



Legislation Text

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Resolution to Approve Amendment to the Housing Choice Voucher Administrative Plan regarding the Violence Against Women Act (VAWA) and the Housing Opportunity Through Modernization Act (HOTMA)

HUD provides the primary source of Housing Authority policy through federal regulations, HUD Notices and Handbooks. Compliance with federal regulations, current HUD Notices and HUD Handbooks is mandatory and HUD also allows local programs the flexibility to adopt policies in specified areas. HUD requires all Housing Authorities to adopt an Administrative Plan for the Voucher Program which includes all of the required and optional program policies.

On May 19, 2017 HUD issued the Federal Registration Notice (PIH 2017-08) with implementation requirements for the Reauthorization of the Violence Against Women Act (VAWA). The Notice clarifies and modifies the original VAWA from 2013. The PIH Notice is attached which includes every change. This resolution just highlights the biggest mandatory changes but staff recommend that all of the mandatory changes in VAWA be adopted by the board.

On October 27, 2017, HUD issued a Federal Registration Notice (PIH 2017-21) with implementation requirements for the Housing Opportunity Through Modernization Act of 2016 (HOTMA) for the housing choice voucher program. The PIH Notice is attached which includes every change. This resolution just highlights the biggest mandatory changes but staff recommend that all of the mandatory changes in HOTMA be adopted by the board. This resolution includes the chapters pertaining to Manufactured Housing and Project Based Vouchers, as detailed below.

Prepared by Weneshia Brand, Housing Choice Voucher Manager
Approved by Jennifer Hall, Executive Director

WHEREAS, On May 19, 2017, HUD issued a Federal Registration Notice (PIH 2017-08) amending the *Violence Against Women Act (VAWA)* for the housing choice voucher program. These changes apply to the *Notification, Documentation, Confidentiality* section of Chapter 16. Program Administration Part IX.

Major changes for the HCV, and PBV programs include:

1. Specifies "sexual assault" as a crime covered by VAWA in HUD-covered programs. (See 24 CFR 5.2003.)
2. Clarifies that, consistent with HUD's nondiscrimination and equal opportunity requirements, victims of domestic violence, dating violence, sexual assault, and stalking cannot be discriminated against on the basis of any protected class, and HUD

- programs must also be operated consistent with HUD's Equal Access Rule, which requires that HUD-assisted and HUD-insured housing must be available to all otherwise eligible individuals and families without regard to actual or perceived sexual orientation, gender identity or marital status. (See 24 CFR 5.2001(a).)
3. Establishes new definitions (e.g., affiliated individual and sexual assault, and others) and revises previously defined terminology (e.g., bifurcate and stalking). (See 24 CFR 5.2003.)
 4. Establishes new requirements for notification of occupancy rights under VAWA, and transmits a model *Notice of Occupancy Rights Under the Violence Against Women Act* (form HUD-5380). (See 24 CFR 5.2005(a).)
 5. Provides that applicants and tenants may not be denied assistance or have assistance terminated under a covered housing program on the basis of or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. (See 24 CFR 5.2005(b)(1).)
 6. Establishes the requirement to establish an emergency transfer plan, establishes record keeping and reporting requirements, and provides a model *Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking* (form HUD-5381), and *Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking* form (form HUD-5383). (See 24 CFR 5.2005(e).)
 7. Revises requirements for documenting the occurrence of domestic violence, dating violence, sexual assault, or stalking, and provides a new *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation* (form HUD-5382). (See 24 CFR 5.2007.)
 8. Where the covered housing provider exercises the option to bifurcate a lease and the evicted or terminated tenant was the recipient of assistance at the time of bifurcation, establishes a new requirement for reasonable time periods during which a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking may remain in the unit while establishing eligibility under the current housing program or under another covered housing program, or seeking alternate housing. (See 24 CFR 5.2009(b).)
 9. Revises various HCV, PBV, and public housing regulations from the 2005 reauthorization of VAWA (VAWA 2005) to broadly state that VAWA protections apply, so that all tenants and applicants, and not only those determined to be victims of domestic violence, dating violence, sexual assault, or stalking, receive statutorily required notification of their VAWA rights.
 10. Clarifies that PHAs may establish a preference for victims of dating violence, sexual assault, and stalking, in addition to domestic violence. (See 24 CFR 960.206(b)(4), and 982.207(b)(4).)
 11. Establishes new requirements under PBV for a family's right to move as a result of the family, or a member of the family, being or having been the victim of domestic violence, dating violence, dating violence, sexual assault, or stalking. (See 24 CFR 983.261.)

WHEREAS, On October 27, 2017, HUD issued a Federal Registration Notice (PIH 2017-21) implementing the Housing Opportunity Through Modernization Act of 2016 (HOTMA) for the housing

choice voucher program. These mandatory changes apply to the Introduction, Special Policies, and Payment Standard, Utility Allowance, and HAP Calculation section of Chapter 15.VI: Manufactured Homes

The proposed changes include:

Section 15-VI.A. Manufactured Homes

1. A manufactured home is a manufactured structure, transportable in one or more parts that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.
 - (1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.
 - (2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

Section 15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

2. Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.
3. Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-A) and separate HAP Contract (Form 52642) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION [FR Notice 1/18/17]

4. HUD changed the regulation were previously the payment standard for manufactured homes was 10 percent of the FMR. The regulation is rescinded and the payment standard for manufactured homes is the same payment standard used for the HCV program.
5. HUD added regulation were the PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent

- for the manufactured home space (including the owner's monthly management and maintenance charges), the PHA may pay the remainder to the family, lender, or utility company.
6. Regulation clarifies that the space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.
 7. New regulation adds amortization costs for manufactured homes. The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

WHEREAS, On October 30, 2017, HUD issued a Federal Registration Notice (PIH 2017-21) implementing the Housing Opportunity through Modernization Act of 2016 (HOTMA) for the housing choice voucher in project-based program. These changes apply to the PHA-Owned Units, Independent Entities, Program Cap, Income Mixing, and Competitive Process section of Chapter 17: Project-Based Voucher.

The July, 14, 2017, notice published at 82 FR 32461 ("technical correction notice") corrected several typographic errors and made the following technical corrections and clarifications to the January 18, 2017, implementation notice. All of the corrections and clarifications are reflected in the respective attachments to this PIH notice and are summarized here in the order in which they appear in this notice solely for the sake of convenience:

1. PHA-Owned Units (Attachment A). The original notice used the phrase "50 percent or more" to define a level of control that constitutes a controlling interest and would thus indicate PHA ownership. The technical correction notice replaces that phrase with "more than 50 percent."
2. Percentage Limitation (Program Cap) (Attachment C). The original notice stated that new construction units will qualify for replacement housing if they are located on the "site of the original public housing development." The technical correction notice strikes the phrase "public housing," making clear that the requirement applies broadly to all covered forms of housing assistance that are excluded from the percentage limitation.
3. Income-Mixing Requirement (Project Cap) (Attachment E).
 - a. Supportive services. HOTMA provides that a family can no longer be required to participate in supportive services as a condition of living in a unit in order for that unit to meet the supportive services exception. The technical correction clarifies therefore that a PHA may not rely solely on a supportive services program that requires a family to engage in supportive services, such as the

Family Self-Sufficiency (FSS) program, in order for the unit to meet the supportive services exception. Also, the original notice stated that if a family “fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit...and the PHA shall cease paying housing assistance payments.” HUD determined that this provision could be wrongly construed in a way that conflicts with current FSS requirements, which do not allow termination from the housing assistance program for failure to complete the FSS contract.

- b. 25 percent cap. The technical correction notice clarifies that the income-mixing cap for projects that are in a census tract with a poverty rate of 20 percent or less is increased from 25 to 40 percent.
 - c. Definition of new construction. The technical correction notice makes the definition of new construction units that qualify for an exception to the project cap the same as the definition for new construction that applies to the exception for the PBV percentage limitation.
- 4. Units Not Subject to Percentage Limitation or Income-Mixing Requirement (Attachment F). The original notice excluded from the list of excepted units those units that received assistance under section 201 of the Housing and Community Development Amendments of 1978 (Flexible Subsidy program). The technical correction notice clarifies that such units are excepted from both the percentage limitation and the income-mixing requirement.
- 5. Attaching PBV to Certain PHA-Owned Projects Without Following a Competitive Process (Attachment L). The original notice applied a per-unit cost rehabilitation threshold to all replacement housing, including existing housing. The technical correction notice makes clear that there is no per-unit cost requirement for existing housing owned or controlled by a PHA.

RESOLVED, that the Ann Arbor Housing Commission Board approve the Housing Choice Voucher Administrative Plan to incorporate all federal policy changes included in the Violence Against Women Act (VAWA) in PIH Notice 2017-08 and the Housing Opportunity Through Modernization Act of 2016 (HOTMA) in PIH Notice 2017-21, which will be effective February 1, 2018.