



Tehama County
Continuum of Care

Violence Against Women Act (VAWA) Policy

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I. Introduction

A. Overview

The Emergency Solutions Grant (ESG) Program is a federal program operated by the U.S. Department of Housing and Urban Development (HUD) to make grants to states, local governments, and territories for the purposes of funding activities that directly serve people experiencing homelessness, including people at risk of homelessness.

The California Department of Housing and Community Development (CA HCD) is a direct recipient of ESG from HUD. CA HCD administers an annual allocation of ESG and an additional one-time allocation of ESG made available under the CARES Act.

Service Providers located within the geographic area covered by the Tehama County Continuum of Care (Tehama CoC) may receive ESG funding either directly from CA HCD or as a subgrantee of Tehama CoC, through its designated Collaborative Applicant/Administrative Entity (CA/AE).

B. Applicability of this Policy

This policy applies to ESG-funded projects operating within Tehama CoC's geographic area, and may be applicable, in whole or in part, to operations of projects funded through other funding programs administered locally by Tehama CoC through its designated CA/AE.

II. Definitions

A. Domestic Violence

For the purposes of this Policy and the ESG Program, the definition of domestic violence includes dating violence, sexual assault, stalking, and human trafficking. The definition is also considered to include any additional nuances as defined by HUD; for example, there may be additional circumstances that are considered domestic violence for youth aged 24 and under. For more information, please refer to the relevant external document published by HUD.

B. Covered Housing Providers

Some of the provisions of this Policy refer to Covered Housing Providers (CHPs). A CHP is any entity that meets any of the following criteria:¹

- A recipient or subrecipient that administers rental assistance (for the purposes of the Emergency Transfer Plan procedure)
- A housing owner with respect to the limitations of VAWA protections enumerated in 24 CFR 5.2005(d)
- The housing owner and the entity administering rental assistance (recipient, subrecipient, or sub-subrecipient) for the purposes of 24 CFR 5.2005(d)(2), which clarifies the circumstances under which a victim of domestic violence may or may not be evicted or have their ESG assistance terminated
- The housing owner and the entity administering rental assistance (recipient, subrecipient, or sub-subrecipient) for the purposes of 24 CFR 5.2007, which defines procedures for documenting the occurrence of domestic violence o
Note: recipients and subrecipients may limit these requests in accordance with [24 CFR 576.409\(b\)\(4\)](#)

¹ 24 CFR § 576.409(b)

III. General Requirements

A. Overview

The ESG Program's primary regulatory body is [24 CFR Part 576](#), the ESG Program Interim Rule.² The ESG Program Interim Rule provides various protections for victims of domestic violence (which includes domestic violence, dating violence, sexual assault, stalking, and human trafficking).³ These protections and their associated requirements are enumerated in this section of the Policy.

B. HMIS Comparable Databases

Domestic violence service providers (VSPs) are prohibited from maintaining participant data in the CoC's HMIS; instead, they are required to maintain participant data in an HMIS comparable database.

For the purposes of ESG, HUD defines a VSP as "a private nonprofit organization whose primary mission is to provide direct services to victims of domestic violence."⁴

CA HCD is required to affirmatively record that VSPs receiving ESG are maintaining participant records in an HMIS comparable database.

VSPs are encouraged to connect with other VSPs and with the California Partnership to End Domestic Violence for more information about HMIS comparable databases. There is also information about HMIS comparable databases available from SafeHousingPartnerships.org:

https://safehousingpartnerships.org/sites/default/files/2017-08/CD101_CSNEDV.pdf

Please review the table below to determine whether a given project is required to maintain participant data in HMIS or an HMIS comparable database.

	Organization is a VSP	Organization is not a VSP
Project serves victims of domestic violence	HMIS comparable database	HMIS
Project does not serve victims of domestic violence	HMIS comparable database	HMIS

C. Prohibitions on Denial or Termination of Services

1. Prohibition on Denial or Termination of Assistance or Eviction on the Sole Basis of Domestic Violence—Housing

² <https://www.hudexchange.info/resource/1927/hearth-esg-program-and-consolidated-planconforming-amendments/>

³ 24 CFR § 576.409

⁴ <https://www.hudexchange.info/faqs/programs/continuum-of-care-coc-program/program-requirements/coordinated-entry/how-does-hud-define-victim-service-provider/#:%7E:text=HUD%20defines%20a%20victim%20service,to%20victims%20of%20domestic%20violence>

An ESG applicant or participant cannot be denied assistance, have their assistance terminated, or be evicted from their housing solely because they are a victim of domestic violence.

2. Prohibition on Denial of Admission or Removal on the Basis or as a Result of Domestic Violence—Emergency Shelter

An ESG applicant or participant cannot be denied admission to or removed from an emergency shelter on the basis or as a direct result of the fact that the applicant/participant is or has been a victim of domestic violence if they would otherwise qualify for admission or occupancy.

D. Notice of Occupancy Rights under VAWA and Certification Forms

Each entity that determines eligibility for or administers ESG rental assistance is responsible for providing the following two forms to each applicant for ESG rental assistance and each participant receiving ESG rental assistance:

- “Notice of Occupancy Rights under the Violence Against Women Act” (Form HUD-5380), available here: <https://www.hud.gov/sites/documents/5380.DOCX>
- “Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation” (Form HUD-5382), available here: <https://www.hud.gov/sites/documents/5382.docx>

These forms must be provided at each of the following times:

- When an applicant is denied ESG rental assistance
- When an applicant's application for a unit receiving project-based rental assistance is denied
- When a participant begins receiving ESG rental assistance
- When a participant is notified of termination of ESG rental assistance
- When a participant receives notification of eviction

E. Bifurcation

When a family receiving tenant-based rental assistance separates under the lease bifurcation clause of 24 CFR 5.2009(a), the family's tenant-based rental assistance and utility assistance, if any, shall continue for the family member(s) who are not evicted or removed.

If a family living in a unit receiving project-based rental assistance separates under the lease bifurcation clause of 24 CFR 5.2009(a), the family member(s) who are not evicted or removed can remain in the assisted unit without interruption to the rental assistance or utility assistance provided for the unit.

F. VAWA Lease Language

Projects are required to ensure that the requirements listed under 24 CFR Part 5, Subpart L, are included or incorporated into all leases and rental assistance

agreements for units that receive ESG-funded short-term or medium-term rental assistance.

Tehama CoC has incorporated a procedure for making this determination into its ESG Form Kits as part of completing the Lease Compliance Worksheet (**Form 2U/3U**), through which intake staff will evaluate a proposed lease to ensure that it includes all of the following provisions:

1. The Landlord will not consider incidents of domestic violence, dating violence or stalking as serious or repeated violations of the lease or other "good cause" for termination of assistance, tenancy or occupancy rights of the victim of abuse.
2. The Landlord will not consider criminal activity directly relating to abuse, 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 immediate member of the tenant's family is the victim or threatened victim of that abuse.
3. The Landlord may request in writing that the victim, or a family member on the victim's behalf, certify that the individual is a victim of abuse and that the Certification of Domestic Violence, Dating Violence or Stalking, Form HUD-91066, or other documentation as noted on the certification form, be completed and submitted within 14 business days, or an agreed upon extension date, to receive protection under the VAWA. Failure to provide the certification or other supporting documentation within the specified timeframe may result in eviction.

Under most circumstances, project will need to provide and require a lease amendment that includes the necessary language. This can be accomplished through requiring that the VAWA Lease Amendment (Form HUD-91067), a copy of which is included in both the Rapid Rehousing and Homelessness Prevention Form Kits, be added to the proposed lease. The prospective landlord is notified by project staff of the requirement that the provisions be included in the lease through the Lease Compliance Notice (**Form 2V/3V**). Project staff attach a copy of the VAWA Lease Amendment to provide the landlord with a streamlined method of bringing the lease into compliance.

For more information, including the applicability of protections under different rental/leasing models, please refer to the ESG Program interim rule, sections [576.106\(e\)](#) and [576.106\(g\)](#).

Tehama CoC ESG Form Kits are available on the Provider Resources page of the CoC's website (www.tehamacoc.org).

G. Emergency Transfer Plan

A homeless services program participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if:

- They expressly request the transfer; and,
- Either of the following is true:

- They believe there is a threat of imminent harm from further violence if they remain within their existing unit; or,
- If the participant is a victim of sexual assault, the participant may also be eligible to transfer if the sexual assault occurred on the premises within the 12-month period preceding a request for an emergency transfer.

Details regarding the Emergency Transfer responsibilities of Housing Service Providers are provided in the *Tehama County Continuum of Care Emergency Transfer Plan for Victims of Domestic Violence*, available on the Provider Resources page of the CoC website (www.tehamacoc.org). Tehama CoC's Emergency Transfer Plan (ETP) is modeled on HUD's "Model Emergency Transfer Plan for Victims of Domestic Violence," (available here: <https://www.hud.gov/sites/documents/5381.docx>) and meets the requirements listed in 24 CFR 5.2005(e).