

How to Advocate for Public and Assisted Housing for Your Battered Immigrant or Trafficking Survivor Client

By: Benish Anver, Alexandra Brown, and Leslye E. Orloff

June 22, 2014, Updated February 8, 2017

Although Congress intended VAWA Self-Petitioners and trafficking survivors with T visas or continued presence to have access to public and assisted housing¹, the current process to access housing is a difficult and complex one for immigrant survivors to navigate on their own.² The following immigrant clients qualify for public and assisted housing benefits:

- VAWA self-petitioners
- VAWA cancellation of removal applicants
- VAWA suspension of deportation applicants
- Immigrant spouses and children who has been subjected to battering or extreme cruelty by their U.S. citizen or lawful permanent resident spouses or parents who had an approved I-130 family based visa petition file on their behalf.

Attorneys and advocates can assist their clients through this cumbersome process by advocating for their clients with the support of detailed documentation to prove that their battered immigrant or trafficking survivor client is indeed eligible for public and assisted housing under the law. When accompanying your client, provide the following documents to the housing authorities in your area.

Government Documents to Take with You:

- A copy of 8 U.S.C. Section 1641(c) (attached);
- The 2003 Budget Bill conference language that describes how the Department of Housing and Urban Development (HUD) and the Department of Homeland Security (DHS) were to work together on facilitating access to public and assisted housing for qualified battered immigrants and trafficking survivors (attached);

¹ 8 U.S.C. § 1641(c); *see also* Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996, Pub. L. No. 104-208, 110 Stat. 3009-547 (codified as amended at 8 U.S.C. §§ 1101 et seq.) (Immigrant survivors of spousal and child abuse who receive prima facie determinations in their VAWA Self-Petitioning cases and any of their children included in their VAWA Self-Petition were made statutorily eligible to receive public and assisted housing).

² For an overview of the efforts by Congress and DHS to resolve this issue, *see* Leslye E. Orloff, *Qualified Immigrant VAWA Self-petitioners Still Waiting for Promised Housing Assistance after 18 Years*, NIWAP, (June 2, 2014)(on file with author).

This project was supported by Grant No. 2013-TA-AX-K009 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

- A copy of the letter that DHS sent to HUD in May 2005 (attached);
- A copy of the letter from HUD's General Counsel sent in December 2016 (attached).
- A copy of the Office of Public and Indian Housing's January 2017 notice (attached);

Client's Department of Homeland Security (DHS) Documents to Take with You:

- All victims who qualify for housing assistance will have one or more of the following DHS documents:
 - I-360 VAWA Self-Petition;
 - I-130 Family-Based Visa Petition;
 - I-797 Notice of Action that is:
 - Receipt of I-360
 - receipt of I-130
 - I-360 prima facie determination
 - approval of I-360 VAWA self-petition
 - approval of I-130 family-based visa petition

Housing providers must follow a different set of SAVE verification procedures for VAWA Self-Petitioners and trafficking survivors due to confidentiality requirements. Following are the procedures that housing providers should follow when conducting a SAVE verification in these cases:

- Enter the VAWA immigrant victim's name and date of birth into the SAVE system
- If the system issues an immediate no match response, click on the button "Institute Additional Verification" and write in the note field "Verify VAWA Self-Petition" or "Verify I-130 visa petition"
- Upload the documentation provided by the applicant which will be one of the following: I-360 VAWA Self-Petition, I-130 Family-based visa petition, or I-797 Notice of Action.
- If the housing provider receives confirmation, then the victim is eligible for public and assisted housing to the same extent as all other housing recipients and applications.

If you encounter further difficulty in securing public and assisted housing for your client or have questions about how to use these documents to advocate for your client, please contact the National Immigrant Women's Advocacy Project's (NIWAP) technical assistance line at (202) 274-4457 or email info@niwap.org

8 U.S.C. 1641

(a) In general

Except as otherwise provided in this chapter, the terms used in this chapter have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act [8 U.S.C. [1101\(a\)](#)].

(b) Qualified alien

For purposes of this chapter, the term “qualified alien” means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

- (1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. [1101](#) et seq.],
- (2) an alien who is granted asylum under section 208 of such Act [8 U.S.C. [1158](#)],
- (3) a refugee who is admitted to the United States under section 207 of such Act [8 U.S.C. [1157](#)],
- (4) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. [1182\(d\)\(5\)](#)] for a period of at least 1 year,
- (5) an alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. [1253](#)] (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act [8 U.S.C. [1231\(b\)\(3\)](#)] (as amended by section 305(a) of division C of Public Law 104–208),
- (6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. [1153\(a\)\(7\)](#)] as in effect prior to April 1, 1980; ^[1] or
- (7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).

(c) Treatment of certain battered aliens as qualified aliens

For purposes of this chapter, the term “qualified alien” includes—

- (1) an alien who—
 - (A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent’s family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and
 - (B) has been approved or has a petition pending which sets forth a prima facie case for—
 - (i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act [8 U.S.C. [1154\(a\)\(1\)\(A\)\(ii\)](#), (iii), (iv)],
 - (ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act [8 U.S.C. [1154\(a\)\(1\)\(B\)\(ii\)](#), (iii)],
 - (iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act [8 U.S.C. [1254\(a\)\(3\)](#)] (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).^[2]
 - (iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act [8 U.S.C. [1154\(a\)\(1\)\(A\)\(i\)](#)], or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act [8 U.S.C. [1154\(a\)\(1\)\(B\)\(i\)](#)]; ^[3]
 - (v) cancellation of removal pursuant to section 240A(b)(2) of such Act [8 U.S.C. [1229b\(b\)\(2\)](#)];
- (2) an alien—
 - (A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent’s family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and
 - (B) who meets the requirement of subparagraph (B) of paragraph (1);
- (3) an alien child who—
 - (A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent’s spouse or by a member of the spouse’s family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the

agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirement of subparagraph (B) of paragraph (1); or

(4) an alien who has been granted nonimmigrant status under section 101(a)(15)(T) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(15\)\(T\)](#)) or who has a pending application that sets forth a prima facie case for eligibility for such nonimmigrant status.

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and with the heads of such Federal agencies administering benefits as the Attorney General considers appropriate, the Attorney General shall issue guidance (in the Attorney General's sole and unreviewable discretion) for purposes of this subsection and section [1631\(f\)](#) of this title, concerning the meaning of the terms "battery" and "extreme cruelty", and the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State, or local program.

(a) In general

Except as otherwise provided in this chapter, the terms used in this chapter have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act [[8 U.S.C. 1101\(a\)](#)].

(b) Qualified alien

For purposes of this chapter, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act [[8 U.S.C. 1101](#) et seq.],

(2) an alien who is granted asylum under section 208 of such Act [[8 U.S.C. 1158](#)],

(3) a refugee who is admitted to the United States under section 207 of such Act [[8 U.S.C. 1157](#)],

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act [[8 U.S.C. 1182\(d\)\(5\)](#)] for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act [[8 U.S.C. 1253](#)] (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act [[8 U.S.C. 1231\(b\)\(3\)](#)] (as amended by section 305(a) of division C of Public Law 104–208),

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [[8 U.S.C. 1153\(a\)\(7\)](#)] as in effect prior to April 1, 1980; ^[1] or

(7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).

(c) Treatment of certain battered aliens as qualified aliens

For purposes of this chapter, the term "qualified alien" includes—

(1) an alien who—

(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) has been approved or has a petition pending which sets forth a prima facie case for—

(i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act [[8 U.S.C. 1154\(a\)\(1\)\(A\)\(ii\)](#), (iii), (iv)],

(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act [[8 U.S.C. 1154\(a\)\(1\)\(B\)\(ii\)](#), (iii)],

(iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act [[8 U.S.C. 1254\(a\)\(3\)](#)] (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).^[2]

(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act [[8 U.S.C. 1154\(a\)\(1\)\(A\)\(i\)](#)], or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act [[8 U.S.C. 1154\(a\)\(1\)\(B\)\(i\)](#)]; ^[3]

(v) cancellation of removal pursuant to section 240A(b)(2) of such Act [[8 U.S.C. 1229b\(b\)\(2\)](#)];

(2) an alien—

(A) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirement of subparagraph (B) of paragraph (1);

(3) an alien child who—

(A) resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty, but only if (in the opinion of the agency providing such benefits) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(B) who meets the requirement of subparagraph (B) of paragraph (1); or

(4) an alien who has been granted nonimmigrant status under section 101(a)(15)(T) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(15\)\(T\)](#)) or who has a pending application that sets forth a prima facie case for eligibility for such nonimmigrant status.

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

After consultation with the Secretaries of Health and Human Services, Agriculture, and Housing and Urban Development, the Commissioner of Social Security, and with the heads of such Federal agencies administering benefits as the Attorney General considers appropriate, the Attorney General shall issue guidance (in the Attorney General's sole and unreviewable discretion) for purposes of this subsection and section [1631\(f\)](#) of this title, concerning the meaning of the terms "battery" and "extreme cruelty", and the standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State, or local program.

108TH CONGRESS }
1st Session

HOUSE OF REPRESENTATIVES

{ REPORT
108-10

MAKING FURTHER CONTINUING APPROPRIA-
TIONS FOR THE FISCAL YEAR 2003, AND
FOR OTHER PURPOSES

CONFERENCE REPORT

TO ACCOMPANY

H.J. Res. 2



FEBRUARY 13 (legislative day, FEBRUARY 12), 2003.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

84-817

WASHINGTON : 2003

MAKING FURTHER CONTINUING APPROPRIATIONS FOR
THE FISCAL YEAR 2003, AND FOR OTHER PURPOSES

FEBRUARY 13 (legislative day, FEBRUARY 12), 2003.—Ordered to be printed

Mr. YOUNG of Florida, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.J. Res. 2]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the joint resolution (H.J. Res. 2), “making further continuing appropriations for the fiscal year 2003, and for other purposes”, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the “Consolidated Appropriations Resolution, 2003”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this joint resolution is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. References.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES PROGRAMS APPROPRIATIONS, 2003

Title I—Agricultural Programs

Title II—Conservation Programs

Title III—Rural Development Programs

Title IV—Domestic Food Programs

Title V—Foreign Assistance and Related Programs

Title VI—Related Agencies and Food and Drug Administration

Title VII—General Provisions

Retains language proposed by the Senate amending the Federal Fire Prevention and Control Act of 1974 by recognizing Alaska Village Initiatives as an eligible grantee for assistance.

Retains language proposed by the Senate authorizing the Secretary of the Department of Homeland Security to acquire 178.5 acres in Clarke and Loudoun Counties, Virginia.

Deletes language proposed by the Senate directing a long-term health study of emergency service personnel. The conferees have instead included a similar provision as an administrative provision under FEMA.

Deletes language proposed by the Senate amending permanent law to expand eligibility for Federal housing assistance to certain groups of aliens. The conferees direct the Department to work with the Department of Justice to develop any necessary technical corrections to applicable housing statutes with respect to qualified aliens who are the victims of domestic violence and Cuban and Haitian immigrants to ensure that such statutes are consistent with the Personal Responsibility and Work Opportunity Act of 1996 and the Illegal Immigration Reform and Personal Responsibility Act of 1996.

A provision was included in the Senate bill under Division I, Transportation and Related Agencies, directing EPA to contract with the National Academy of Sciences. The conferees have included an identical provision as an administrative provision under EPA.

Includes new language amending title 31 of the United States Code regarding passenger carrier use by the NASA Administrator.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2003 recommended by the Committee of Conference, with comparisons to the fiscal year 2002 amount, the 2003 budget estimates, and the House and Senate bills for 2003 follow:

[In thousands of dollars]	
New budget (obligational) authority, fiscal year 2002	\$123,820,208
Budget estimates of new (obligational) authority, fiscal year 2003	124,979,700
House bill, fiscal year 2003	122,596,881
Senate bill, fiscal year 2003	121,925,545
Conference agreement, fiscal year 2003	121,927,337
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2002	- 1,892,871
Budget estimates of new (obligational) authority, fiscal year 2003	- 3,052,363
House bill, fiscal year 2003	- 669,544
Senate bill, fiscal year 2003	+ 1,792

DIVISION L—HOMELAND SECURITY ACT OF 2002 AMENDMENTS

In implementing this agreement, the departments and agencies affected in this division shall comply with the language and instructions set forth in the Senate explanatory statement as delineated in the CONGRESSIONAL RECORD of January 15, 2003, page S838, that are not otherwise contradicted by the committee of conference.



U.S. Citizenship
and Immigration
Services

May 5, 2005

Patricia S. Arnaudo
Director
Office of Public Housing – Management & Occupancy Division
U.S. Department of Housing and Urban Development
451 7th Street, SW, Room 4220
Washington, D.C. 20410

Dear Ms. Arnaudo:

This is in response to your request for information regarding the procedures for verification of immigration status in connection with applications for public housing made by battered immigrants.

A requirement for immigration status verification appears at 8 U.S.C. § 1642 (section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) (PRWORA), as amended by section 504 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and by section 5572 of the Balanced Budget Act of 1996. This provision requires the Attorney General to promulgate regulations requiring verification that an applicant for most federal public benefits is a “qualified alien” and is eligible to receive the benefit. Four groups of battered immigrants benefited from this expansion:

- (1) Battered immigrants filing self-petitions under the immigration provisions of the Violence Against Women Act (VAWA), and VAWA cancellation of removal and suspension of deportation applicants;
- (2) Children included as derivatives in a battered immigrant’s self-petition;
- (3) Battered immigrants who were the beneficiaries of I-130 family-based visa petitions filed by U.S. citizen or lawful permanent resident spouses or parents; and
- (4) Battered immigrant conditional or lawful permanent residents who had previously been barred from access to public benefits by deeming.

Currently, States may use the Department of Homeland Security’s automated Systemic Alien Verification for Entitlements (SAVE) system, which conducts primary verification of an individual’s immigration status, to fulfill status verification requirements. However, victims of domestic violence who have applied for or who have been approved for immigration status through the immigration provisions of VAWA may not appear in the SAVE system due to confidentiality provisions that attach to VAWA cases. These provisions prohibit DHS from releasing any

information about battered immigrants to anyone without the immigrant's consent.¹ DHS has determined that placing in the SAVE system information regarding battered immigrants who have applied for or received immigration relief through the VAWA immigration provisions puts the protection of such confidential information at risk. There are, however, limited exceptions to the confidentiality provisions, one of which expressly permits the disclosure of information to Federal, State, and local agencies providing benefits solely for making determinations of eligibility for benefits as a "qualified alien."²

To comply with the special confidentiality provisions but also enable benefit-granting agencies to verify immigration status, DHS has developed an alternative system for such verification. An agency seeking immigration status verification may fax a request for verification to DHS's Vermont Service Center, the location where self-petitions filed by battered immigrants are adjudicated. The system may be used in cases involving the following battered immigrants:

- (1) Battered immigrants filing self-petitions under the immigration provisions of the Violence Against Women Act (VAWA), and VAWA cancellation of removal and suspension of deportation applicants; and
- (2) Battered immigrants who were the beneficiaries of I-130 family-based visa petitions filed by U.S. citizen or lawful permanent resident spouses or parents.

The following are acceptable forms of documents for battered immigrants seeking immigration verification:

- Copy of I-360 Approval Notice Self-Petitioning Spouse of U.S.C. or L.P.R.;
- Copy of I-360 Establishment of Prima Facie Case; or
- Copy of I-130 Approval Notice for Petition for Alien Relative

Please note that while USCIS will be able to verify that an individual is the beneficiary of an I-130, the agency will not be able to verify that the applicant has been battered or subjected to extreme cruelty because the I-130 petition is not a vehicle through which status as a battered spouse or child is determined. Applicants who present to your agency a copy of an I-130 approval notice should present to you evidence of battery or extreme cruelty and your agency should make that determination.

I am attaching the sample form that should be used when seeking immigration status verification for battered immigrants from the Vermont Service Center. This form should be faxed on requesting agency letterhead to (802) 527-4864. Please send a separate form for the battered immigrant and each of his or her children included in his or her application. Be sure to reference the parent's case number on the child's status verification request.

¹ Section 384(a)(2) of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, codified at 8 U.S.C. § 1367. Victims of domestic violence protected by this provision are those filing self-petitions under INA § 204, applicants for a battered spouse waiver pursuant to INA § 216(c)(4)(C), and applicants for VAWA cancellation of removal, formerly INA § 244(a)(3), now INA § 240A(b)(2).

² 8 U.S.C. § 1367(b)(5).

Patricia S. Arnaudo

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An affirmative response from USCIS may mean that the applicant is a "qualified alien" for purposes of benefits under section 431 of PWRORA. Before that final determination can be made, your agency would need to determine that there is a substantial connection between the battery or extreme cruelty and the need for the benefit as cited by section 501 of IIRIRA before the applicant could be determined to be a "qualified alien."

If you have any questions or require additional information, please feel free to contact me at (202) 514-4754.

Sincerely,

Pearl B. Chang

Attachment



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing (PIH)**

SPECIAL ATTENTION OF:

Regional Directors; State and Area Coordinators;
Public Housing Hub Directors; Program Center
Coordinators; Troubled Agency Recovery Center
Directors; Special Applications Center Director;
Administrators; Resident Management
Corporations; Public Housing Agencies

NOTICE PIH 2017-02 (HA)

Issued: January 19, 2017

This notice remains in effect until
amended, superseded or rescinded

Subject: Violence Against Women Act (VAWA) Self-Petitioner Verification Procedures

- 1) **Purpose.** This notice explains the procedures that public housing agencies (PHAs) must follow when an applicant or resident/tenant requests admission or continued residency as a result of being a VAWA self-petitioner. VAWA self-petitioners are those who claim to be victims of “battery or extreme cruelty.” VAWA covers the following types of battery or extreme cruelty: domestic violence, dating violence, sexual assault, and stalking.
- 2) **Applicability.** This notice applies to public housing, housing choice voucher assistance (including project-based vouchers), and Section 8 Mod Rehab.
- 3) **Background.** VAWA was originally signed into law in 1994, and was most recently reauthorized in 2013. HUD issued implementing regulations for the most recent reauthorization in late 2016 (81 FR 87812). Prior to VAWA, non-citizen victims of covered crimes were dependent on the good will of their abusers to obtain the authorized immigration status necessary to receive assisted housing. Section 214 of the Housing and Community Development Act of 1980 states that HUD may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status.

HUD has determined that self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from Section 214-covered housing providers.¹ “Satisfactory immigration status” means an immigration status which does not make the individual ineligible for financial assistance. After verifying such

¹ See HUD memorandum “Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980,” dated December 15, 2016 (available at <http://library.niwap.org/wp-content/uploads/Eligibility-of-VAWA-Self-Petitioners-2016-12-14.pdf>)

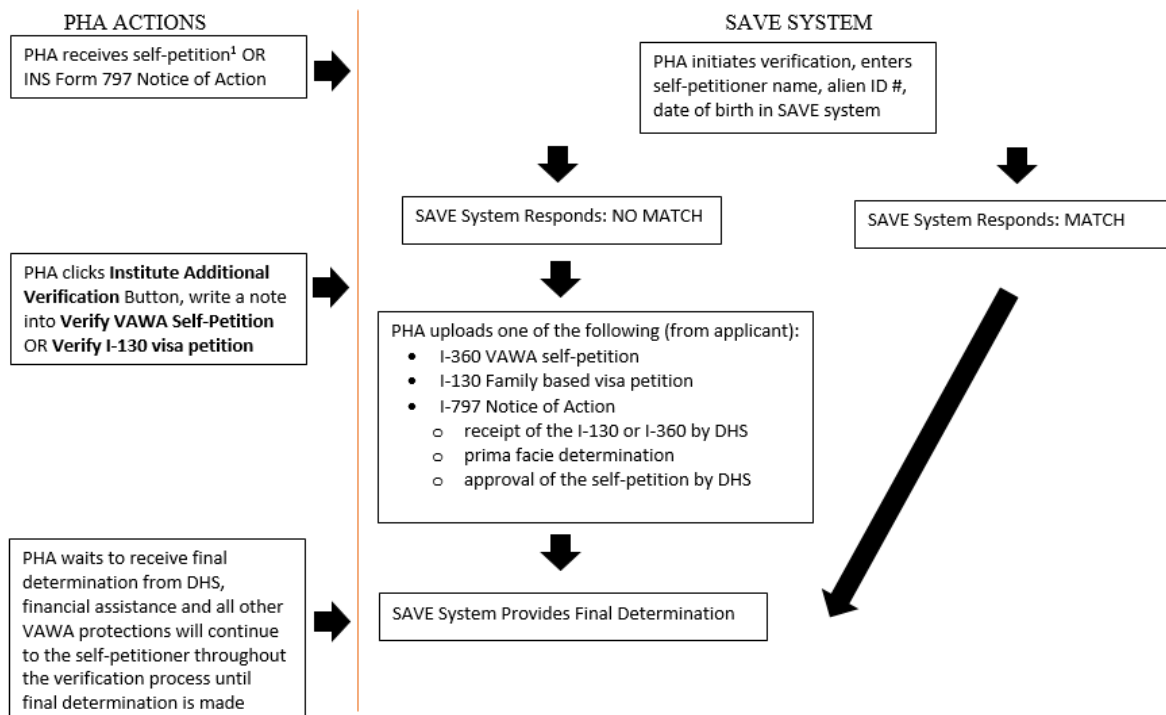
immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, PHAs will make a final determination as to the self-petitioner's eligibility for assistance.

- 4) **Applicability to other VAWA Housing Protections.** Not every noncitizen victim who has been subjected to battery or extreme cruelty will qualify under these procedures. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR. PHAs may receive a petition at any time, but submissions will most likely be related to a request for VAWA protections pursuant to 24 CFR Part 5 Subpart L (e.g. with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence, sexual assault, or stalking). See PIH 2016-09. Once a PHA receives a self-petition (INS Form I-360 or I-130) or INS Form 797, it is prohibited from requesting any additional information from the VAWA self-petitioner, other than what is required below to complete the verification.
- 5) **Procedure.** When a PHA receives a self-petition or INS Form 797 Notice of Action, the PHA must initiate verification in the SAVE System:
 1. Enter self-petitioner name, alien ID number, and date of birth in the SAVE System. The system will provide one of the following responses:
 - If the SAVE system responds with a match, no further action is necessary at this time. Skip to step 3.
 - If the SAVE system responds “no match,” the PHA must complete the following additional steps. Continue to step 2.
 2. Push the button for “Institute Additional Verification.” In the next screen, in the memo field, type “verify VAWA self-petition.” If the documentation provided by the applicant is a form I-130, type in the memo field “verify I-130.” Upload one of the following documents from applicant:
 - I-360 VAWA Self-Petition
 - I-130 Family-Based Visa Petition
 - I-797 Notice of Action

Steps undertaken by DHS:

 - receipt of I-130 or I-360
 - prima facie determination
 - approval of self-petition
 3. Wait for a final determination from the SAVE System. You will receive one of two confirmations: (1) the VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected; (2) the I-130 is verified, in which case the petitioner submitting

a family-based visa petition must provide to the PHA any evidence of “battery or extreme cruelty.” See 8 USC 1154(a)(1)(J). Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR status is made. If the final determination is to deny the VAWA self-petition or LPR petition, the PHA must alert the petitioner and take actions to terminate voucher assistance or evict the petitioner from public housing in accordance with the existing public housing requirements.



- 6) **Further Information.** For additional information related to this notice, please contact Eric Christensen, Program Analyst, Office of Policy, Program and Legislative Initiatives at 202-402-3475.

/s/
 Lourdes Castro Ramírez
 Principal Deputy Assistant Secretary
 for Public and Indian Housing



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-0500

December 15, 2016

MEMORANDUM FOR: Julián Castro, Secretary, S

FROM: Tonya Robinson, Acting General Counsel, C

A handwritten signature in black ink, appearing to read "Tonya Robinson".

SUBJECT: Eligibility of Battered Noncitizen Self-Petitioners for Financial Assistance Under Section 214 of the Housing and Community Development Act of 1980

This memorandum addresses the rights of certain noncitizens who are battered or subjected to extreme cruelty by a spouse or parent, who is an United States Citizen or lawful permanent resident (LPR), to apply for and receive assistance under Section 214 of the Housing and Community Development Act of 1980 (Section 214). HUD programs covered under Section 214 include the programs under the U.S. Housing Act of 1937 (Public Housing and Section 8 tenant-based and project-based rental assistance), as well as the Section 235 Homeownership, Section 236 Rental Assistance, Rent Supplement, Flexible Subsidy and Section 221d(3) Below Market Interest Rate Programs. This memorandum also addresses, in light of recent modifications to the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, the required process for verifying eligibility of these noncitizens for HUD's Section 214-covered multi-family programs.¹

The Violence Against Women Act of 1994 (VAWA) allows these noncitizens to self-petition for LPR status without the cooperation or knowledge of their abusive relative. These battered noncitizens are referred to as "self-petitioners." The terms "VAWA self-petitioner," "self-petitioner" or "petitioner" refer to the categories of battered noncitizens seeking VAWA-related relief described in 8 U.S.C. § 1101(a)(51), 8 U.S.C. § 1641(c), 62 Fed. Reg. 61344, 61367 (Nov. 17, 1997), and other VAWA-related petitions or applications for lawful permanent resident status. Prior to VAWA, these battered noncitizens were dependent on their abusers to obtain authorized immigration status because the abusing relative held the right to file the immigration petition on their behalf and could refuse to file or withdraw the petition at any time.

Section 214 states that, "notwithstanding any other provision of law," HUD may not make certain financial assistance available to any noncitizen unless the person falls within certain enumerated exceptions, one of which is "lawful permanent resident." Additionally, Section 214 and associated regulations at 24 CFR Part 5 provide that financial assistance from HUD cannot

¹ This clarification is consistent with HUD's Multifamily Housing Programs Handbook (HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, Appendix 2-B (2013)) and HUD's interpretation of Section 214 and its regulations at 24 CFR part 5, Subpart E. However, the DHS alternative verification process has been superseded by the changes made to the SAVE System.

be delayed, denied, reduced or terminated on the basis of immigration status while verification of eligibility or appeal of a determination as to satisfactory immigration status is pending. This memorandum clarifies that self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from Section 214-covered housing providers. It is the Office of General Counsel’s position that this interpretation of VAWA and Section 214 is consistent with Section 214 and VAWA’s objectives to enhance victim safety and to place noncitizen victims of domestic violence in the same position vis-à-vis immigration law as they would have enjoyed had they not been abused by their U.S. citizen or LPR relative.

Consistent with applicable HUD requirements implementing section 214 at 24 CFR Part 5, housing providers are required to verify noncitizen eligibility for federal financial assistance. The verification of satisfactory immigration status for Section 214-covered programs is performed by housing providers using the DHS SAVE System. Generally, the question of verification will arise in connection with self-petitioners when the self-petitioner is either an applicant for assistance, or is a member of a participating family and the abuser is removed from the family due to allegations of domestic violence.

Upon the assertion of an applicant or participant that he or she is a self-petitioner, the housing provider must use the SAVE System to verify immigration status. Evidence that an individual is a self-petitioner includes one of the following: (i) INS Form I-360 VAWA self-petition; (ii) INS Form I-130 family-based visa petition; or (iii) INS Form I-797 Notice of Action indicating (a) receipt of the I-130 or I-360 by DHS, (b) a prima facie determination, or (c) approval of the I-360 or I-130 petition by DHS. Under Section 214, once a self-petition (I-360 or I-130 Forms) or I-797 Notice is submitted to the housing provider, and until a final determination by DHS as to LPR status is actually made, including any appeal of a determination on the self-petition or LPR status, the self-petitioner’s application for financial assistance cannot be denied, and financial assistance shall not be delayed, denied, reduced or terminated on the basis of immigration status. In addition, all the other protections afforded under VAWA apply to the self-petitioner throughout the verification process.

Because we anticipate that housing providers will have several questions about the documents a self-petitioner must submit, as well as the protections afforded by VAWA, OGC has recommended, and the Office of Public and Indian Housing and the Office of Housing have agreed, to publish a notice consistent with this opinion.