

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

LIHTC OWNER/MANAGEMENT AGENT OBLIGATIONS:

VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013

Background

The Violence Against Women Act (“VAWA”) protects victims of domestic violence, sexual assault, dating violence, and stalking (“VAWA Crimes”) from discrimination in accessing and maintaining federally assisted housing because of the violence committed against them. In 2013, Congress expanded VAWA’s housing protections by covering additional federal housing programs, including the Low-Income Housing Tax Credit program (“LIHTC”).¹ This checklist outlines the obligations of LIHTC owners and their management agents (“O/As”) under VAWA.

Failure to Meet Obligations

Failure to meet these obligations may lead to courts finding that a LIHTC O/A has violated the Fair Housing Act due to discrimination, unequal treatment, or disparate impact, **which may result in the loss of tax credits for non-compliance.**

Basic Obligations

This is not an exhaustive list of an O/A’s obligations under VAWA. Additional obligations apply to O/As participating in the Section 8 Housing Choice Voucher Program and the HUD Multifamily rental programs² (collectively “VAWA-covered HUD programs”).³ Some of these key additional obligations are outlined below in the “NOTE” bullets.

- **Tenant’s Status as a Victim of a VAWA Crime**
 - O/As may not deny admission or evict a tenant on the basis or as a direct result of the fact that the tenant is or has been the victim or threatened victim of a VAWA Crime.
- **Actual or Threatened Incidents of a VAWA Crime**
 - An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as a serious or repeated violation of the lease or other “good cause” for termination of assistance, tenancy or occupancy rights of the victim.
- **Criminal Activity Related to VAWA Crimes**
 - O/As may not consider criminal activity directly relating to VAWA Crimes, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant is the victim or threatened victim of the violence.
 - O/As may evict or terminate the assistance of a victim if they can demonstrate an actual and imminent threat to other tenants or employees at the property in the event that the tenant is not evicted or terminated from assistance.
 - O/As cannot subject victims of VAWA Crimes to a more demanding standard than other tenants when determining whether to evict.
- **Notification**
 - O/As are required to notify all tenants of their VAWA rights by providing each tenant a Notice of Occupancy Rights Form [HUD-5380](#) and VAWA Self-Certification Form [HUD-5382](#) with any

¹ 42 U.S.C. § 14043e-11.

² The HUD Multifamily programs that are covered by VAWA are Section 8 project-based housing; Section 202 housing for the elderly; Section 811 housing for people with disabilities; Section 236 multifamily rental housing; and Section 221(d)(3) Below Market Interest Rate (BMIR) housing.

³ In November 2016, HUD promulgated the agency’s [Final Rule](#) implementing VAWA 2013 in the VAWA-covered housing programs. HUD’s Office of Public and Indian Housing and Office of Housing have further issued extensive notices for housing providers implementing VAWA 2013 – [Notice PIH-2017-08 \(HA\)](#) and [H 2017-05](#).

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

notification of eviction or notification of termination of assistance in multiple languages consistent with Executive Order 13166. These forms have been translated into eleven languages (Armenian, Cambodian, Creole, Japanese, Korean, Lao, Chinese, Russian, Spanish, Thai, and Vietnamese) and can be found on HUD's [website](#).

- **NOTE:** O/As participating in VAWA-covered HUD Programs are required to distribute these forms to existing tenants by **December 16, 2017**.⁴

□ Documentation

- Although not required, O/As may request, in writing, that the tenant seeking VAWA protections certify that the individual is a VAWA Crime. To receive protections under VAWA, the tenant has the choice to submit either a VAWA Self-Certification Form [HUD-5382](#), or other documentation as noted on the certification form, completed and submitted within 14 business days, or an agreed upon extension date. Failure to provide the certification or other supporting documentation within the specified timeframe may result in eviction or admission denial.
- If the O/A receives conflicting certifications, the O/A can require an applicant or tenant to submit third-party documentation permitted under VAWA.

□ Confidentiality

- O/As are required to keep strictly confidential all information submitted by the tenant related to their VAWA request or protected status, including the fact that an individual is a victim of a VAWA Crime. O/As may not enter any of this confidential information into any shared database or disclose this information to any other entity or individual, except to the extent that the disclosure is: requested or consented to by the individual seeking VAWA protections in writing, required for use in an eviction proceeding, or otherwise required by applicable law.

□ Court Orders

- O/As must honor all court orders addressing rights of access or control of property, including protective orders issued to victims, and any orders addressing the distribution or possession of property.

□ Remedies for VAWA Victims

- O/As have an obligation to qualified tenants and their affiliated individuals who are victims of VAWA crimes to assist them with an emergency transfer in accordance with your emergency transfer plan. O/As have the discretion to allow tenants a lease bifurcation. More information on these remedies can be found in the Notice of Occupancy Rights Form [HUD-5380](#).
 - **NOTE:** O/As participating in VAWA-covered HUD Programs must have developed VAWA emergency transfer plans by **June 14, 2017**.

Contact Information

{Insert CTCAC contact information here}

⁴ 24 C.F.R. § 5.2005(a)(2)(iv) ("During the 12-month period following **December 16, 2016**, either during the annual recertification or lease renewal process, whichever is applicable, or, if there will be no recertification or lease renewal for a tenant during the first year after the rule takes effect, through other means.")