California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Inside This Issue

Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs

HUD's final rule implements requirements of the 2013 reauthorization of the Violence Against Women Act (VAWA), which applies for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation, and which must be applied consistent with all nondiscrimination and fair housing requirements.

VAWA 2013 expands protections for victims by amending the definition of domestic violence to include violence committed by intimate partners of victims, and by providing that tenants cannot be denied assistance because an affiliated individual of theirs is or was a victim of domestic violence, dating violence, sexual assault, or stalking (collectively VAWA crimes).

These regulations are effective December 16, 2016. Compliance with the rule with respect to completing an emergency transfer plan and providing emergency transfers, and associated recordkeeping and reporting requirements, is required no later than June 14, 1017.

Major provisions of this rule include:

- Specifying ''sexual assault'' as a crime covered by VAWA in HUD- covered programs.
- Establishing a definition for ''affiliated individual'' based on the statutory definition and that is usable and workable for HUD-covered programs.
- Applying VAWA protections to all covered HUD programs as well as the Housing Trust Fund, which was not statutorily listed as a covered program.
- Ensuring that existing tenants, new tenants, and applicants of all HUD-covered programs receive notification of their rights under VAWA and HUD's VAWA regulations.
- Establishing reasonable time periods during which a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking may establish eligibility to remain in housing, where the tenant's household is divided due to a VAWA crime, and where the tenant was not the member of the household that previously established eligibility for assistance.
- Establishing that housing providers may, but are not required to, request certain documentation from tenants seeking emergency transfers under VAWA.
- Providing for a six-month transition period to complete an emergency transfer plan and provide emergency transfers, when requested, under the plan.

Continued on Page 2

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs (cont.)

As part of the final rule, HUD published: (These are links to the HUD form)

- VAWA Appendix A: Notice of Occupancy Rights Under the Violence Against Women Act, form HUD-5380
- VAWA Appendix B: Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, form HUD-5381
- VAWA Appendix C: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation, form HUD-5382
- VAWA Appendix D: Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, form HUD-5383

VAWA Regulations effective 12/16/2016

Changes in definitions
If defined in Tenant Selection Plans and/or House Rules, Owner agents will need to ensure that definitions are updated.

Affiliated individual, with respect to an individual, means:

1. A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
2. Any individual, tenant, or lawful occupant living in the household of that individual

Dating violence means violence committed by a person:

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - The length of the relationship;
    - The type of relationship; and
    - The frequency of interaction between the persons involved in the relationship.

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term ''spouse or intimate partner of the victim'' includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for the person's individual safety or the safety of others; or
2. Suffer substantial emotional distress.

Continued on Page 3

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs (cont.)

Tenant notification

An O/A must provide to each of its applicants and to each of its tenants:

- VAWA Appendix A: Notice of Occupancy Rights Under the Violence Against Women Act, form HUD-5380
- VAWA Appendix C: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation, form HUD-5382

  NOTE: The Office of Multi-family Housing is updating the current certification form HUD-91066. In the meantime, O/A MUST distribute the certification form HUD-5382

The notice and certification form must be provided to an applicant or tenant no later than at each of the following times:

- Beginning on December 16, 2016, owners/agents must provide the Notification of Occupancy Rights and Certification forms to applicants when assistance is being denied or at the time the new household moves into the property. The forms do not have to be provided to every applicant on a property's waiting list.
- With any notification of eviction or notification of termination of assistance; and
- 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.

The notice and the certification form must be made available in multiple languages, consistent with guidance issued by HUD.

VAWA Lease addendum requirements as stated in Section 6-5 of HUD Handbook 4350.3 Change 4 remain in effect. The Office of Multi-family housing is updating that addendum. Continue to use the current Lease addendum as required.

Updating policies and procedures for lease terms, providing assistance, and admitting applicants

Prohibited basis for denial or termination of assistance or eviction

In conjunction with HUD Notice 15-10, Owner/Agents are required to investigate the results of the criminal background checks and discuss with the applicant/tenant prior to any decision for rejecting applicants, or terminating subsidy, or terminating tenancy.

Applicants or tenants may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis 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, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

A tenant may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if:

- The criminal activity is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, and
- The tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault or stalking.

Continued on Page 4

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs (cont.)

Terminating leases or assistance

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 a lease executed under a covered housing program by the victim or threatened victim of such incident; or
- Good cause for terminating the assistance, tenancy, or occupancy rights under a covered housing program of the victim or threatened victim of such incident.

Limitations of VAWA protections

An O/A, when notified of a court order, must comply with the court order.

An O/A may evict or terminate assistance for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. However, The O/A must not subject the victim, or someone affiliated with the victim, to a more demanding standard than other tenants in determining whether to evict or terminate assistance.

An O/A may terminate assistance or evict if the O/A can demonstrate an actual and imminent threat to other tenants, or those employed at or providing service to the property, would be present if that tenant or lawful occupant is not evicted or terminated from assistance. In this context, words, gestures, actions, or other indicators will be considered an ‘‘actual and imminent threat’’ if they meet the standards provided in the definition of ‘‘actual and imminent threat’’ in § 5.2003.

Any eviction or termination of assistance should be utilized only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat.

Lease bifurcation

An O/A may bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual:

- Without regard to whether the household member is a signatory to the lease; and
- Without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant.

A lease bifurcation shall be carried out in accordance with any requirements or procedures as may be prescribed by Federal, State, or local law for termination of assistance.

Continued on Page 5

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs (cont.)

Reasonable time to establish eligibility for assistance or find alternative housing following bifurcation of a lease

If an O/A exercises the option to bifurcate a lease and the individual who was evicted or for whom assistance was terminated was the eligible tenant under the covered housing program, the O/A shall provide to any remaining tenant or tenants that were not already eligible a period of 90 calendar days from the date of bifurcation of the lease to:

- Establish eligibility for the same covered housing program under which the evicted or terminated tenant was the recipient of assistance at the time of bifurcation of the lease; or
- Establish eligibility under another covered housing program; or
- Find alternative housing.

The 90-calendar-day period will not be available to:

- A remaining household member in a 202 property
- If the victim is a Live in Aide.
- Will not apply beyond the expiration of a lease.

The O/A may extend the 90-calendar-day period up to an additional 60 calendar days unless the time period would extend beyond expiration of the lease.

Request for documentation

An O/A is not required to request documentation. However, if an applicant or tenant represents to the O/A that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking entitled to the protections under or remedies under VAWA, the O/A may request, in writing, that the applicant or tenant submit to the O/A certain documentation.

If an applicant or tenant does not provide the documentation within 14 business days after the date that the tenant receives a request in writing the O/A may:

- Deny admission to the applicant;
- Deny assistance to the tenant;
- Terminate the participation of the tenant; or
- Evict the tenant, or a lawful occupant that commits a violation of a lease.

An O/A may, at its discretion, extend the 14-business day deadline.

Continued on Page 6

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs (cont.)

Permissible documentation and submission requirements

In response to a written request to the applicant or tenant from the O/A, the applicant or tenant, at his/her discretion, may submit any one of the following forms of documentation:

1. The certification form;
2. A document:
    - Signed by the applicant or tenant; and
    - Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, ‘‘professional’’) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
    - That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under this subpart, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under § 5.2003; or
3. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
4. At the discretion of the O/A, a statement or other evidence provided by the applicant or tenant.

If the O/A receives documentation that contains conflicting information (including certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator), the O/A may require an applicant or tenant to submit third-party documentation.

Confidentiality of documentation

Any information submitted to an O/A, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking (confidential information), shall be maintained in strict confidence by the covered housing provider.

The O/A shall not allow any individual administering assistance on behalf of the O/A or any persons within their employ (e.g., contractors) or in the employ of the O/A to have access to confidential information unless explicitly authorized by the O/A for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

Policies and Procedures should be updated to clearly indicate which staff members are allowed access to this information.

The O/A shall not enter confidential information into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:

- Requested or consented to in writing by the individual in a time limited release
- Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- Otherwise required by applicable law.

Continued on Page 7

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs (cont.)

VAWA Regulations effective 6/14/2017

Emergency transfer plan

O/A shall adopt an emergency transfer plan, no later than June 14, 2017 based on HUD's model emergency transfer plan.

The following definitions apply:

- *Internal emergency transfer* refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.
- *External emergency transfer* refers to an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is the tenant must undergo an application process in order to reside in the new unit.
- *Safe unit* refers to a unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

The emergency transfer plan must provide that a tenant receiving rental assistance through, or residing in a unit subsidized under who is a victim of domestic violence, dating violence, sexual assault, or stalking qualifies for an emergency transfer if:

- The tenant expressly requests the transfer; **and**
  - A. The tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying; **or**
  - B. In the case of a tenant who is a victim of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying, or the sexual assault occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer.

The emergency transfer plan must detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA in relation to other categories of tenants seeking transfers and individuals seeking placement on waiting lists.

The emergency transfer plan must incorporate strict confidentiality measures to ensure that the O/A does not disclose the location of the dwelling unit of the tenant to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, or stalking against the tenant.

The emergency transfer plan must allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available.

The emergency transfer plan must describe policies for assisting a tenant in making an internal emergency transfer under VAWA when a safe unit is not immediately available, and these policies must ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that housing providers may already provide to other types of emergency transfer requests.

Continued on Page 8

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs (cont.)

The emergency transfer plan must describe reasonable efforts the O/A will take to assist a tenant who wishes to make an external emergency transfer when a safe unit is not immediately available.

The plan must include policies for assisting a tenant who is seeking an external emergency transfer under VAWA out of the O/A's program or project, and a tenant who is seeking an external emergency transfer under VAWA into the O/A's program or project. These policies may include:

- Arrangements, including memoranda of understanding, with other covered housing providers to facilitate moves; and
- Outreach activities to organizations that assist or provide resources to victims of domestic violence, dating violence, sexual assault, or stalking.

The plan must not limit a tenant from seeking an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.

Owner/Agents must make the emergency transfer plan available upon request and, when feasible, must make the plan publicly available.

Owner/Agents must keep a record of all emergency transfers requested under the emergency transfer plan, and the outcomes of such requests, and retain these records for a period of three years, or for a period of time as specified in program regulations. Requests and outcomes of such requests must be reported to HUD annually.

The emergency transfer plan may require documentation from a tenant seeking an emergency transfer, provided that:

- The tenant's submission of a written request to the O/A, where the tenant certifies that they meet the criteria, shall be sufficient
- The O/A may, at its discretion, ask an individual seeking an emergency transfer to document the occurrence of domestic violence, dating violence, sexual assault, or stalking for which the individual is seeking the emergency transfer, if the individual has not already provided documentation of that occurrence; and
- No other documentation is required to qualify the tenant for an emergency transfer.

Updating Policies and Procedures for Transfer Plans

Owner/Agents are encouraged to undertake whatever actions permissible and feasible under their respective programs to assist tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to remain in their units or other units under the covered housing program or other covered housing providers, and for the O/A to bear the costs of any transfer, where permissible.

FAMILY, 515/8 and 202/8 PROPERTIES:

In order to facilitate emergency transfers for victims of domestic violence, dating violence, sexual assault, and stalking, the O/A has discretion to adopt new, and modify any existing, admission preferences or transfer waitlist priorities.

Continued on Page 9

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs (cont.)

When a safe unit is not immediately available for a victim of domestic violence, dating violence, sexual assault, or stalking who qualifies for an emergency transfer, The O/A must:

- Review the covered housing provider's existing inventory of units and determine when the next vacant unit may be available; and
- Provide a listing of nearby HUD subsidized rental properties, with or without preference for persons of domestic violence, dating violence, sexual assault, or stalking, and
- Provide contact information for the local HUD field office.

202/8 Properties only:

The O/A is responsible for determining whether applicants are eligible for admission and for selection of families. To be eligible for admission, an applicant must be an elderly or handicapped family; meet any project occupancy requirements approved by HUD; meet the disclosure and verification requirement for Social Security numbers and sign and submit consent forms for obtaining wage and claim information from State Wage Information Collection Agencies.

Budget Based Training offered to Industry Partners

On November 16, 2016, Brian Ried and Darline Burrell led a Section 8 Budget Based Rent Adjustment (BBRA) training sponsored by AHMA-NCH. There were 8 professionals who attended this half day training, and registered to attend via AHMA.

The training began with a review of HAP contracts and Rent Comparability Studies in order to determine whether and when a property under a Section 8 contract is eligible to submit a BBRA. There was next a discussion of the components of a complete package that must be submitted for a BBRA, per the HUD Handbook 4350.1, Chapter 7 and the Section 8 Renewal Policy Guide; and then ended with a high level review of the Appendix 5. This appendix in the 4350.1, Chapter 7 is used as the tool to determine the actual percentage of increase or decrease for the BBRA submitted.

The training ended with an exercise in which the attendees acted as members of the PBCA. They were required to process the budget submission from initial receipt through a complete package. Additionally, they reviewed and approved budget/line item numbers, as well as completing an Appendix 5 manually in order to determine the percentage increase.

This presentation is now available via the Industry Training section of CAHI's website. Please be advised that is training did not cover budget submissions for PRACS/811 properties.

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

What's New on HUDClips

12/06/2016	FR-5720-C-04	Violence Against Women Reauthorization Act of 2013; Implementation in HUD Housing Programs; Correction
11/16/2016	FR-5855-F-03	Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs
11/16/2016	FR-5720-F-03	Violence Against Women Reauthorization Act of 2013; Implementation in HUD Housing Programs
11/16/2016	FR-5855-N-04	Small Area Fair Market Rents in Housing Choice Voucher Program Values for Selection Criteria and Metropolitan Areas Subject to Small Area Fair Market Rents
10/28/2016	HUD Notice H 2016-16	Policy for Amended and Restated Use Agreement for Multifamily Projects Subject to the LIHPRHA Act of 1990.
10/3/2016	HUD Notice H 2016-10	Reminder of Requirements Pertaining to Lead-Based Paint Inspection and Disclosure Forms, and Notification of Upcoming Inspections
10/3/2016	HUD Notice H 2016-09	Streamlining Administrative Regulations for Multifamily Housing Programs

Focus on Compliance: Lead Based Paint

If your property was built prior to January 1, 1978, residents may be at risk of exposure to lead-based paint. Chances are you have already addressed the potential of lead-based paint at your property and are either certified lead free or have an on-going lead abatement or hazard control plan.

Applicability

The lead based paint rules do not apply to any housing built after 1977, housing with zero bedroom units or efficiencies, any housing where the leases are less than 100 days, housing for the elderly or disabled (unless children reside there), or housing that is certified "lead free".

In order to be considered "lead free", you should obtain an official certification from a certified lead-based paint inspector (as certified by the state or EPA). An owner's lead free self-certification is not sufficient proof that the property is free of lead hazards.

Continued on Page 11

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

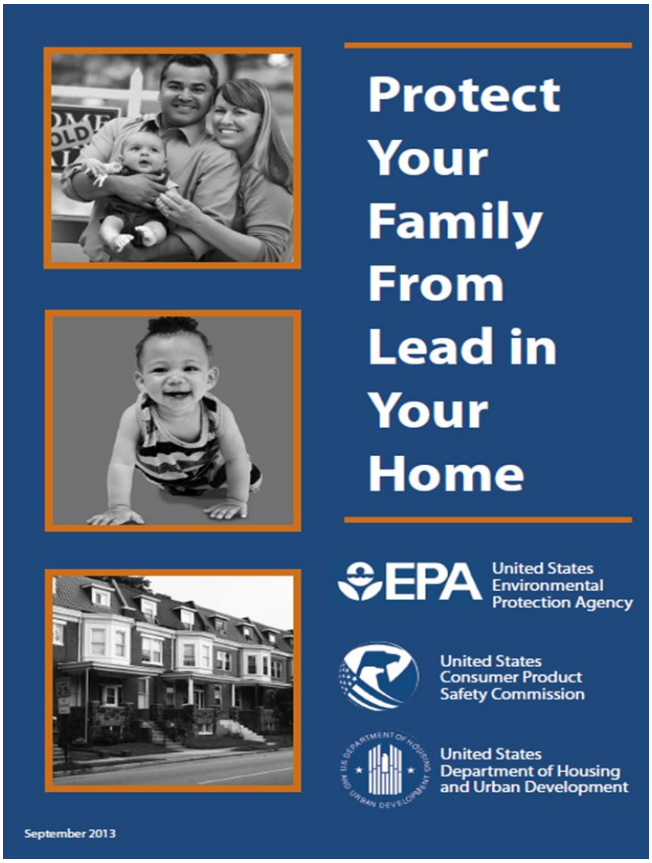
Winter 2016

Focus on Compliance: Lead Based Paint

HUD provided clarification that not all certified LBP consultants provide a Lead-Based Paint Free "Certificate." HUD does not require a certificate as demonstration of a property being LBP free and exemption from the rules. HUD guidelines suggest the use of the following language in the report, which would be satisfactory to determine that the property is lead based paint free:

> "The results of this inspection indicate that no lead in amounts greater than or equal to 1.0 mg/ cm_2 in paint was found on any building components, using the inspection protocol in chapter 7 of the *HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing"*

During your MOR, the reviewer will ask you to produce the certified lead-based paint inspector's documentation of the status of lead hazards. If your property is "elderly" or "disabled", the reviewer will ask if you have any children under the age of six in residence. Children under the age of six are especially at risk of harm due to lead based paint, as they are more likely to ingest the toxin from hand to mouth contact, toy to mouth contact from chipping paint, chewable surfaces or barren soil. If you have any children under the age of six residing at your "elderly" or "disabled" property, please keep in mind that you are required to abide by lead-based paint disclosure requirements.



Disclosure Requirements

If the lead based paint requirements apply to your property, you will need to disclose any known information concerning lead paint and lead hazards to your residents, which includes, but is not limited to, disclosing the location of known lead-based paint, and the condition of painted surfaces. You will also need to keep your residents informed of any reports or records concerning lead based paint in the units and common areas when the information is available as a result of a building wide evaluation.

Residents must be given an informational pamphlet titled, "Protect Your Family From Lead in Your Home." Documentation that the pamphlet was given to the household must be maintained in the tenant file by either an acknowledgement form or a signed and dated copy of the pamphlet.

Continued on Page 12

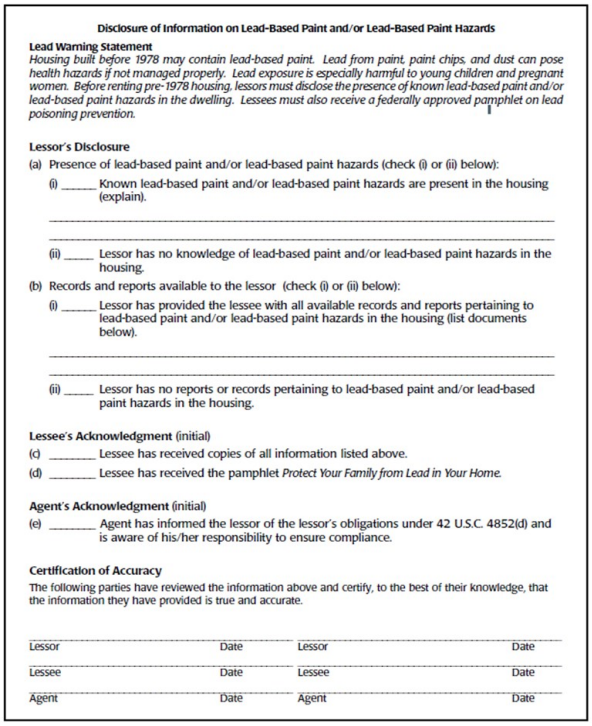
California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Focus on Compliance: Lead Based Paint (cont.)

You must also include an attachment to the lease that includes a lead warning statement and confirms that the owner is in compliance with the lead-based paint notification requirements.



Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

(ii) _____ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the lessor (check (i) or (ii) below):

(i) _____ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

(ii) _____ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Lessee's Acknowledgment (initial)

(c) _____ Lessee has received copies of all information listed above.

(d) _____ Lessee has received the pamphlet *Protect Your Family from Lead in Your Home.*

Agent's Acknowledgment (initial)

(e) _____ Agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852(d) and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Lessor	Date	Lessor	Date
Lessee	Date	Lessee	Date
Agent	Date	Agent	Date

Lead Hazard Control Plan

First and foremost, your property must be, where applicable, free of lead hazards or has an ongoing plan to mitigate and control the lead with the ultimate goal of abatement. Most property owners who have properties with lead-based paint have already taken steps to begin abatement, if not already certified lead-free altogether, but for those who have not, the first step is to have a certified inspector come and conduct a formal risk assessment and evaluation.

Remember, only a certified professional is qualified to consult you on the risk assessment. Your certified risk assessor, planner or designer should then develop a site specific hazard control plan. The plan should be based on the hazards identified, feasibility of the control measures, occupancy of young children and financing. Measures to mitigate or control lead-based paint must be taken throughout the life of the property.

Those measures include:

- Visual assessments to identify deteriorated paint or (for assistance over $5,000 per unit annually) risk assessments to identify lead-based paint hazards;
- Paint stabilization or (for assistance over $5,000 per unit annually) interim controls with clearance testing when appropriate;
- Ongoing paint maintenance and (for assistance over $5,000 per unit annually) re-evaluation every two years to identify hazards;
- Notification of tenants about the actions above; and
- Special actions when a child under six years old is reported to have high blood lead levels.

If your property has an ongoing Lead Hazard Control Plan, you should provide your MOR reviewer a copy of the plan along with the documentation of your compliance with the plan (documentation of the interim controls, visual inspections, maintenance, tenant notifications etc.).

Your compliance with Lead-based paint is figured into the overall MOR score of your property via category B of the HUD 9834, "Follow-up and Monitoring of Project Inspections", which accounts for 10% of the overall MOR score.
You can find more information about HUD's Lead-based paint regulations at the Office of Lead Hazard Control and Healthy Homes website and Chapter 19 of the HUD 4350.1.

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Submission of UAF in Accordance with HUD Notice 2015-04

Per Notice H-2015-04, for years two and three, following the year the baseline UA is established, owner/agents have the option to perform a factor-based utility analysis, for projects subject to the requirements found in the Utility Analysis Notice. Utility Allowance Factors will be effective on the same date as the OCAF, which is typically February 11 of each year. HUD will release the UAF factors at the same time as the OCAF factor.

Per HUD's UA FAQ Guidance #33: *Utility allowance regulations require an owner to "submit an analysis of the project's utility allowances" for review and approval each year. This requirement extends to the factor-based years in which an owner will show how the factor was applied and identify the resulting utility allowance recommendation.*

Calculation and Submission

For projects with a Utility Allowance; when submitting an AOCAF package to the CA; owners should select the second checkbox on the AOCAF letter. This indicates that they are asking for one of the following options: 1) the AOCAF with a UAF adjusted utility allowance, including the written analysis to show how the factor was applied; or 2) the AOCAF with a baseline submission, with the necessary supporting documentation.

In factoring the UAF: owner/agents will determine their utility type and State specific UAF (Utility Allowance Factor) and apply the published UAF to their existing allowance to calculate the adjusted utility allowance amount. For states published with a negative UAF, owner/agents are reminded of the HUD requirement to tenant notify prior to their initial submission to the CA as required by 24 CFR 245.405(a) and 245.410. Owner/agents should allow the required 30 day tenant comment period to expire prior to sending the AOCAF submission to the CA. Any tenant comments received should be sent to the CA along with the AOCAF package, including the signed and dated Tenant Notice and the corresponding "Owners Certification as to Compliance with Tenant Comment Procedures in 24 CFR 245.

For example: An owner has a contract effective date of 1/1/2017. At 180 days prior to expiration (7/5/2016), the owner has calculated their UA and notified their tenants of a rent increase due to a decrease in their UA. Around 150 days prior to expiration, the owner receives the AOCAF letter from the CA. The owner may now sign and return the AOCAF letter to the CA along with: their UA Baseline or UAF analysis, the tenant notice which has expired, the owner's certification regarding compliance to tenant comment procedures, any tenant comments received, and a signed rent schedule. Upon receipt, the CA will calculate the UA Baseline or UAF and notify the owner of any discrepancies.

Owners are encouraged to read and understand the tenant notice requirements Located at 24 CFR 245.410.

Phase-In

Utility allowance phase-in eligibility is determined at the time of the first baseline analysis after implementation of Housing Notice 2015-04 only. For projects whose Initial Baseline supported a large UA decrease, the subsequent years (two and three) should not be decreased by an amount greater than 15%. HUD has given the following Phase-In example (found in HUD's UA FAQ Guidance #36):

Year One

A property submits their initial baseline and their current UA is $90. The Utility Bills submitted calculate a 40% decrease resulting in a new UA of $54. Because the UA bills support a decrease that is greater than 15% and $10 the first baseline is capped at the 15% resulting in the Baseline UA amount of $77 ($90-15%). $77 is the UA that gets implemented in year 1.

Continued on Page 14

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Submission of UAF in Accordance with HUD Notice 2015-04 (Cont.)

Year Two

In the second year following the Initial Baseline, a property submits their UAF analysis requesting the (hypothetical) 2% UA factor. This factor is applied to the uncapped UA of $54 from last year resulting in a new UA of $55. However, the capped UA of $77 from last year minus 15% results in a new capped UA of $65. As the UAF calculation of $55 is less than the 15% cap of $65, the UA that gets implemented in year 2 would be $65.

Year Three

In the third year following the Initial Baseline, a property submits their UAF analysis requesting the (hypothetical) 2% UA factor. This factor is applied to the uncapped UA of $55 from last year resulting in a new UA of $56. The capped amount from last year of $65 minus 15% results in a new UA of $55 and therefore the UA implemented would be the actual calculated utility allowance of $56.

A property within the Initial Baseline's 3 year cycle is subject to being capped at 15% in order to phase-in the decrease to UA and increase to tenant rents. A sample 3 year cycle is given in the example above. After the Initial Baseline's third year expires, there is a new baseline and phase-in capping requirements no longer apply; what is calculated in the baseline following the 3 year cycle's expiration is what the new UA will become (ie: year 4's UA calculation = new UA).

- For any subsequent full baselines submitted in year two or three (a property submits all units bills for calculating another baseline in year 2 or 3), following the Initial Baseline year, the phase-in process no longer applies and the UA will not be capped at 15%. This **will** restart the clock on counting the 3 year cycle.

- For any subsequent partial (or mixed) baselines submitted (a property submits 1BR units with a baseline and 2BR units with the UAF in year 2 or 3) following the Initial Baseline year, the phase-in process no longer applies for that unit type and the UA will not be capped at 15%. This will **not** restart the clock on counting the 3 year cycle.

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Special Add-On Fee Available to Owner's Implementing Homeless Preference

In an effort to decrease the homeless population, HUD announced a special add-On Management fee for those owners who implement a homeless preference. Participation is limited to HUD multifamily housing, and MFH field staff has established a schedule of project characteristics and conditions that warrant a special or Add-on fees for properties in their respective jurisdiction.

add-on fees are approved as flat per unit per month (PUPM) fee amounts for each characteristic/condition. The add-on fee is intended to cover the cost of staff time associated with establishing and managing a Homeless Preference which include:

- Identifying and working with local HUD funded Continuum of Care and other homeless service providers.
- Evaluating the local area's needs and determining which families, individuals, or groups who are experiencing homelessness will be best served by your property.
- Formalizing agreements and establishing a referral process with the local Continuum of Care and homeless service providers.
- Amending the Tenant Selection Plan and submitting to HUD for approval.
- Receiving applicants from the referring agencies and screening those applicants for suitability and eligibility.
- Providing support, education, and tools to property management staff when coordinating services and resources from application through tenancy.
- Facilitating a household's move-in and access to the necessary household items.
- Documenting the results, including maintaining the application materials, TRACS MI certifications (using Previous Household Code 5), and including the ad on Management fee on the Annual Financial Statement.

For a nine month start-up period, the allowable special fee will be $2.50 PUPM not to exceed $4,500 per property. The fee amount is not allowable after the nine month start up period; however, if the owner completes all start up tasks before the end of the nine month start up, they are allowed to collect the special fee for the entire nine months.

After the initial nine month start up timeframe, the owner/agent may collect a monthly add-on fee as long as at least one previously homeless individual or household is admitted to the property during a one year period. This add-on fee is $2.00 PUPM, not to exceed $3,600 per property, per year. This fee cannot be collected in conjunction with the Special $2.50 PUPM fee collected at start-up.

Collection of the $2.00 PUPM add-on fee cannot begin until 1) You obtain HUD approval of the TSP containing the Homelessness Preference. 2) You notify the applicants on the waiting list and email your Account Executive a copy of the notification letter sent to the applicants. 3) The first homeless household has moved in following the 9 month start up period or the date of the management certification if the special startup fee was not requested.

The $2.00 PUPM add-on fee can be collected on an on-going monthly basis as long as the property's homeless preference is active, local homeless service providers continue to refer eligible applicants and TRACS shows the project had at least one "Previous Housing Code 5" move-in within a one-year period.

Continued on Page 16

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Special Add-On Fee Available to Owner's Implementing Homeless Preference (Cont.)

If your property already has an approved Tenant Selection Plan that includes a homeless preference, you may not collect a special add-on fee, however, you may qualify for the $2.00 PUPM Add-on fee. Rent increases may not be requested on the basis of paying for the special or add-on management fee.

In order to begin implanting this program, you should submit a new management certification to your Account Executive requesting both or either of the Special and add-on fees including the appropriate timeframe for each fee. HUD will provide a written approval of the management certification that will include the terms and conditions for the collection of the fees. Once the management certification has been approved, you may begin collecting the fee based on the start date indicated on the certification.

You must submit your tenant selection plan with the homeless preference to your HUD Account Executive, who will then provide an electronic written approval of the TSP. Next, you must notify the applicants on the waiting list, and email a copy of the notification letter to your Account Executive.

If you are implementing this preference, you must maintain documentation on file that verifies the homeless status of new move-ins. Use the TRACS code "Previous Housing code 5" on the MI 50059. Your Annual Financial Statement must include the management fee information.

Please refer to the HUD Memorandum, "Allowable Special and Add-on Management Fees to Implement a Homeless Preference" issued on October 26, 2016.

If you are not already receiving this publication via e-mail or if you have ideas, suggestions or questions for future publications, we'd like to hear from you.

Please visit: www.cahi-oakland.org OR send an email to Andrew.Hill@cgifederal.com

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

New Chapter 9 "Rent Comparability Studies" of the Section 8 Renewal Policy Guide

On December 1, 2016, HUD issued substantial revisions to Chapter Nine of the Section 8 Renewal Policy Guide covering Rent Comparability Studies. The policy changes will apply to any Rent Comparability Study (RCS) signed by the appraiser on or after March 1, 2017.

One of the more visible changes that readers will note is that HUD reorganized the chapter to identify the responsibilities of the owners, the appraisers, and the reviewers, all in one place. This allows for all users of the Section 8 Renewal Policy Guide to have clear, distinct directive based on their role with the processing of the RCS. Pay special attention to the table found under Section 9-3 as it provides a roadmap to primary stakeholders (Owner, RCS Appraiser, RCS Reviewer (both initial and substantive reviewers)). It is highly recommended though that all interested parties become familiar with the entire Chapter Nine and applicable Appendices to ensure compliance with the requirements for the respective Section 8 renewal process.

Below is a summary of the new guidance to be effective 3/1/2017. For a complete transmittal of changes and the revised Chapter Nine, see the Revised Chapter 9 Rent Comparability Studies of the Section 8 Renewal Policy Guide.

- HUD highlighted provisions that were unique to RCSs when prepared for an Annual Adjustment Factor (AAF) rent adjustment. Section 9-2. C elaborates that certain sections of Chapter Nine apply when HUD Notice H 02-10 is applicable, and requires owners of new construction/substantial rehabilitation projects to submit HUD form 92273 Estimates of Market Rent by Comparison. Rather than following the instructions of this Guide, owners of these projects must follow one of the two following methods:

    1. Submit the new RCS grid (HUD 92273-S8) and other materials required in Chapter Nine (Appendix 9-2-2). Owners must require RCS appraisers preparing the report to do so in accordance with the guidance found in sections 9-8 through 9-13 of Chapter Nine. These property owners must follow the guidance found in HUD Notice H 97-14 to determine which units must be included in the submitted RCS.

    2. The owner should ask to use non-Section 8 units in the Section 8 project to set the market rent ceiling instead of performing an RCS. An owner can only do so if the project meets all of the conditions set forth in Section 9-6.B of Chapter Nine for all unit types for which HUD Notice 97-14 would require that the owner submit a HUD form 92273 rent comparison. The owners request must be submitted using Appendix 9-4. Owners should delete references to renewals on Appendix 9-4 and instead refer to rent comparisons required by HUD Notice 97-14. Owners should also substitute rent comparisons for references to renewals when reading Section 9-6.

- HUD clarifies that the alternatives to the Rent Comparability Study options found under Section 9-4 A. and B. apply only to owners of Section 8 contracts renewed under an Option Two. While the methods described in Section 9-4 A. and B. are rarely used, HUD acknowledges the importance of providing an alternative method when facts strongly suggest that the newly computed rents will be under rents computed in an RCS. These methods allow owners of projects with Option Two contracts to avoid the costs and processing time associated with securing an RCS.

Continued on Page 18

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

New Chapter 9 "Rent Comparability Studies" of the Section 8 Renewal Policy Guide (Cont)

- Section 9-12. C discusses changes to the Rent Grid and outlines that the Appraisers must provide explanations that are clear and convincing to a person who may or may not be familiar with the subject property and surrounding market areas. Any line item adjustment on the Rent Grid will require an explanation as to why it was made, and how the dollar amount was derived. HUD also cautions that Appraisers should not just reiterate the entries in the data column and should instead outline the data and logic used to determine the adjustment. This section also increases the documentation that Appraisers must provide if any adjustment on the rent grid exceeds a nominal amount or a percentage of the unadjusted rent of the comparable, whichever is greater.

- HUD has established clearer qualification requirements for HUD Reviewers under Section 9-15. A., which outlines the minimum qualification requirements for reviewers depending on the level of review being performed. Section 9-16 provides guidance on the different levels of reviews, including the Initial review, Substantive Review, and the Field Visit.

    1. Initial Screening: An initial review for timeliness and completeness may be completed by HUD/CA initial reviewer using the checklist provided under Appendix 9-5-1. The reviewers must be aware of and follow the policies and time frames set in Chapter Nine. This section states that the initial reviewer must have read the Chapter Nine guidance within the preceding 12 months of performing the initial screening review.

    2. Substantive Review: All substantive reviews conducted by CAs must be completed by a state-certified general appraiser. If the substantive review is conducted by HUD, it should ideally be completed by HUD Appraisers. However, if staffing does not permit the use of a HUD Appraiser, a non-appraiser substantive reviewer from HUD staff must meet the qualifications outlined in Section 9-15.2.a and b.

- Section 9-16.3.c. identifies that in cases where the substantive review was completed by a non-appraiser HUD staff, and includes line item adjustments that are identified under Appendix 9-5-4, it is then required for a second reviewer to also review and sign-off on the specific trigger items. The second reviewer involved in the process is required to meet the minimum qualification requirements as detailed in section 9-15.A. and must provide input on the appropriateness and reasonableness of only the lines items that triggered a second review. If a consensus cannot be made between the first and second reviewer, then an RCS Review Appraiser will make the determination on whose decision should prevail.

The above represents only the highlights of the changes made to Chapter Nine of the Section 8 Renewal Policy Guide. You can review the revised Chapter Nine in its entirety here.

California Affordable Housing Initiatives, Inc.

The CA Quarterly Review

Winter 2016

Vouchering Tips: TRACS Release 203A

TRACS Release 203A is underway and as of 11/10/2016, the Implementation Schedule has been posted to the TRACS webpage under "Announcements".

The purpose of this implementation schedule is for HUD to layout the tasks and activities that need to take place to efficiently deliver TRACS Release 2.0.3.A from the development or pilot environment to the production, operations and maintenance environment.

Date	Activity/Task	Description
December 1, 2016	Point of Contact (POC) Information	HUD Will Provide POC Information Identifying Members of the Transition Teams and their Contact Information
February 1, 2017	Open Test Region	HUD Will Open TRACS Release 2.0.3.A Test Region for Software Vendors from Transition Teams
June 1, 2017	Go Live	Industry Partners Will Begin Transition to TRACS Release 2.0.3.A [TRACS and Contract Administrators Will Process Both TRACS Release 2.0.2.D and 2.0.3.A During the Transition]
August 31, 2017	End of Transition	TRACS Will Reject TRACS Release 2.0.2.D Transactions Effective September 1, 2017

Expect to Go Live on 6/1/2017 with a transition period end date of 8/31/2017. While HUD will allow a parallel process during the transition period (July 2017 – September 2017 vouchers), wherein vouchers will be accepted in both 202D and 203A formats, Owners/Agents must be 203A compliant no later than 9/1/2017, with the submission of the October 2017 voucher. Effective 9/1/2017 TRACS will no longer accept data in 202D format. Failure to convert by both of these dates may result in the inability to receive or process certifications and voucher files, which can lead to a delayed voucher payment. Please see some helpful links below to aid in the transition process.

Helpful Links

203A Implementation Schedule: https://portal.hud.gov/hudportal/documents/huddoc?id=TRACS203AImpSched.pdf

203A Industry Specifications Docs:
https://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/trx/trxsum

TRACS helpdesk:
Email - tracs_hotline@hud.gov
Phone: (888) 297-8689, option 5

Multifamily Help Desk:
RealEstateMGMT@hud.gov