

Texas Balance of State Continuum of Care

Texas Balance of State Continuum of Care (TX BoS CoC)

Emergency Transfer Plan

Section 1. Emergency Transfers & Relevant Definitions

The Texas Balance of State Continuum of Care (CoC) is concerned about the safety of the participants of the housing projects that are funded by CoC Program grant funds, and such concern extends to participants who have experienced or are experiencing domestic violence, dating violence, sexual assault, or stalking. CoC Program-funded projects providing permanent housing (Rapid Re-Housing, or RRH, or Permanent Supportive Housing, or PSH) or transitional housing are required by federal statute, the Violence Against Women Act (VAWA), to have an emergency transfer plan and are required to assist participants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the participant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. The ability of a housing project to honor such a request for participants currently receiving assistance, however, may depend upon whether the housing project is able to locate another dwelling unit that is available and is safe to offer the participant for temporary or more permanent occupancy.

The following sections of this plan include information regarding eligibility criteria for an emergency transfer; the documentation needed to request an emergency transfer; confidentiality protections; how an emergency transfer may occur; and guidance to participants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that the TX BoS CoC and CoC Program-funded projects are following VAWA compliance.

Internal transfer: An internal transfer is a transfer within the same single or scattered site property in which the tenant requesting the transfer resides. The transfer can be performed without the tenant reapplying for housing assistance.

External transfer: An external emergency transfer refers to a tenant's physical move out of the property in which they reside or out of a form of assistance, where the tenant would be categorized as a new applicant. For example, a move from Property A to Property B is an external transfer - this also means that the household goes from being a tenant at Property A to an applicant at Property B.



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Personally Identifying Information (PII): Any information, when combined, could serve to identify an individual, which includes (but is not limited to) name, address, contact information, social security number, date of birth, and racial, ethnic, or religious identity.

Safe unit: A unit is deemed safe solely by the survivor, based on their lived experience and assessment. The survivor determines safety without any external validation.

Domestic violence: The VAWA 2022 Reauthorization revised and expanded the definition to include economic abuse and technical abuse.

Section 2. Eligibility for Emergency Transfers

A project participant who has experienced 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:

- The project participant reasonably believes that there is a threat of imminent harm (including physical, sexual, emotional, technological, and/or economic harm) from further violence if the project participant remains within the same unit (the participant does not need to provide any evidence to verify reasonable belief); or
- the project participant has experienced sexual assault, then the project participant may also be eligible to transfer if the sexual assault occurred on the premises preceding a request for an emergency transfer.

A project participant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan. Project participants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Section 3. Emergency Transfer Request Documentation

Requests (documentation) for an Emergency Transfer should be submitted by the project participant, or someone acting on behalf of the project participant who is requesting the transfer, to the CoC Program-funded housing project, not to the housing owner or landlord. The project staff will also work with the owner or landlord to facilitate the transfer on the

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participant's behalf. The participant may, but is not required to, use the Emergency Transfer Request form (HUD-5383) provided as Attachment A in Section 11 of this document. The housing project will offer reasonable accommodations to this policy for individuals with disabilities. The project participant's written request for an emergency transfer should include either:

- A statement expressing that the project participant reasonably believes that there is a threat of imminent harm from further violence if the project participant were to remain in the same dwelling unit assisted under the housing project; OR
- A statement that the participant was a sexual assault victim and that the sexual assault occurred on the premises preceding the participant's request for an emergency transfer.

The housing project may request additional documentation from a participant, in accordance with the documentation policies of HUD's regulations at 24 CFR part 5, subpart L. The housing project may use the HUD forms [5382](#) and [5383](#) to document requests for an emergency transfer and to document incidents of domestic violence. The participant may choose what documentation to provide from the list established by HUD, **and the housing project must accept the participant's choice of documentation.**

If a housing provider requests proof to approve an emergency transfer, they must allow a project participant, or someone acting on behalf of the project participant who is requesting the transfer, to submit any one of the following forms of documentation to certify their need for an Emergency Transfer (and the survivor gets to choose the type of documentation provided for proof):

1. VAWA self-certification form (HUD Form 5382 for all HUD programs; see Attachment B of Section 11 of this document);
2. A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking;
3. A third party statement, signed by the participant, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional from whom the tenant sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional attesting under penalty of perjury that he

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or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection; or

4. A statement of other evidence at the housing provider's discretion, such as emails, text messages, voicemails, social media postings, etc.

Housing project providers cannot require participants to submit more than one form of documentation.

The landlord may take the tenant's word or may ask the tenant to prove the violence. If the landlord requests proof, that request must be in writing to the tenant. Once the tenant receives the request for proof, the tenant has 14 business days from request to provide proof; although, the landlord is free to grant extensions if the tenant needs more time.

If additional information is requested due to the only exception (conflicting evidence), the housing providers can require 30 days to submit third-party documentation, but also grant extensions, when needed. Additionally, housing providers may not engage in additional fact-finding to determine if someone is a "real" victim or survivor (e.g., conducting interviews with neighbors, employers, etc.).

Section 4. Confidentiality Protections

In accordance with VAWA, all information provided regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is or has experienced such violence or stalking, or that they are exercising their rights under VAWA, must be kept confidential. This includes keeping confidential personally identifying information and the new location of the dwelling unit of the project participant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the project participant. Any information submitted by a survivor under VAWA must be maintained in "strict confidence." Housing providers may not allow anyone administering assistance or employees to have access to confidential information, unless explicitly authorized. Confidentiality also means that providers and/or property owner or manager may not:

- Enter the information into any shared database except the authorized DV comparable database, unless the survivor has been explained the safety considerations (who has

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access, what will be done with it, etc.) and there is an explicit, time-sensitive, and very limited Release of Information (ROI);

- Allow any individual administering assistance or other services on behalf of the providers and/or property owner or manager (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.; or
- Provide the information to any other entity or individual, except to the extent that the disclosure is:
 - Requested or consented to by the individual, in writing, stating permission to release the information on a time-limited basis;
 - Needed by the housing provider to use in an eviction or termination proceeding, such as to evict the person using harm or terminate the person using harm from assistance under this program.; or
 - Otherwise required by applicable law.

If project disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the project will inform the victim, verbally and in writing, before disclosure occurs so that safety risks can be identified and addressed. See the Notice of Occupancy Rights under the Violence Against Women Act for more information about housing provider's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Section 5. Emergency Transfer Timing and Availability

The housing project provider must accept or reject the Emergency Transfer Request within 5 business days. If the housing provider needs to request additional documentation to certify approval, an extension may be granted as needed.

If a request is approved, the housing project provider will act as quickly as possible, preferably within 10 business days, to move a project participant experiencing domestic

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violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit.

If the housing project is unable to locate safe and available units for which a participant who needs an emergency transfer is eligible, the project will assist the participant in identifying other housing providers who may have safe and available units to which the participant could move. At the participant's request, the project will also assist participants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit.

If the housing project is unable to locate a safe and available unit for which a participant who needs an emergency transfer is eligible, the housing project will collaborate with the CoC Technical Assistance and Performance Coordinator to assist the participant in identifying safe and available units to which the participant could move without revealing to the Coordinator any information that would serve to identify the participant. If a unit is available, the participant must agree to abide by the terms and conditions that govern occupancy in the unit to which the participant is being transferred. The project may be unable to transfer a project participant to a particular unit if the project participant has not or cannot establish eligibility for that unit.

For households living in assisted units who qualify for an emergency transfer but a safe unit is not immediately available for an internal emergency transfer, the individual or family shall have priority over all other applicants for rental assistance, transitional housing, rapid re-housing, and permanent supportive housing projects funded under this part, provided that:

- The individual or family meets all eligibility criteria required by Federal law or regulation or HUD NOFO;
- The individual or family meets any additional criteria or preferences established in accordance with 24 CFR 578.93(b)(1),(4),(6), or (7).

The individual or family shall retain their original homeless status or status of homeless chronicity for the purposes of the transfer. In cases where a household receiving participant-based rental assistance separates in order to initiate an emergency transfer, the housing project will work with the CoC Technical Assistance and Performance Coordinator to

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determine the appropriate actions with respect to the non-transferring family member(s). All confidentiality provisions apply for the victim in this situation.

Section 6. Safety and Security of Participants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the project participant is urged to take all reasonable precautions to be safe. For specific resources, participants are encouraged to contact:

Domestic Violence: National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Sexual Assault: Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE or the online hotline at <https://ohl.rainn.org/online/>. For a list of local rape crisis centers in Texas, visit: <https://taasa.org/crisis-center-locator/>.

Stalking: National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

Texas VSP Directory: Local organizations offering services to victims of domestic violence, dating violence, sexual assault, stalking, and/or human trafficking. [Texas VSP Directory Map](#)

Contacting law enforcement and involvement in the criminal justice system is the survivor's choice and might not always be the safest option for the survivor.

Section 7. Prohibited basis for denial or termination of assistance or eviction

In accordance with VAWA, an applicant for assistance or tenant assisted by a housing program in the TX BoS CoC may not be denied admission to, denied assistance under, terminated from participation in, or evicted from 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.

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A tenant, or an affiliated individual of the tenant, who is a victim or threatened victim of domestic violence, dating violence, sexual assault or stalking, and resides in a housing program in the TX BoS CoC, 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 that 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.

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.

The landlord may evict the survivor if the landlord can demonstrate an “actual and imminent threat” to other tenants or employees at the property. The threat must consist of physical danger that is real, would occur within an immediate timeframe, and could result in death or serious bodily harm. Factors to be considered include duration of risk, nature and severity of the potential harm, likelihood harm will occur, and length of time before the harm would occur. We encourage landlords to always consider alternatives to eviction.

Section 8. Lease Bifurcation

In order to effect an emergency transfer, households may bifurcate a lease to 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 evicting or terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant.

If a housing provider 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 housing provider shall provide to any remaining tenant or tenants that

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were not already eligible a period of 90 calendar days from the date of bifurcation of the lease to:

- A. 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
- B. Establish eligibility under another covered housing program; or
- C. Find alternative housing.

The covered housing provider may extend the 90-calendar-day period up to an additional 60 calendar days, unless prohibited from doing so by statutory requirements of the program or unless the time period would extend beyond expiration of the lease.

If the victim of domestic violence, dating violence, sexual assault, or stalking receives tenant-based rental assistance and chooses to move to a new unit in order to effect an emergency transfer, the remaining family members may remain in the original unit as long as they had not violated the terms of the lease by engaging in criminal activity relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. Household members remaining in the unit may continue to receive assistance if they were eligible for assistance prior to moving into the unit. Household members may have 90 days to establish this eligibility.

Section 9. Leases, sub-leases, and occupancy agreements

Any lease, sub-lease, or other occupancy agreement between a tenant and a housing provider in the TX BoS CoC must permit the program participant to terminate the lease, sublease, or occupancy agreement without penalty if the housing provider determines that the program participant qualifies for an emergency transfer under this emergency transfer plan.

Housing providers that operate tenant-based rental assistance must enter into a contract with the owner or landlord of the housing that requires the owner or landlord of the housing to comply with all provisions of VAWA regulations under 24 CFR part 5, subpart L, and requires the owner or landlord of the housing to include a lease provision that:

- includes the prohibited bases for eviction under Section 7 of this plan; and

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- If the tenant is approved for an emergency transfer by the housing provider, allows the tenant to bifurcate the lease under Section 8 of this plan or terminate the lease under Section 9 without penalty if either action is necessary to effect the emergency transfer.
- Landlords may use [VAWA Lease Addendum from the Texas Department of State Health Services](#) if their current lease does not comply with VAWA regulations.

The lease may specify that the protections under 24 CFR part 5, subpart L and above, only apply while the program participant receives tenant-based rental assistance under the Continuum of Care Program.

Section 10. Tracking Requests and Outcomes

All covered housing providers must maintain records on emergency transfers requested under 24 CFR 5.2005(e). Data must include the number of emergency transfers requested and the outcomes of each request. The data is required to be reported to HUD annually. Covered housing providers in the TX BoS CoC will track the number of Emergency Transfers requested and their outcomes using the Emergency Transfer Requests and Outcomes Log (Appendix D). For confidentiality, covered housing providers should record and keep only the information listed in the log. All confidentiality provisions apply.

Section 11. Related Documents and Attachments

- **Attachment A:** Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, [HUD Form 5383](#)
- **Attachment B:** Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation, [HUD Form 5382](#)
- **Attachment C:** [State Resources providing services to survivors of domestic violence, dating violence, sexual assault, or stalking](#)
- **Attachment D:** [Emergency Transfer Requests and Outcomes Log](#)
- **Attachment E:** [Model Emergency Transfer Plan for Housing Providers](#)