + Police report describing the circumstances around the crime
  + Letter from an employee or agent of a victim service provider, lawyer, or mental health provider from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, that establishes:
    - A timeline of events to show the applicant was experiencing DV when the crime was committed; and
    - A professional opinion that the crime was committed due to force or coercion by the abusive partner and/or the crime was committed in self-defense.

**Process**

1. The Marketing Agent must attach the VAWA *Notice of Applicant Rights* to the following notices:
   * + Ineligibility notice (Attachment H-2)
     + Rejection notice (Attachment H-4)
2. Upon receipt of a claim in which the applicant invokes VAWA, the agent must perform an immediate review to determine if there is a nexus between the reason the applicant is ineligible and DV.
3. If the applicant has not provided sufficient documents to support their claim, the Marketing Agent should request further documentation within 14 calendar days and the applicant should be encouraged to contact a Family Justice Center (FJC) for assistance in acquiring additional documents. When referring to the FJC the Marketing agent should advise the applicant to inform the FJC that they were referred by HPD or HDC for help documenting their status as a victim of domestic violence.
4. After the claim has been reviewed, files for all applicants who have invoked VAWA must include a message alerting the Agency reviewer that VAWA was a consideration, regardless of the ultimate decision regarding eligibility. In addition, “VAWA” must also be noted on the log, along with a note about the outcome of the VAWA claim.
5. If the Marketing Agent determines that the applicant remains ineligible, the Marketing Agent must submit the file and written decision to the Agency prior to the issuance of a final rejection notice (*Attachment H-7*). The Agency will make the final determination in such cases.
6. The Marketing Agent should contact the lottery oversight agency (HPD or HDC) with any questions that come up during this process.