VAWA 2013 – Emergency Transfer Plan

Last year, HUD published a final rule that fully codifies the provisions of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) into HUD regulations and expands housing protections for victims of domestic violence, dating violence, sexual assault, or stalking to include HUD Community Planning and Development (CPD) programs. Most of the rule’s provisions became effective December 2016 while its emergency transfer plan (ETP) provisions, requiring covered housing providers (HPs) to allow an eligible tenant to make an internal transfer (where the tenant would not have to apply for the new unit) when there is a safe unit immediately available, became effective in June 2017. The final rule makes clear that ETP requirements do not supersede any eligibility or occupancy requirements that exist in covered housing program. Tenants seeking an external emergency transfer to a different program or provider (e.g., transfers from Public Housing to Housing Choice Voucher program) must still apply under the new program. HPs that are responsible for developing their ETP must do so in order to establish through policy what actions to take when a victim under VAWA needs an emergency transfer, while balancing the needs of other eligible individuals.

The rule establishes a low barrier certification process for transfers. A victim tenant qualifies for a transfer if: the tenant expressly requests (written or oral) the transfer; and the tenant believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit; or in the case of a sexual assault victim, the assault occurred on the premise during the 90-calendar-day period preceding the date of the transfer request. HPs may ask those seeking a transfer to certify their eligibility for VAWA protections, either through self-certification using HUD’s Certification Form or, if the tenant elects to do so, through one of the other documentation listed in the final rule. HPs cannot require third-party documentation for emergency transfers. HPs may also choose to require tenants to submit a written request that certifies the tenant is qualified for an emergency transfer.

HPs should keep in mind that transfers are contingent upon whether there is a safe unit available and often it may not be feasible for a small entity to carry out transfers. HUD does not mandate specific time periods for responding to transfer requests, but may establish timelines through future rulemaking. Transfers within the same property are not prohibited, but HPs are encouraged to identify units in another property. HPs are not required to bear the costs of a tenant’s moving costs, but are encouraged to do so (or identify other ways to help pay).

HPs should note that the final rule codifies additional VAWA-related provisions within each covered house program’s regulations. For example, the rule alters the PBV program’s “family right to move” provisions so that families are not required to notify a PHA before they leave a unit in order to protect the health and safety of a VAWA victim. HPs should make sure to incorporate the rule’s program specific provisions, along with other elements that may be specific to their own programs.

Resources:
HUD VAWA 2013 Final Rule:
www.federalregister.gov/d/2016-25888

NAHRO VAWA e-Briefing:
www.nahro.org/nahro-estore

The final rule requires the elements below to be incorporated into an ETP:
- Policies for the measure of any priority given to VAWA victims.
- Policies for internal transfer when safe unit is immediately available and the reasonable efforts that the HP will take to assist a tenant to transfer to a safe unit.
- Policies for internal transfer when a safe unit is not immediately available.
- Policies for reasonable efforts for an external transfer, such as arrangements, including MOUs, with other HPs moves; and outreach activities to victim organizations.
- Policies that allow internal and external transfer to occur concurrently.
- Policies for strict confidentiality measures to ensure the location of the new unit is not.
- Policies for tenants receiving Tenant-based Rental Assistance to move quickly with assistance, when applicable.
- ETPs must be available upon request and publicly available when feasible. All requests and request outcomes must be recorded and retained for at least three years and annually reported to HUD—though HUD has not yet required HPs to report this information.

ADDITIONAL RESOURCES:
For up-to-date information on this issue and other affordable housing issues go to www.nahro.org/resource-center and follow the NAHRO blog at www.nahroblog.org