



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Multifamily Midwest Region
Chicago Regional Center
77 W. Jackson Blvd.
Chicago, Illinois 60604-3507

MEMORANDUM FOR: Participants in Illinois VAWA Emergency Transfer Pilot

Debbie Gray
FROM: Debbie Gray, Director, Asset Management Division

SUBJECT: Allowable Add-on Management Fees to Implement a VAWA Emergency Transfer Preference

I. Introduction

To promote the expediency and success of inter-management agent¹ and cross-management agent² Emergency Transfers, on the basis of the protections outlined in the Violence Against Woman Act (VAWA), the Department of Housing and Urban Development Office of Multifamily Housing Programs Chicago Office has established the subject Management Add-On Fee incentive. The VAWA Emergency Transfer Preference Management Add-On Fee incentive will help Owners/Agents (O/As) address the additional costs of implementing best practices for completing VAWA-based emergency transfers with a focus on protecting the health and safety of survivors. Participation in this incentive is limited to those Multifamily properties with Project-Based Section 8 units that have volunteered to participate in the Illinois VAWA Emergency Transfer Pilot.

O/As operating HUD-insured and HUD-assisted properties are paid a management fee for their services. In addition to the management fees derived from the project income, add-on fees are designed to offset the cost of managing special conditions specific to the property and/or market and are not a function of project rents or income. Additional information on add-on fees can be found in Chapter Three of HUD Handbook 4381.5, the Management Agent Handbook. The Multifamily Hub establishes a schedule of project characteristics/conditions that warrant add-on fees and a flat fee amount (per unit per month (PUPM)) for each characteristic/condition. Although add-on fees are determined by each Multifamily Hub based on local market and property conditions, the VAWA Emergency Transfer Preference Management Add-On Fees will be added to all Multifamily Hub schedules upon the issuance of this memorandum. This guidance expands on the current add-on fee options available to Multifamily properties. This

¹ Inter-management agent transfer refers to when the unit where the tenant is transferring to maintains the same management agent of where the tenant currently resides, referred to as an internal transfer from here on.

² Cross-management agent transfer refers to when the unit where the tenant is transferring to has a different management agent than where the tenant currently resides, referred to as an external transfer from here on. External transfers are only an option for an emergency transfer if there are not suitable internal transfers available.

guidance does not modify or replace current Multifamily Management Fee policy for non-Illinois VAWA Emergency Transfer Pilot participants.

With this guidance, the Department authorizes the use of Management Add-On fees for eligible expenses incurred by property O/As in support of approving of internal and external VAWA-based emergency transfers.

Fees will cover the cost of staff time associated with establishing and managing both internal and external VAWA emergency transfer preference, including the following activities:

- Engaging in the HUD-initiated Illinois VAWA Emergency Transfer Pilot Committee by attending quarterly meetings.
- Amending the Tenant Selection Plan (TSP) with required Amended VAWA Preference and Absent from Unit additions (See Appendix) and submitting to HUD for approval.
- Designating and maintaining a management agent-wide single point of contact with access to consistent and reliable unit availability data to act as first-point of contact in identifying an available unit in an external transfer. This point of contact will also be responsible for responding monthly calls or emails intended to identify the number of vacancies available in the management agent's portfolio. This point of contact will be provided to the HUD Illinois VAWA Emergency Transfer Pilot Coordinator (HUD VAWA Pilot Coordinator).
- Receiving applicant referrals from internal and external providers and screening applicants to ensure they meet the property's eligibility criteria (when applicable). Make a good faith effort to relocate referrals, including being responsive to requests for unit availability and demonstrating a willingness to accept external transfers.
- Providing referrals for external emergency transfers to VAWA Pilot Coordinator for tracking and to receive additional support in identifying external available transfer units. Any referrals to HUD should include a copy of the individual's VAWA certification, the date a transfer was requested, a summary of attempts to provide internal transfers, and any information regarding locations or units the individual cannot move due to safety considerations.
- Providing support, education, and tools to property management staff tasked with supporting VAWA Emergency Transfers to ensure they have acceptable levels of training regarding the Violence Against Woman Act protections and domestic violence advocacy.
- Documenting results, including maintaining tenant application materials and VAWA certification consistent with VAWA's confidentiality requirements, and including all

management fee information in each year's Annual Financial Statement (AFS) or other annual certification.

II. Fee Descriptions

- A. Add-on Fee. Management agents may collect a monthly add-on fee as long as at least one internal or external transfer for an individual or household is admitted as an emergency transfer, on the basis of VAWA, to a particular property during a one-year period, with an exception being made for properties who are maintaining requirements of Add-On fee but receive no transfer requests.
- a. The add-on fee is \$4.00 PUPM, not to exceed \$7,200 per property per year.
 - b. Management agents can begin taking monthly add-on fees only after the following four conditions have been met:
 - i. HUD has approved an amended TSP containing Amended VAWA Preference and Absent from Unit additions (See Appendix),
 - ii. The O/A has notified their general waiting list applicants of the change in the TSP and emailed the Property's Account Executive a copy of the notification letter sent to the waiting list,
 - iii. The O/A has reviewed their current waiting list to identify any current VAWA emergency transfer requests, assessed if an internal transfer is available, and provided the necessary referrals to HUD,
 - iv. The O/A has provided HUD with a management agent wide VAWA emergency transfer contact point, and
 - v. The date is after the approval date of the Management Certification including the add-on fee.
 - c. The management fee can begin collecting the add-on fee the same month they are added to the Illinois VAWA Emergency Transfer Pilot Program.
 - d. The add-on fee can be collected on an ongoing monthly basis as long as the following conditions are met:
 - i. Remain in good standing with HUD and comply with all business agreements³
 - ii. Engaging in quarterly Committee meetings
 - iii. Responding to requests for unit availability, emergency transfers and approving emergency transfers as able
 - iv. Maintaining a point of contact for VAWA emergency transfers

³ Any less-than-satisfactory rating on last Management and Occupancy Review, outstanding findings on last Annual Financial Statement, scores below 60 on last REAC Inspection, or other non-compliance flags would be identifiers of a property not in good standing with HUD. HUD VAWA Pilot Coordinator will review any properties not in good standing to determine if corrective actions satisfactory to HUD have taken place and to determine if the property is eligible for the add-on fee on a case-by-case basis.

- v. Approving at minimum one internal or external emergency transfer in a 12-month period.

III. Other Provisions

- A. The add-on fee cannot exceed \$4.00 PUPM, with an annual maximum per property fee of \$7,200. However, lesser fee amounts may be requested, negotiated, and/or approved.
- B. The add-on fees cannot be retroactive.
 - a. If a property already has an approved TSP with a VAWA emergency transfer preference; has already notified applicants on the waiting list, and has an approved add-on management certification, the management agent can begin collecting the add-on fee after they had been added to the Illinois VAWA Emergency Transfer Pilot Program.

IV. Administration

- A. Request and Approval Process
 - a. O/A submits a new Management Certification, Forms HUD-9839-A, B, or C to the property's Account Executive. The certification should include the anticipated start date for the add-on fee.
 - b. HUD will provide written approval of the Management Certification request. The approval letter will include terms and conditions for the continued collection of both fees.
 - c. O/A submits an amended TSP with the VAWA emergency transfer preference to the property's Account Executive.
 - d. HUD will send the O/A written approval of the amended TSP.
 - e. O/A sends a notification letter to the general waiting list applicants.
 - f. O/A emails a copy of the signed waiting list notification letter to the property's Account Executive.
 - g. O/A provides VAWA Pilot Coordinator with a copy of the approved management certification, approved TSP, and signed waiting list notification in addition to the designated VAWA emergency transfer point of contact and any referrals for individuals currently on the waitlist who requested VAWA emergency transfers.
 - h. HUD will review for completeness and determine if the property is in good standing with HUD/complying with their business agreements. HUD will send electronic written approval of their addition to the Illinois VAWA Emergency Transfer Pilot Program.
 - i. Management Agent can begin collecting the add-on fee the same month they have been added to the Illinois VAWA Emergency Transfer Pilot Program.
- B. Reporting and Monitoring
 - a. O/A Responsibilities

- i. Management agents must maintain documentation on file, consistent with VAWA’s confidentiality requirements, that verifies the VAWA status and outcome of emergency transfers.
 - ii. Management agents may request HUD confirmation of emergency transfer preference, on the basis of VAWA for tenant file.
 - iii. Management agents must maintain a point of contact for VAWA-based emergency transfers and provide unit availability information to HUD.
 - iv. Include relevant management fee information in each year’s AFS.
 - v. If the property is not required to submit an AFS, the O/A must submit an annual certification containing the same information on a designed annual date (e.g., due each July 31).
- b. HUD/Account Executive Monitoring Collection of Fees
- i. Record the receipt and approval of the Management Certification, the amended and approved TSP, and the waiting list notification letter in the Integrated Real Estate Management System (iREMS), and record any submitted or executed documentation in TransAccess System. Account Executive will record the receipt of the approved amended TSP and waiting list notification letter in the “Project Action” screen.
 - ii. HUD VAWA Pilot Coordinator will track management agents included in the Pilot, referrals, and management agents that have accept emergency transfers. HUD VAWA Pilot Coordinator will maintain case log on any referrals made to HUD for external transfers. HUD VAWA Pilot Coordinator will periodically review the standing of properties with HUD to determine if they remain eligible for the add-on fee.
 - iii. Review each project’s AFS (or other annual certification) to ensure the following:
 - 1. Collected fee amounts and time periods are consistent with the approved management certification.
 - 2. The month the O/A begins collecting the add-on fee corresponds to the record for that project joining the Illinois VAWA Emergency Transfer Pilot Program.
 - 3. Has demonstrated a willingness to transfer referrals when provided them.
- c. If a management agent collects add-on fees during a 12-month period and the HUD VAWA Pilot Coordinator has no record of management agent accepting emergency transfers, the Account Executive may require the management agent to submit proof of reasonable actions taken to receive referrals and complete transfers. If the management agent has not made every reasonable effort, the agent may be required to offset future management fee collection amounts until the add-on fees are repaid.

V. VAWA Emergency Transfer Process

1. The Tenant in a PBS8 unit contacts their management agent or HUD directly requesting an emergency transfer, on the basis of protections under VAWA.
 - a. The Tenant is referred to their on-site management contact to complete a VAWA Certification consistent with 24 C.F.R. § 5.2005(e)(10)(i).
 - b. The Tenant may provide information on safety considerations, such as units or areas that may be unsafe for them to transfer to or security measures that may allow them to stay safe and secure from the person(s) causing them harm.
 - c. The Tenant is not required to provide any additional documentation to certify their claim to protections under VAWA.
2. Internal Transfers.
 - a. If a unit is available within their portfolio that provides additional safety to the Tenant, that referral is provided first.
 - i. Units in the same building or located close to the Tenant's current unit may not be a viable and safe emergency transfer depending on the Tenant situation. This should be considered when providing internal transfer referrals.
 - b. If unit is available and safe for the tenant, the management agent may transfer the Tenant to the new unit, and the Tenant is not required to complete an application to determine eligibility.
 - c. If no units are available in the current management agent's portfolio or any available units are not viable or safe transfer locations, the current management agent may request an external transfer.
3. External Transfers.
 - a. The management agent confirms that the Tenant would like to request an external transfer, and the Tenant confirms that the management agent can share referral information, including Tenant contact information, Tenant VAWA Certification, and any information about safety considerations in identifying units with HUD VAWA Pilot Coordinator.
 - b. The current management agent provides the HUD VAWA Pilot Coordinator with referral information, including Tenant contact information, Tenant VAWA Certification, and any information about safety considerations in identifying units.
 - c. HUD VAWA Pilot Coordinator will contact Tenant to confirm information provided and provide information on external emergency transfer process.
 - i. HUD VAWA Pilot Coordinator will maintain a referral list of tenants referred by all management agents, and priority will be given to tenants based on the date tenants completed their VAWA Certification.
 - d. HUD VAWA Pilot Coordinator will review unit availability. HUD VAWA Pilot Coordinator will provide available unit referrals directly to the Tenant. The Tenant will identify the referral they wish to apply to and HUD VAWA Pilot Coordinator confirm with the Tenant that they can share referral information, including the Tenant contact information, the Tenant VAWA certification, and any information about safety considerations in identifying units with the management agents managing those

units. HUD VAWA Pilot Coordinator will contact the management agents managing units identified as appropriate by the Tenant.

- i. To maintain the ability to address all referrals, each Tenant is allowed three referrals that properly meet their safety needs in their sole discretion. If the Tenant rejects three referrals provided by the HUD VAWA Pilot Coordinator, they will be moved to the bottom of the referral list.

4. External Transfer Application.

- a. In external emergency transfers, the Tenant must complete an application to the unit and be approved by the standard eligibility requirements.
- b. Both the Tenant and HUD VAWA Pilot Coordinator will be notified in writing of the outcome of the application.
 - i. If the Tenant is accepted, HUD will provide written approval of VAWA preference for Tenant's file.
 - ii. If the Tenant is rejected, Tenant is entitled to a written basis on reason for rejection from the management agent within 5 business days of the rejection along with a copy of the VAWA Notice of Occupancy Rights (24 C.F.R. 5.2005(a)(2)(i)) and additional unit referrals from the HUD VAWA Pilot Coordinator.

5. HUD VAWA Pilot Coordinator will maintain a record of all management agents who received a requested for an emergency transfer and the outcome of the referral.

It is important to note that no additional requirements may be placed on the Tenant to complete an application or receive an approval. VAWA requires that tenants covered by VAWA cannot be held to a higher standard than other tenants in housing programs, and that adverse factors leading to denial are often related to the gender-based violence that the survivors have experienced. 24 C.F.R. 5.2005(d)(2); *H 2017-05, VAWA Reauthorization Act of 2013-Additional Guidance for Multifamily Owners and Management Agents* (June 30, 2017), available at <https://www.hud.gov/sites/documents/17-05HSGN.PDF> (explaining that poor credit history, rental history, criminal records, or failure to pay rent could be adverse factors). Similarly, HUD's Fair Housing and Equal Opportunity ("FHEO") office has detailed how holding survivors covered under VAWA responsible for the acts of the people harming them can constitute sex discrimination. *Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHA) and the Violence Against Women Act (VAWA)*, FHEO (Feb. 9, 2011), available at <https://www.hud.gov/sites/documents/FHEODOMESTICVIOLGUIDENG.PDF>.

VI. Further Information

For Additional information, please consult the following resources:

- [HUD Violence Against Women Act \(VAWA\) Information Page](#)

If you have questions about this memorandum, please contact the acting HUD Illinois VAWA Emergency Transfer Pilot Coordinator Allison Kolar, Allison.D.Kolar@hud.gov or (312) 913-8763.

VII. Appendix

i. VAWA Emergency Transfers: Prioritization and Preference:

When another covered Project-based Section 8 housing provider has no safe and available units within their portfolio for a Violence Against Women Act ("VAWA") Emergency Transfer, a tenant seeking a transfer may relocate to a safe and available unit within this housing provider's portfolio. Any tenant who is seeking such a transfer shall be given processing preference and priority and will be considered and screened for housing placement ahead of persons already on the housing provider internal and external waitlists. The housing provider will make efforts to expedite the application and screening process using any documentation from the tenant's existing file that the other housing provider is able to make available. Tenants who are seeking a VAWA Emergency Transfer must abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The housing provider may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit. The housing provider will administer this preference in order of when they are approached by a tenant seeking a VAWA Emergency Transfer or a person or entity assisting a survivor seeking a VAWA Emergency Transfer, including another PBS8 property or a survivor advocate.

ii. Absence from the Unit Due to VAWA-covered Violence and Maintenance of Tenancy

According to HUD Handbook 4350.3, housing providers may define an extended absence as a tenant being absent from a unit for longer than 60 continuous days, or for longer than 180 continuous days for medical reasons and may allow exceptions for extenuating circumstances. In accordance with this guidance, a tenant who identifies as a survivor or victim of domestic violence, dating violence, sexual assault, or stalking who is temporarily relocated to a shelter or another safe, temporary housing solution after an incident of domestic violence, dating violence, sexual assault, or stalking can be absent from their unit for up to 180 days. During the time of the absence, the tenant will maintain their right to occupancy. The tenant has the obligation to pay rent during the period of absence. The housing provider is eligible to collect rent during the period of absence. The housing provider will not issue termination of tenancy based on the tenant being absent from the unit for this time-period and the absence will not constitute good cause for termination. When it is safe to do so, the tenant is encouraged to notify housing provider of their absence. The housing provider is responsible for maintaining the confidentiality regarding the location of the tenant during their absence from their unit.