



# **Violence Against Women Act (VAWA) Housing Protections: *Implementation within ESG and CoC Programs***

**Tuesday, November 27<sup>th</sup>  
1:00 PM EST**



# Introductions

## **Lisa Coffman**

Senior Program Specialist

Office of Special Needs

Assistance Programs (SNAPS)

U.S. Department of Housing and  
Urban Development (HUD)

[Lisa.R.Coffman@hud.gov](mailto:Lisa.R.Coffman@hud.gov)

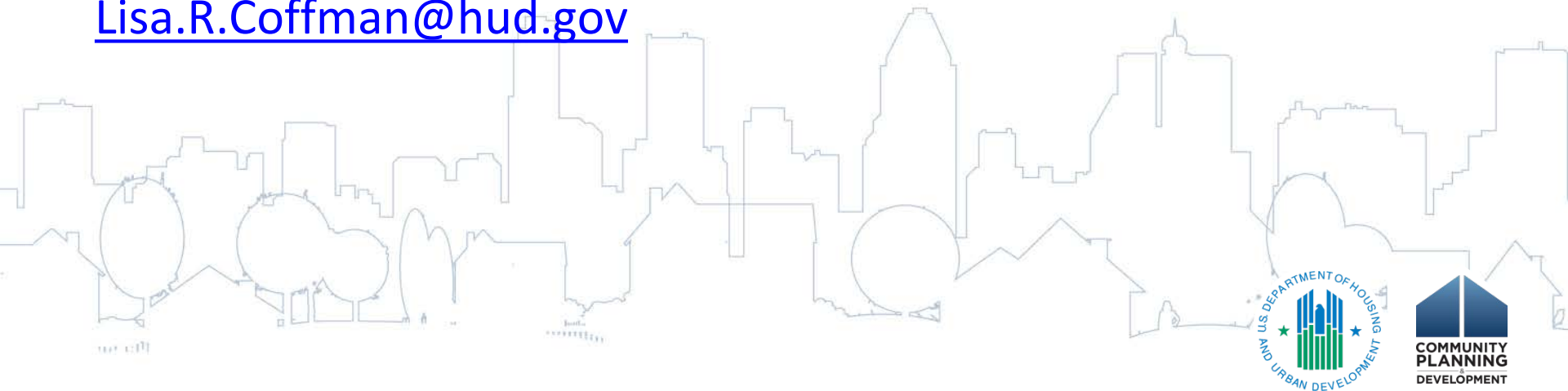
## **Kevin Solarte**

Senior Project Manager

Federal Technical Assistance

CSH

[Kevin.Solarte@csh.org](mailto:Kevin.Solarte@csh.org)



# Introductions

## **Laura Evanoff**

CoC Performance Monitoring  
& Technical Assistance  
Manager

Ending Community  
Homelessness Coalition –  
ECHO -

[lauraevanoff@austinecho.org](mailto:lauraevanoff@austinecho.org)

## **Gordon Levine**

Continuum of Care  
Manager

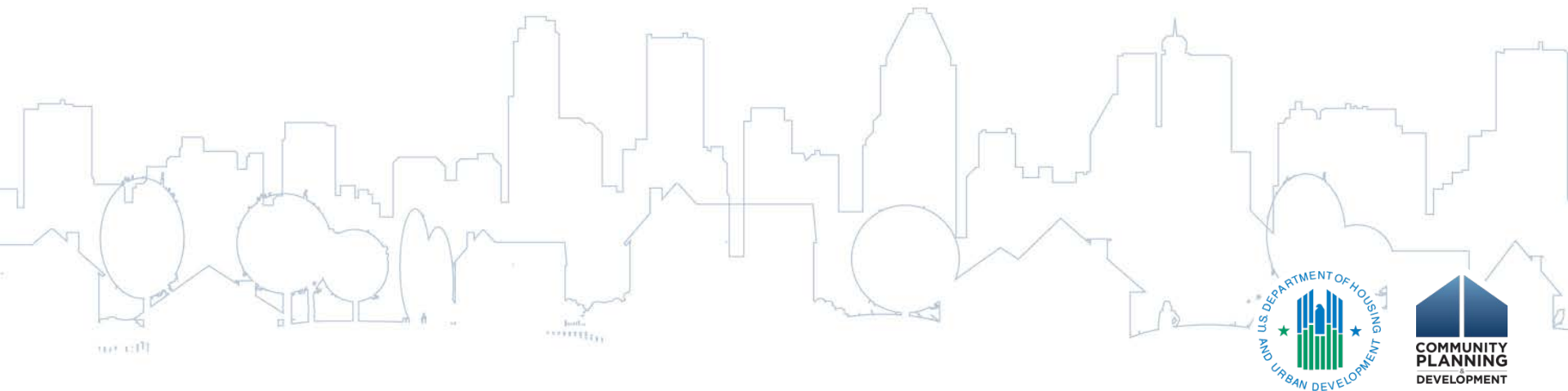
Louisiana Balance of  
State Continuum of  
Care | Louisiana  
Housing Corporation

[glevine@lhc.la.gov](mailto:glevine@lhc.la.gov)



# Quick Poll

- 1. Please select the type of agency that best describes your organization?**
- 2. Within your current project, what is the status of VAWA Implementation?**



# Webinar Objectives

At the conclusion of this webinar, participants will be equipped with the following:

- Historical context and understanding of the Violence Against Women Act (VAWA) that has led to HUD's VAWA Final Rule
- Requirements for compliance with HUD's VAWA Final Rule in the CoC and ESG Programs
- Critical information needed to support survivor safety via HUD's VAWA Final Rule requirements

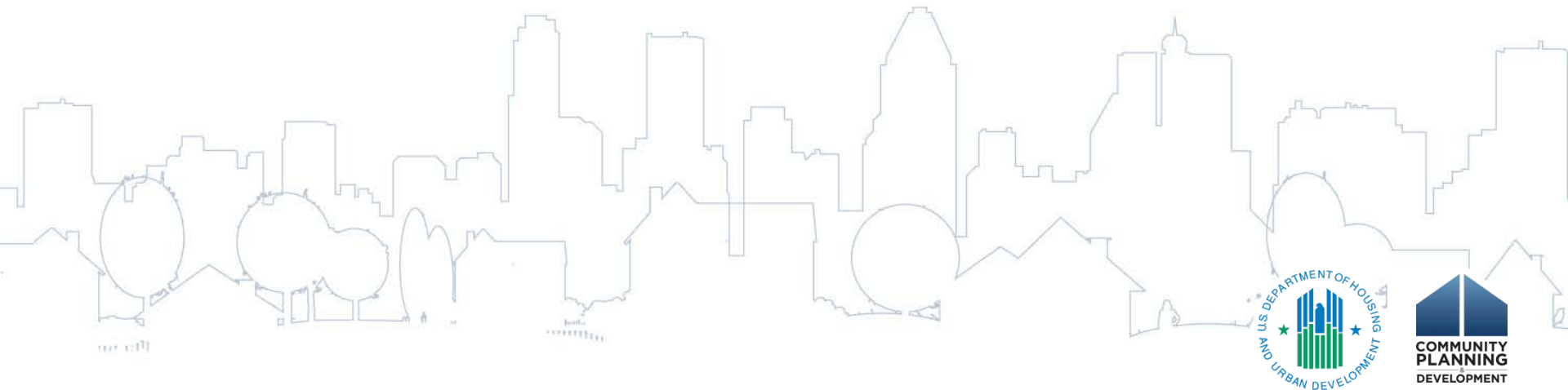


# Agenda

- 1. VAWA Historical Context & the 2013 Reauthorization**
- 2. Overview of HUD's VAWA Final Rule**
- 3. Components of the Rule**
  - Basic Housing Protections
  - Allowable Evictions
  - Documentation of Survivor Status
  - Notice of Occupancy Rights
  - Confidentiality
  - Emergency Transfer Plans
  - Lease Bifurcation
  - Lease addendums and Rental Agreements



# VAWA Historical Context and the 2013 Reauthorization



# VAWA Historical Context

- ❑ VAWA 1994: in response to rising incidences of domestic abuse and strong advocacy and public support, Congress passed the VAWA to provide federal resources for coordinated responses to violence
- ❑ VAWA 2005: language amended to protect victims from admission denials, subsidy terminations, and evictions due to their abusers' acts
- ❑ VAWA 2013: expanded housing protections, added coverage of sexual assault victims, and mandated compliance from additional housing programs





# VAWA 2013 Reauthorization

- ❑ Applies to all survivors: regardless of age, sex, gender identity, race, national origin, familial status, disability, and sexual orientation
- ❑ Expands protections to individuals **affiliated** with victims: spouses, parents, siblings, children, and anyone residing in the household
- ❑ Expands protections to more housing programs and enhances housing protections: includes expansion to housing programs such as CoC, ESG, HOPWA, and HOME and enhances protections with emergency transfers
- ❑ Expands VAWA Crimes: sexual assault, domestic violence, dating violence, and stalking



# VAWA 2013 Reauthorization

## VAWA Crimes Defined in Federal Legislation:

- ❑ **Sexual assault**: any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent
  
- ❑ **Domestic violence**: includes felony or misdemeanor crimes of violence committed by the perpetrator
  - It is important to note that the 2013 reauthorization broadened this definition, no longer requiring the abuse be perpetrated by a spouse



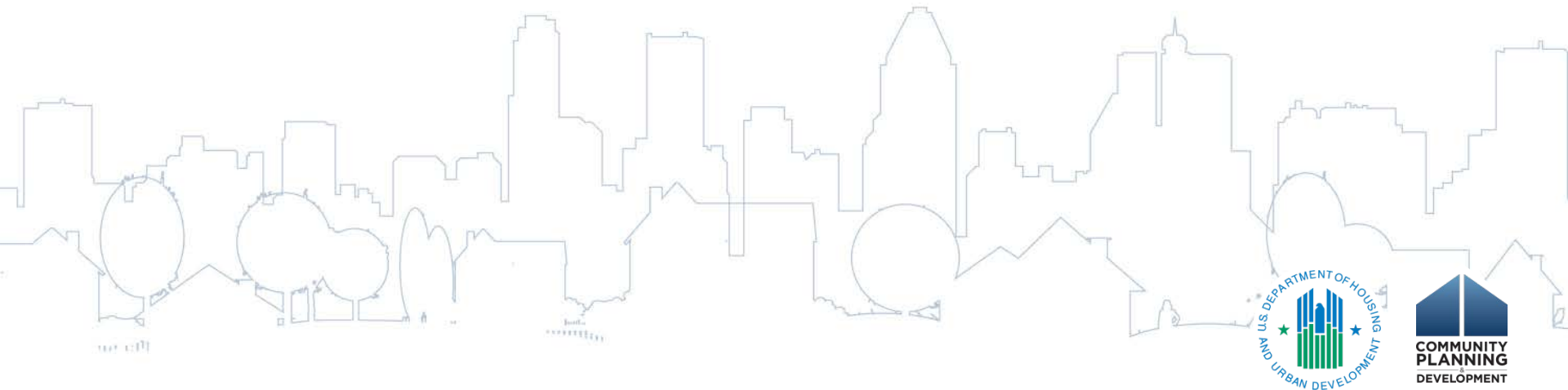
# VAWA 2013 Reauthorization

## VAWA Crimes Defined in Federal Legislation:

- ❑ **Dating violence**: committed by a person in a social relationship of intimate nature with the victim, which is determined by: length of the relationship, type of relationship, and frequency of interactions
- ❑ **Stalking**: conduct directed at a specific person that would cause a reasonable person to fear their safety *or* the safety of others *or* suffer substantial emotional distress



# Overview of HUD's VAWA Final Rule



# Overview of HUD's VAWA Final Rule

## Intent of the Rule:

- ❑ All individuals have a right to a home without fear of violence
- ❑ Expansion of housing protections increases safe housing
- ❑ Safe housing reduces the risk of homelessness
- ❑ Seeks to decrease evictions, denials of housing assistance, and instances of fleeing for survivors experiencing violence in their homes



# Overview of HUD's VAWA Final Rule

## History of the Rule:

- ❑ HUD implemented the VAWA Final Rule in November 2016 – housing programs administered by HUD are now required to follow VAWA 2013
- ❑ Regulations were effective in December 2016
- ❑ Implementation, including notices and documentation, expected as of December 5, 2017

It is important to note that immediately upon the passage of VAWA legislation (March 2013), without any rule making, survivors were protected from being denied or terminated from assistance or evicted from housing based on their survivor status.



# Overview of HUD's VAWA Final Rule

## HUD Programs Covered by the rule:

- ❑ Public housing
- ❑ Section 8 Housing Choice Voucher Program
- ❑ Project-based Section 8 Housing
- ❑ Section 811 housing for people with disabilities
- ❑ Section 202 housing for elders
- ❑ Section 236 multifamily rental housing
- ❑ Section 221 Below Market Interest Rate housing
- ❑ HOME program
- ❑ Housing Opportunities for People with AIDS
- ❑ McKinney-Vento Act programs (CoC, ESG)
- ❑ Housing Trust Fund



# Overview of HUD's VAWA Final Rule

## CoC and ESG Programs Covered in the Rule:

- ❑ Any Rapid Rehousing (RRH), Homelessness Prevention (HP) rental assistance, Transitional Housing (TH), or Permanent Supportive Housing (PSH) project funded under a CoC NOFA published on or after Dec. 16, 2016 – including renewal projects.
- ❑ Any eligibility or termination decision from ESG rental assistance on or after Dec. 16, 2016.
- ❑ Any ESG rental assistance agreement executed or renewed on or after Dec. 16, 2016.





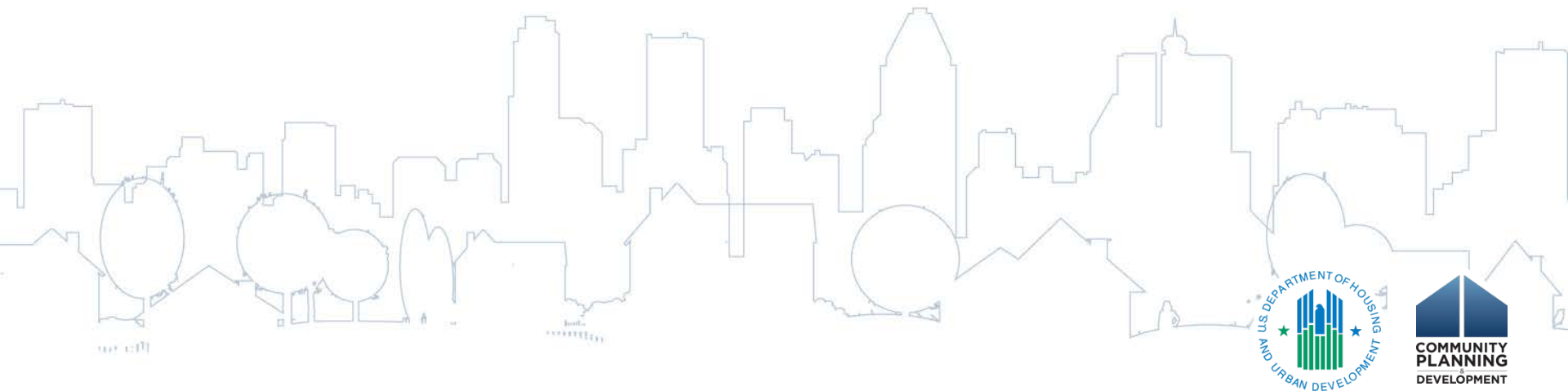
# Overview of HUD's VAWA Final Rule

## Emergency Shelters, Short-term Supported Housing, and Safe Haven Coverage in the Rule:

While these projects are not subject to many of the VAWA related requirements, ALL types of housing projects are prohibited from denying admission to a housing program or terminating housing assistance based on an applicant being a victim or survivor of a VAWA defined crime.



# Components of the Rule



# Components of the Rule

## Basic Housing Protections:

- ❑ Victimization cannot be used as a reason to deny access to housing *or* to evict from housing
- ❑ Applicants cannot be denied based only on their status as a survivor of domestic violence, sexual assault, dating violence, and stalking
- ❑ Applicants cannot be denied access to housing based on factors directly related to the victimization, such as job history, credit history, criminal record, etc.
- ❑ Individuals cannot be evicted because of factors that were a direct result of the victimization



# Components of the Rule

## **Basic Housing Protections:**

- ❑ Applicants cannot be denied access to housing based on adverse factors that are a direct result of current or past victimization, such as job history, credit history, criminal record, and rental history.
  - ❑ If a applicant can show that past or current victimization caused the adverse factor that is leading to the denial of their application and that without such factor they would otherwise qualify for the housing they must be afforded entry into the housing.
  - ❑ Both the PIH and Multifamily Housing notice offer further explanation and guidance on adverse factors.



# Components of the Rule

## **Allowable Evictions:**

- ❑ If there is an actual and imminent threat to other tenants or employees if the tenant is not evicted or terminated from assistance
- ❑ Imminent threat is defined as a physical danger that is real, might occur immediately, and could result in death or serious bodily harm
- ❑ For reasons unrelated to the victimization (and as stipulated in the lease agreement)



# Components of the Rule

## Documentation of Survivor Status

If an applicant or tenant requests protection under VAWA, the CoC or ESG recipient/sub may:

- ❑ provide the requested protection based solely on the applicant or tenant's request, or
- ❑ ask the applicant or tenant to provide supporting documentation, subject to the rule's restrictions on the next slide

If documentation is requested, it must be done in writing and the applicant or tenant must be given a minimum of 14 business days to respond.



# Components of the Rule

## Documentation of Survivor Status

If documentation is requested, applicant or tenant may choose to submit ANY of the following documents to certify their status as a survivor :

- ❑ HUD-5382: Victim Self-certification Form – completed by the applicant/tenant and must be accepted without third party documentation unless limited circumstance are met as outlined in the next slide
- ❑ A professional's statement that meets § 5.2007(b)(1)(ii)
- ❑ Record of a court or law enforcement agency
- ❑ Another type of statement or other evidence, if allowed by the covered housing provider



# Components of the Rule

## **Documentation of Survivor Status**

Third Party Documentation may only be required in limited circumstances:

- ❑ More than one applicant or participant provides documentation on survivor status and the documentation conflicts
- ❑ Submitted documentation conflicts with existing information already available





# Components of the Rule

## **Notice of Occupancy Rights**

In the CoC program the VAWA Notice of Occupancy Right & Victim Self-certification Form must be given to a tenant by the recipient/sub:

- ❑ When a program participant applies and is admitted to permanent housing or transitional housing;
- ❑ When an individual or family applies and is denied permanent housing or transitional housing;
- ❑ When a program participant receives notification of eviction;
- ❑ When a program participant is notified of termination of assistance.

In tenant based rental assistance it must also be given by the owner when a tenant receives an eviction.



# Components of the Rule

## Notice of Occupancy Rights

In the ESG program the VAWA Notice of Occupancy Right & Victim Self-certification Form must be given to a tenant by the recipient/sub:

- ❑ When a program participant begins receiving ESG rental assistance;
- ❑ When an individual or family applies and is denied ESG rental assistance;
- ❑ When an individual or family's application for a unit receiving project-based rental assistance is denied;
- ❑ When a program participant is notified of termination of ESG rental assistance; and
- ❑ When a program participant receives notification of eviction



# Components of the Rule

## Confidentiality:

- ❑ Requires that information submitted by survivors, including status as a survivor, is maintained in confidence
- ❑ Must ensure that employees of the recipient/sub, landlord, or owner do not have access to the information unless explicitly authorized to carry out the work
- ❑ Cannot ask for Personally Identifiable Information (PII) as a condition of providing housing or related housing services



# Components of the Rule

## Confidentiality:

- ❑ Cannot enter the information into HMIS or any shared database even if it has been encoded, encrypted, hashed or otherwise protected
- ❑ Cannot disclose the information to any other entity unless:
  - Survivor has given informed, written, time-limited consent
  - Required for use in eviction proceeding or hearing regarding termination of assistance
  - Otherwise required by law



# Components of the Rule

## **Emergency Transfer Plans:**

CoC and ESG Emergency transfer plans must allow survivors of a VAWA defined crime to transfer to a safe dwelling unit under a covered housing program if the victim/survivor:

- Requests the transfer; AND
- Reasonably believes that they are threatened with imminent harm if they stay in the same unit; OR
- In the case of sexual assault, if the sexual assault occurred on the premises within 90 days of the request for transfer.

HUD releases a model emergency transfer plan to get communities started: [\*\*HUD 5381: Model Emergency Transfer Plan\*\*](#)



# Components of the Rule

## **Emergency Transfer Plans:**

- ❑ Internal transfer – when a survivor can safely move to another available unit or housing program without having to apply as a new applicant (Required to allow move)
- ❑ External transfer – when a survivor can safely move to another available unit/housing program that requires a new application process (Required to outline steps to assist)
- ❑ Safe unit – any housing option that a survivor determines is safe
- ❑ Available unit – not defined in the rule but HUD guidance has instructed communities to locally define based on a reasonable move-in time



# Components of the Rule

## CoC Emergency Transfer Plans:

Each CoC must develop an Emergency Transfer Plan that all recipients/sub must adopt and follow

Required components for describing a transfer in tenant-based rental assistance:

- ❑ Policies for program participants who qualify for emergency transfers to move quickly with their rental assistance
- ❑ Must specify what will happen with respect to the non-transferring family member(s), if emergency transfer separates a program participant family



# Components of the Rule

## CoC Emergency Transfer Plans:

Required components for describing a transfer in projects where leasing funds, sponsor-based rental assistance, or project-based rental assistance is used:

- ❑ Participants who qualify for emergency transfer must be allowed to move to another unit in same project, if a unit is immediately available and participant considers it safe (**internal transfer**)
- ❑ When a project where a qualifying participant lives has no immediately available units the participant considers safe, policies to help the participant move into another project, including priority over all other applicants for CoC-funded projects and moves to other HUD-assisted housing (**external transfer**)





# Components of the Rule

## ESG Emergency Transfer Plans:

A state can require its subrecipients that administer ESG rental assistance to develop the plan. Otherwise, the recipient must develop the plan.

Required components for describing a transfer in tenant-based rental assistance:

- ❑ Policies for program participants who qualify for emergency transfer to move quickly with their rental assistance
- ❑ Must specify what will happen with respect to non-transferring family member(s), if emergency transfer separates a program participant family



# Components of the Rule

## ESG Emergency Transfer Plans:

Required components for describing a transfer in project-based rental assistance –

- ❑ Qualifying participant must be allowed to move to another unit in same project, if unit is immediately available and participant considers it safe (**internal transfer**)
- ❑ When a project where a qualifying participant lives has no immediately available units the participant considers safe, policies to help the participant move into another project, including priority over all other applicants for ESG funded projects and moves to other HUD-assisted housing (**external transfer**)



# Components of the Rule

## **Additional Key Requirements for CoC/ESG Transfer Plan:**

- ❑ Define participants eligible for an emergency transfer
- ❑ List documentation needed to request a transfer, if any
- ❑ Outline confidentiality protections
- ❑ Describe how request from survivors seeking emergency transfers from other HUD-assisted housing will be processed

## **Key Consideration in ESG and CoC Emergency Transfers**

When separating a family in an emergency transfer the recipient/sub may choose to continue to serve the perpetrator to avoid homelessness for the individual the ESG recipient/CoC will need to do so within existing/available resources



# Components of the Rule

## **Model Emergency Transfer Plan:**

- ❑ Offers a place to start that includes the minimum requirements
- ❑ Communities should further build the plan to build local partnerships that can expand housing options for survivors
- ❑ Communities should clearly define the local process for internal and external transfers, including the relationship with coordinated entry



# Components of the Rule

## Lease Bifurcation

- ❑ Only a project owner may bifurcate a lease in order to evict or terminate assistance to a tenant or occupant who commits acts of violence against family members or others.
- ❑ Bifurcation allows the abuser/offender to be evicted while preserving the lease and housing rights for the survivor.
- ❑ CoC/ESG recipients may choose to continue to serve the perpetrator with other resources to avoid homelessness but would be subject to existing resources



# Components of the Rule

## Lease Bifurcation

In CoC funded PSH where the abuser/offender is the eligible household member to receive the housing assistance, VAWA 2013 requires:

- ❑ The survivor must have the opportunity to demonstrate eligibility for the housing program in question
- ❑ If they cannot establish eligibility for that program, then the remaining family members would be allowed to stay in the housing until the end of the lease
- ❑ The recipient/sub should work with the remaining family members to find alternate housing at the end of the lease



# Components of the Rule

## Lease Addendums

All agreements between the landlord/owner and tenant in CoC or ESG assisted housing should be outlined in a VAWA lease addendum and must include the following elements:

- ❑ Right for the lease to be broken without penalty, if the tenant qualifies for an emergency transfer, except for tenant based rental assistance
- ❑ Language that protects individuals from being denied access to housing and/or evicted from their housing on the basis of or as a direct result of being a survivor
- ❑ Construction of lease terms and terms of assistance
- ❑ Limitation of VAWA protections
- ❑ Confidentiality requirements





# Components of the Rule

## Rental Agreements

CoC and ESG recipients must outline VAWA protections in all rental agreements/housing assistance contracts with private housing owners and manager, including:

- ❑ Requirement to include VAWA lease addendum to all leases in units assisted by CoC or ESG funds
- ❑ Requirement to coordination on emergency transfers
- ❑ Obligation for the owner to notify the recipient before a lease is bifurcated and/or a notice of eviction is provided
- ❑ For CoC program, if a notice of eviction is given to a tenant, obligation to provide both the notice of rights and self certification forms with that notice







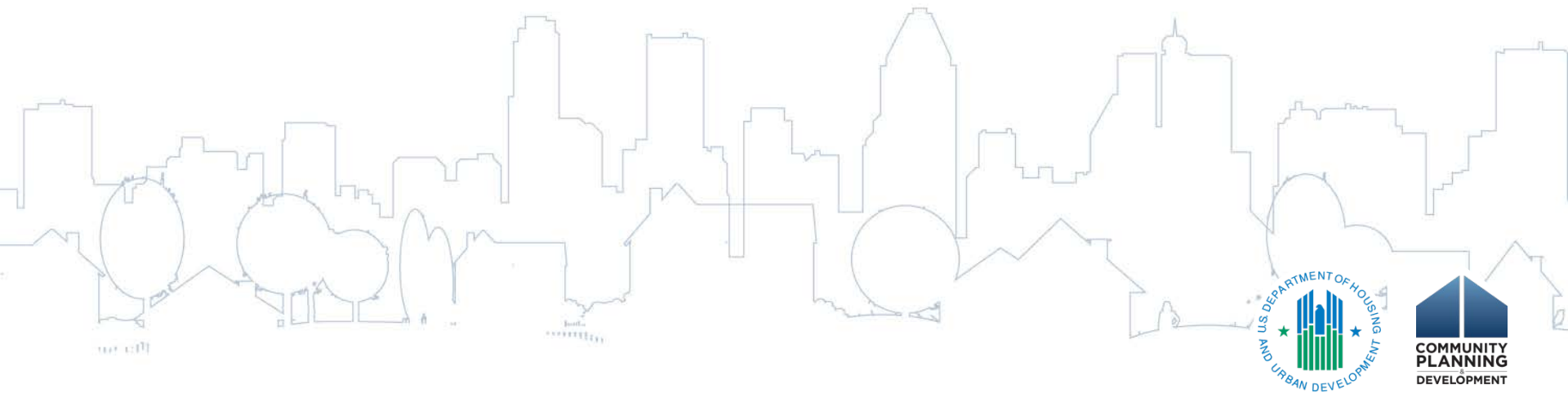
# Questions?

You can also email question to:

[SNAPInfo@hud.gov](mailto:SNAPInfo@hud.gov)



# Resources



# ESG and CoC Responsible Entities Chart

	Owner/ Landlord	ESG Recipient/ Subrecipient	CoC Recipient/ Subrecipient	CoC
Notice of Rights §5.2005(a)*		X	X	
Victim status documentation requests; confidentiality §5.2007**	X	X	X	
Emergency transfer plan §5.2005(e)		X		X

\*With ESG tenant based rental assistance the owner/landlord is required to notify the recipient/subrecipient upon giving a tenant an eviction notice to ensure the recipient/sub can give the tenant their notice of right. For CoC tenant based rental assistance the owner/landlord is required to give the tenant their notice of rights with an eviction notice and notify the recipient/sub. This must be outlined in the rental agreement between the recipient/sub and the landlord/owner.

\*\* Both ESG and CoC recipients can limit documentation of victim status requests to the recipient/sub if they make a determination of the tenant's status, communicate it to the tenant, and if the tenant qualifies for VAWA protections, they must notify the owner/landlord in writing and work with the owner/landlord on the tenant's behalf. This must be outlined in the rental agreement between the recipient/sub and the landlord/owner.

# CoC & ESG Responsible Entities Chart

	Owner/ Landlord	ESG Recipient/ Subrecipient	CoC Recipient/ Subrecipient	CoC
Lease bifurcation §5.2009(a)	X			
Court order exception §5.2005(d)(1)	X		X	
Actual and imminent threat exception §5.2005(d)(3), (4)	X		X	
Exception for violations not premised on DV; higher standard §5.2005(d)(2)	X	X	X	
Updates to written standards to reflect emergency transfers §578.103(a)(6)		X		X

# HUD Forms

- ❑ [HUD 5380: VAWA Notice of Occupancy of Rights](#)
  - **Reminder** – recipient/sub must issue this notice without changes to the core protections and confidentiality rights
- ❑ [HUD 5381: Model Emergency Transfer Plan](#)
  - **Reminder** – the model transfer plan is a place for your community to start but it should be built out with local information and resources to best serve survivors
- ❑ [HUD 5382: Victim Self-certification Form](#)
  - **Reminder** - recipient and/or landlord may require written request and can adapt and adopt this form for local use
- ❑ [HUD 5383: Model Emergency Transfer Request Document](#)
  - **Reminders** –
    - Recipient and/or landlord may require a written request for transfers and can adapt this form for local use
    - Must allow for a minimum of 14 days to respond
    - Can only require 3<sup>rd</sup> party verification in limited circumstances



# HUD Guidance

## **HUD Guidance on the Rule:**

- HUD's Published Final Rule: [Violence Against Women Act 2013](#)
- Notice PIH-2017-08: [Office of Public and Indian Housing Violence Against Women Reauthorization Act of 2013 Guidance](#)
- Notice: H-2017-05: [Violence Against Women Act \(VAWA\) Reauthorization Act of 2013 – Additional Guidance for Multifamily Owners and Management Agents](#)

**Please note the Office of Special Needs Assistance Programs (SNAPS) has not yet released a VAWA notice.**



# SAFE HOUSING PARTNERSHIPS

The new website for the Domestic Violence and Housing  
Technical Assistance Consortium

UNDERSTANDING THE INTERSECTIONS

BUILDING PARTNERSHIPS

EMPLOYING KEY APPROACHES

PUBLIC POLICIES

- Data, infographics, literature reviews, and reports that describe the intersections between domestic violence, sexual assault, homelessness, and housing
- Strategies for building effective and sustainable partnerships across systems and case studies of successful collaborations
- In-depth resource collections organized around four key approaches to addressing and preventing housing instability among survivors
- Access to relevant federal laws, regulations, and policies

Have questions? Need TA? Want training?  
Contact the Consortium directly through the site!

---

Domestic Violence and Housing Technical Assistance Consortium  
[www.safehousingpartnerships.org](http://www.safehousingpartnerships.org)



SAFE HOUSING  
PARTNERSHIPS