



HOPWA Webinar

Overview of VAWA 2013

June 20, 2023

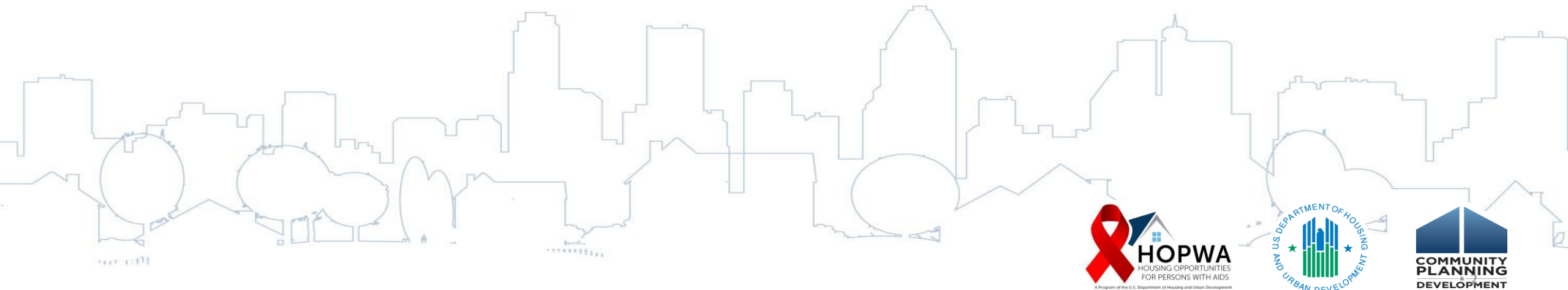
1:00 pm – 2:30pm EDT

Technical Assistance Collaborative



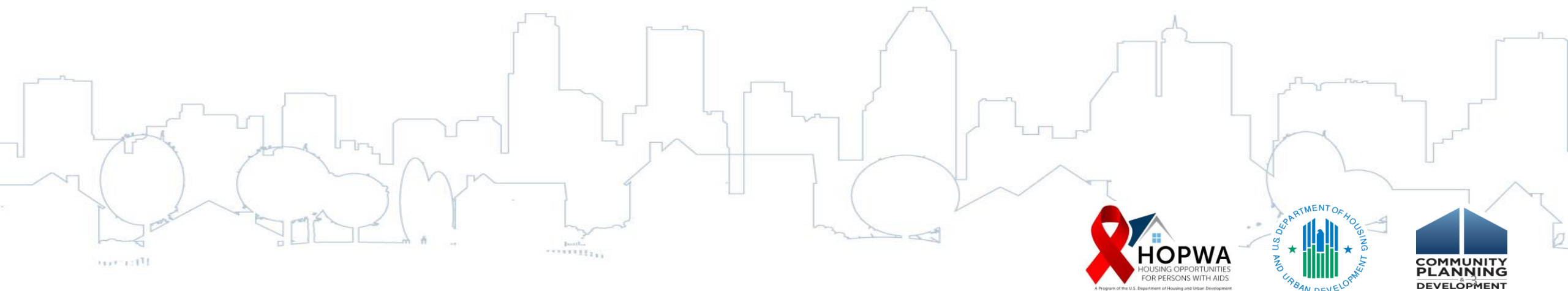
Housekeeping

- This session is being recorded. Recording and materials will be available on the HUD Exchange: <https://www.hudexchange.info/trainings/>
- All participants are muted
- Please submit questions for presenters in the Q&A box
- Use the Chat feature to share thoughts/comments



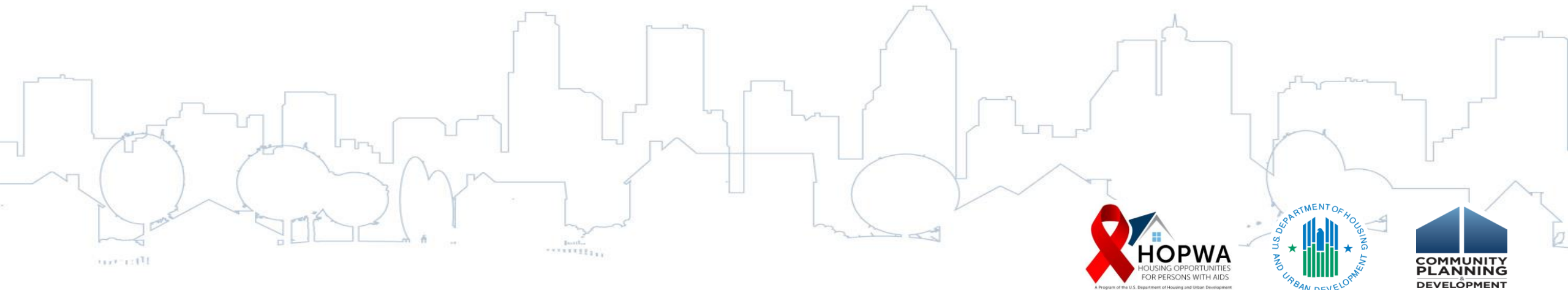
Introductions

- Amy Palilonis, Office of HIV/AIDS Housing, HUD
- Kate Briddell, Office of HIV/AIDS Housing, HUD
- Jill Robertson, Office of HIV/AIDS Housing, HUD
- Matt Leslie, Technical Assistance Collaborative
- Janice Miller, Technical Assistance Collaborative

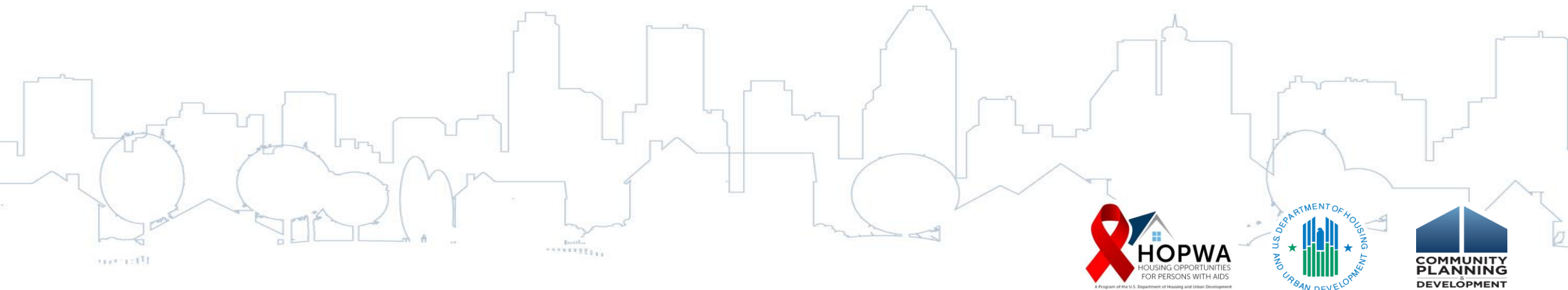


Webinar Objectives

- Provide an overview of the critical components of HUD's Final Rule implementing VAWA 2013 as applied to HOPWA
- Increase understanding of the protections for survivors of sexual assault, domestic violence, dating violence, or stalking
- Discuss further guidance, additional resources, and Technical Assistance



Section I. Background



What is VAWA 2013?

- On March 7, 2013, the Violence Against Women Reauthorization Act of 2013 (P.L. 113-4) (VAWA 2013) was signed into law.
- VAWA 2013 implemented several key changes related to housing protections for victims of domestic violence, dating violence, sexual assault, and stalking.
- VAWA 2013 expanded the applicability of the VAWA protections to HOPWA and several other HUD programs.
- VAWA 2013 specified sexual assault as a crime covered by VAWA in addition to domestic violence, dating violence, and stalking.



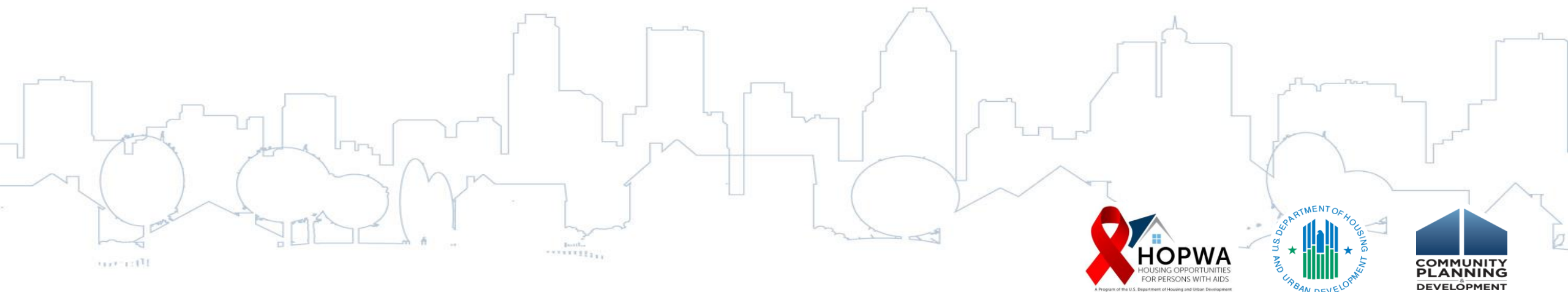
VAWA Final Rule

- On November 16, 2016, HUD published VAWA Final Rule implementing the requirements of VAWA 2013 through HUD regulations.
- The VAWA Final Rule amended:
 - HUD's generally applicable regulations
 - HUD's regulations for programs that were previously covered
 - Regulations of programs newly covered by VAWA 2013 (including HOPWA)



Key Regulations

- 24 CFR Part 5, Subpart L - Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- 24 CFR Part 574: Housing Opportunities for Persons With AIDS



Effective Date

- Core statutory protections of VAWA **prohibiting denial or termination of assistance or eviction** because an applicant/ tenant is a victim of domestic violence, dating violence, sexual assault, or stalking applied upon enactment of VAWA 2013 on March 7, 2013.
- For **HOPWA formula grants**, compliance with VAWA regulatory requirements is required for any project with a HOPWA funding commitment date made on or after December 16, 2016.
- For **HOPWA competitive grants**, compliance with VAWA regulatory requirements is required for awards made on or after December 16, 2016.
- HOPWA grantees had 180 days from December 16, 2016, to develop emergency transfer plans. **Emergency transfer provisions** became effective on June 14, 2017.



2022 VAWA Reauthorization

- On March 15, 2022, VAWA was reauthorized and includes new requirements that HUD will implement and enforce.
- HUD will engage in rulemaking and issue regulations, as appropriate, to fully implement the compliance review mandate of VAWA 2022.
- For more information:
 - <https://www.hud.gov/sites/dfiles/CPD/documents/Listserv-VAWA-Letter-for-HOPWA.pdf>



VAWA Definition of Domestic Violence

Domestic Violence:

- Includes felony or misdemeanor crimes committed by a current/ former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding
- Includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, **economic**, or **technological** abuse that may or may not constitute criminal behavior



VAWA Definition of Domestic Violence

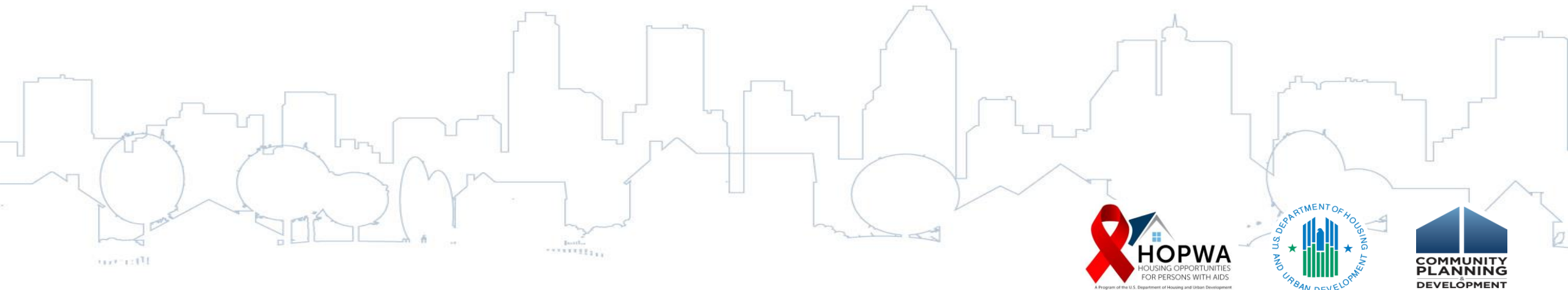
These acts are committed by a person who:

- Is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner
- Shares a child in common with the victim; or
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction

The full definition including expanded economic and technological abuse definitions can be found here: <https://www.hud.gov/sites/dfiles/CPD/documents/Listserv-VAWA-Letter-for-HOPWA.pdf>



Section II. Applicability to HOPWA Eligible Activities



What HOPWA housing activities are subject to the VAWA Requirements?

The VAWA requirements in 24 CFR part 5, subpart L **apply** to:

- Acquisition, rehabilitation, conversion, lease, and repair of facilities
- New construction
- Operating costs
- Project-based and tenant-based rental assistance
- Community residences



What HOPWA housing activities are **NOT** subject to the VAWA Requirements?

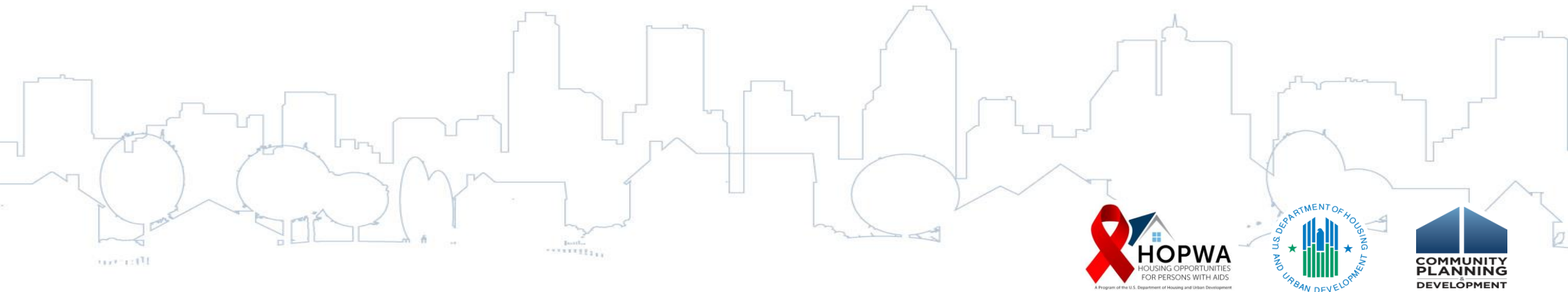
The VAWA requirements in 24 CFR part 5, subpart L **do not** apply to:

- HOPWA short-term supported housing (Short-Term Rent, Mortgage and Utility (STRMU) assistance and emergency/short-term facilities)
- **EXCEPT** that no individual may be denied assistance, have their assistance terminated, or be removed on the basis or as a direct result of the fact that the individual is or has been a victim of one of the four types of VAWA abuse/violence.



Section III.

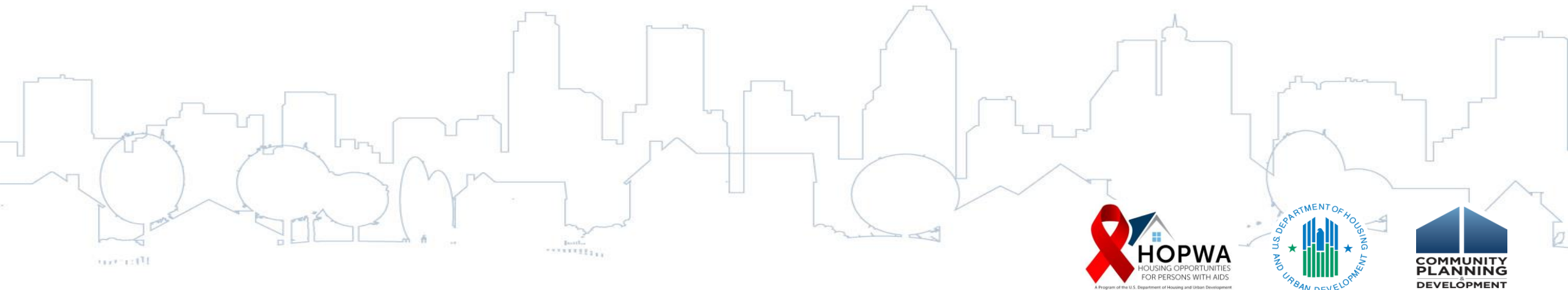
VAWA Protections



VAWA Housing Protections

Victims and survivors of domestic violence, dating violence, sexual assault and stalking are protected from:

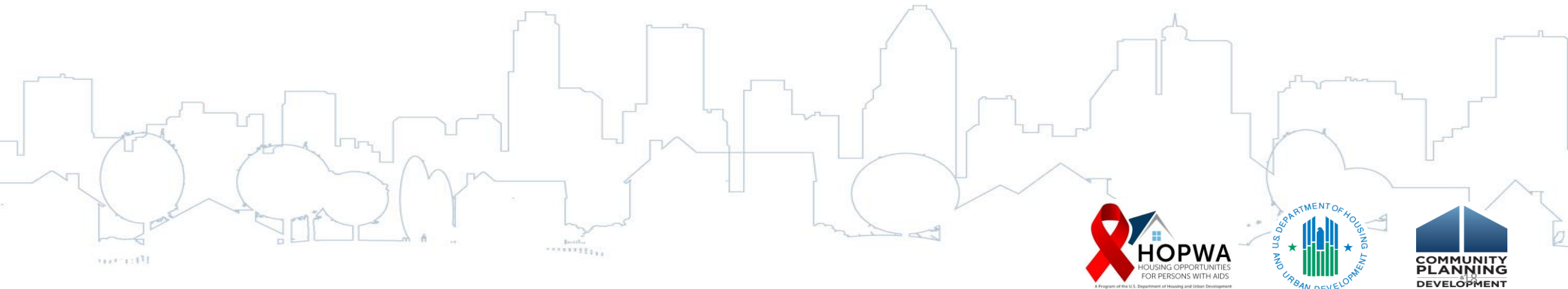
- Adverse decisions regarding housing assistance because of VAWA violence/abuse committed against them or related to VAWA violence/abuse
- Denial of admission or assistance
- Eviction and termination of assistance related to VAWA violence/abuse



VAWA Housing Protections

Victims and Survivors have the right to these VAWA protections:

- Emergency transfers
- Lease bifurcation
- Right to report
- Self-certification (may use [Form HUD-5382](#))



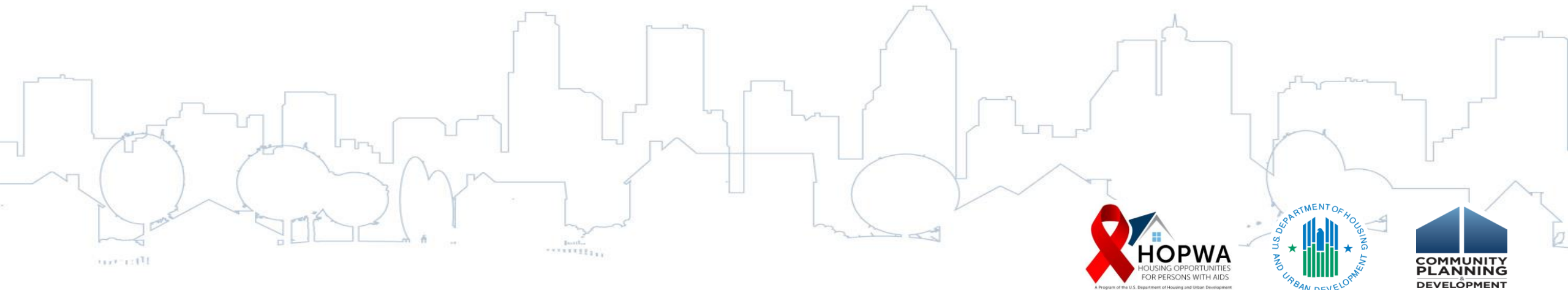
Who is eligible for VAWA Protections?

- VAWA protections cover HOPWA-assisted tenants as well as applicants for HOPWA housing assistance
- VAWA protections are available to people of all genders
- Victims and survivors of domestic violence, dating violence, sexual assault, or stalking are eligible for protections regardless of sex, gender identity, sexual orientation, race, color, national origin, religion, familial status, disability, or age



Notice of Occupancy Rights

- VAWA 2013 required HUD to create a notice of VAWA rights.
- The VAWA Final Rule included a VAWA Notice of Occupancy Rights
 - **Form HUD-5380**
- The VAWA Notice of Occupancy Rights is for use by all HUD-covered programs, including HOPWA



Notice of Occupancy Rights

- HOPWA grantees are responsible for ensuring that each project sponsor carrying out HOPWA housing activities (**excluding STRMU, emergency/short-term facilities, and emergency hotel/motel vouchers**) provides the VAWA Notice of Occupancy Rights at the following times:
 - At the time a person is denied rental assistance or admission to a HOPWA-assisted unit
 - At the time a person is admitted to a HOPWA-assisted unit or is provided rental assistance
 - With any notification of eviction from the HOPWA-assisted unit or notification of termination of rental assistance



Certification Form, HUD-5382

- VAWA 2013 required HUD to create a certification form to document incidents of domestic violence, dating violence, sexual assault, or stalking
- The 2016 VAWA Final Rule included a certification form, [HUD-5382](#), for use by all HUD-covered programs, including HOPWA
- HOPWA grantees or project sponsors must provide form HUD-5382 to applicants and tenants with the VAWA Notice of Occupancy Rights (form [HUD-5380](#)) at the required times



Certification Form, HUD-5382

- Optional way for victims to comply with a written request for documentation
- The victim or someone filling out the form on the victim's behalf answers 10 numbered questions and provide a brief description of the incident(s)
- Clarifies the name of the accused perpetrator does not have to be provided if it is unknown to the victim or it cannot be provided safely
- Clarifies the date and time of incident be completed only if known by the victim
- The victim or someone filling out the form on the victim's behalf certifies to the truth and accuracy of the information being provided



Prohibited basis for denial or Termination of assistance or eviction

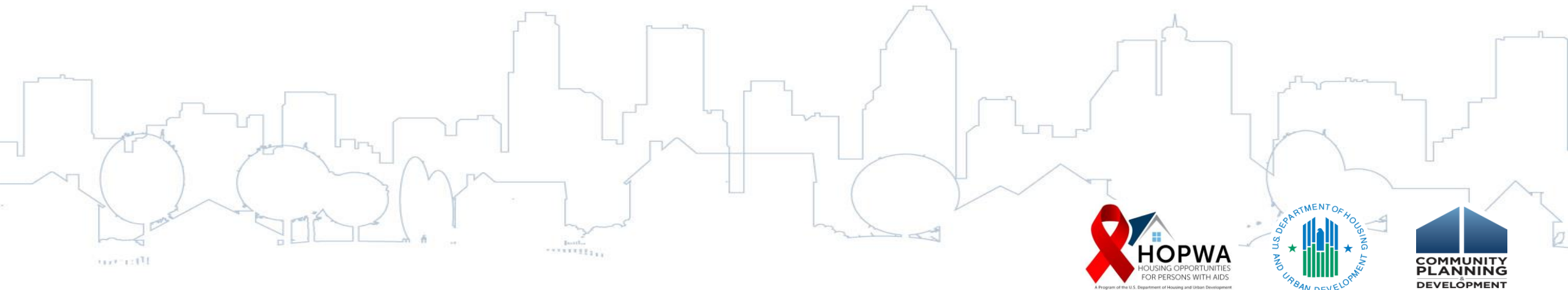
- An applicant for HOPWA assistance or a HOPWA-assisted tenant may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis or direct result of being a victim of domestic violence, dating violence, sexual assault or stalking.
- ***Termination on the basis of criminal activity.*** A HOPWA-assisted tenant may not be denied tenancy or occupancy rights solely due to criminal activity related to one of the four crimes or VAWA abuses if:
 - The criminal activity is committed by a member of the tenant's household or any guest or other person under the control of the tenant, **and**
 - The tenant or an affiliated individual of the tenant is the victim or threatened victim



Construction of Lease Terms and Terms of Assistance

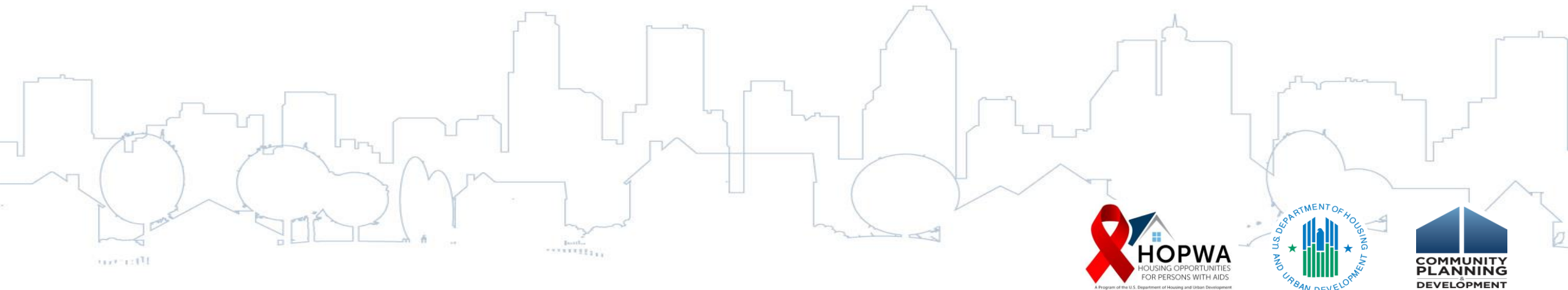
An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as:

- A serious or repeated violation of a lease; or
- Good cause for terminating assistance, tenancy, or occupancy rights of the victim or threatened victim of such incident



Emergency Transfer Plan

- HOPWA grantees must have an emergency transfer plan that is adopted and implemented by each project sponsor carrying out HOPWA housing activities (excluding STRMU and emergency/short-term facilities)
- The plan shall be based on HUD's model emergency transfer plan (**Form HUD-5381**) and must be consistent with 24 CFR 5.2005(e)



Emergency Transfer Plan

Each HOPWA Grantee's Emergency Transfer Plan must:

- Define tenants eligible for an emergency transfer
- List documentation needed to request an emergency transfer
- Detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA
- Incorporate strict confidentiality measures
- Describe how an emergency transfer may occur



Emergency Transfer Plan

The emergency transfer plan must allow for an emergency transfer by tenants who are victims of one of the four VAWA abuses/violence that expressly request a transfer and:

- Reasonably believe that there is a threat of imminent harm from further violence if the tenant remains within the same unit; or
- In the case of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same unit, or the sexual assault occurred on the premise during the 90-day period preceding the date of the request for transfer.



Emergency Transfer Plan

- Emergency Transfer Plans **must** indicate how HOPWA-assisted tenants can request an emergency transfer
- Verbal self-certification is sufficient, or grantees may require a written request for an emergency transfer. Either must include:
 - A statement that the tenant requests an emergency transfer because the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same unit; or
 - A statement that the tenant requests an emergency transfer because the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the tenant's request for an emergency transfer



Emergency Transfer Plan

Definitions:

- **Internal emergency transfer** refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant
- **External emergency transfer** refers to an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant



Emergency Transfer Plan: Internal Transfers

- A grantee's Emergency Transfer Plan must allow a HOPWA-assisted tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available
- A grantee's Emergency Transfer Plan must describe policies for assisting a tenant in making an internal emergency transfer when a safe unit is not immediately available
- The policies must ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that may already be provided by the grantee to other types of emergency transfer requests



Emergency Transfer Plan: External Transfer

- The Emergency Transfer Plan **must** describe reasonable efforts the grantee will take to assist a tenant who wishes to make an external emergency transfer when a safe unit is not immediately available
- The plan **must** include policies for assisting a tenant seeking an external emergency transfer under VAWA out of the HOPWA grantee's program or project, and a tenant who is seeking an external emergency transfer under VAWA into the grantee's program or project from another HUD-covered program. These policies may include:
 - Arrangements, including memoranda of understanding, with other covered housing providers (PHAs, CoCs, etc.) to facilitate moves; and
 - Outreach activities to organizations that assist or provide resources to victims of the four VAWA abuses/violence.



Recordkeeping and Reporting

- HOPWA grantees and project sponsors **must** keep confidential records of all emergency transfers requested under Emergency Transfer Plans, and the outcomes of such requests, and retain these records for a period of four years
- Information on the requests and their outcomes **must** now be reported to HUD annually. Fields have been added to HOPWA annual reports to collect data from formula and competitive grantees on emergency transfer requests and outcomes



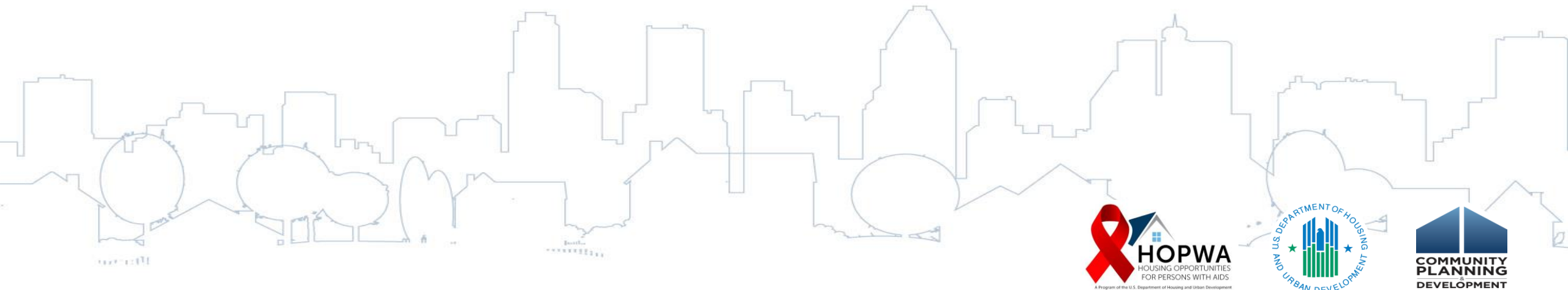
Reporting in APR/CAPER

- Grantees and project sponsors should collect and report the data related to emergency transfer in their APR/CAPER as required
- Additional VAWA questions in APR/CAPER must be completed if households requested VAWA protections from your organization in the reporting year:
 - How many **internal** emergency transfers were requested?
 - How many **internal** emergency transfers were granted
 - How many **external** emergency transfers were requested?
 - How many **external** emergency transfers were granted?
 - How many **emergency** transfers were **denied**?



Lease Addendum

- The grantee or project sponsor is responsible for ensuring that the housing or facility owner or manager, as applicable, adds a VAWA lease term/addendum to the leases for all HOPWA-assisted units, and is aware of the option to bifurcate a lease to evict, remove, terminate occupancy rights, or terminate assistance to a household member for engaging in criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking



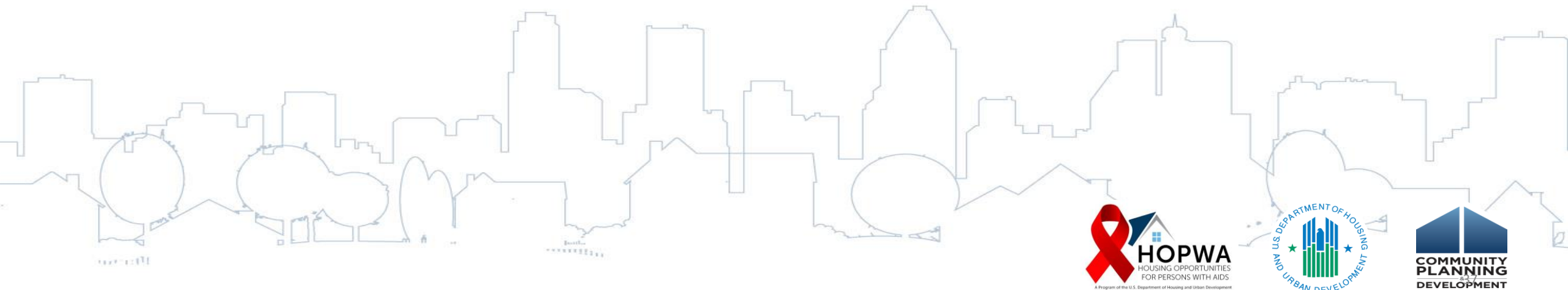
VAWA Lease Addendum

- The VAWA lease term/addendum **must** provide that the tenant may terminate the lease without penalty if the tenant has met the conditions for an emergency transfer
- The addendum must incorporate the applicable requirements at 24 CFR Part 5, Subpart L, including:
 - Definitions (24 CFR 5.2003)
 - Prohibited basis for denial or termination of assistance or eviction (24 CFR 5.2005(b))
 - Construction of lease terms and terms of assistance (24 CFR 5.2005(c))
 - Limitations of VAWA protections (24 CFR 5.2005(d))
 - Confidentiality requirements (24 CFR 5.2007(c))

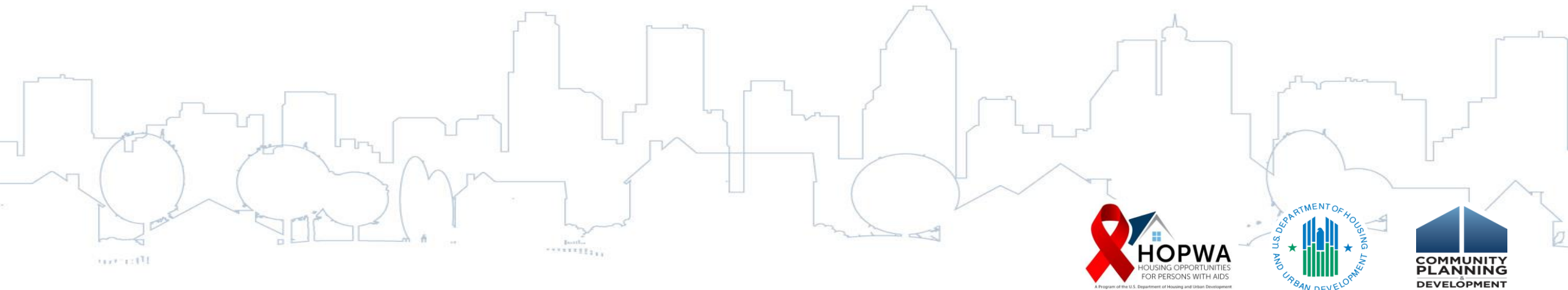


Fair Housing and VAWA

- FHEO enforces VAWA and other fair housing and civil rights laws, and one of its roles is to investigate complaints of housing discrimination. Use this link for more information on [VAWA and Fair Housing](#)
- Tenants who believe their VAWA rights have been violated can visit this link to [file a complaint with HUD's Office of Fair Housing and Equal Opportunity \(FHEO\)](#)



Section IV. Documentation



Documentation

- If an applicant for HOPWA assistance or HOPWA-assisted tenant seeks VAWA protections, the individual must submit the request through the grantee or project sponsor to facilitate protections on their behalf
- Grantees/project sponsors are **not** required to ask for documentation when an individual requests VAWA protections; protections may be provided based solely on an individual's verbal statement or other corroborating evidence
- If the grantee or project sponsor chooses to request an applicant or tenant to document their claim of domestic violence, dating violence, sexual assault, or stalking, the grantee or project sponsor must make the request in writing
- If a written request for documentation is made, grantees/project sponsors may require that the documentation be submitted within 14 business days after the date the individual received the request



Documentation

Any one of the following documents may be submitted to satisfy a request for documentation:

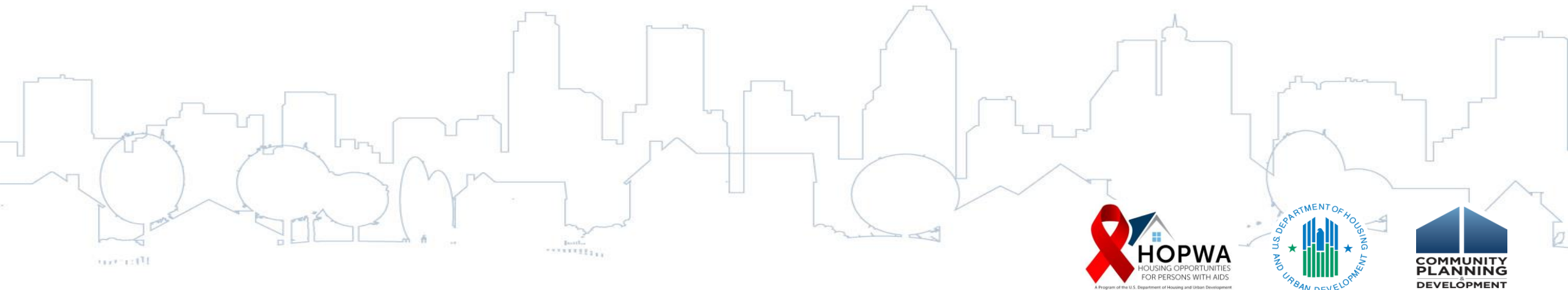
- [Form HUD-5382](#)
- A document that includes all of the following:
 - Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical/ mental health professional (“professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse
 - Signed by the applicant or tenant
 - The professional specifies, under penalty of perjury, they believe the occurrence of the incident that is the ground for protection and remedies under the VAWA Final Rule, and the incident meets the applicable definitions of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003
- A record of a Federal, State, tribal, territorial or local law enforcement agency (may include a police report), court, or administrative agency
- At the discretion of the grantee or project sponsor, a statement or
- other evidence provided by the applicant or tenant



Third-Party Documentation

Grantees/project sponsors are **prohibited** from requiring the victim to provide third-party documentation of victim status, unless:

- More than one applicant or tenant provides documentation of victim status and the information in one person's documentation conflicts with the information in another person's documentation; **or**
- Submitted documentation contains information that conflicts with existing information already available to the grantee or project sponsor.



Third-Party Documentation

- In situations of conflicting information, an applicant(s) or tenant(s) may submit any of the following to meet a third-party documentation request:
- A document that includes all of the following:
 - Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical/mental health professional (“professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse
 - Signed by the applicant or tenant
 - The professional specifies, under penalty of perjury, they believe the occurrence of the incident that is the ground for protection and remedies under the VAWA Final Rule, and the incident meets the applicable definitions of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003
- A record of a Federal, State, tribal, territorial or local law enforcement agency (may include a police report), court, or administrative agency
- At the discretion of the grantee or project sponsor, a statement or other evidence provided by the applicant or tenant



Confidentiality

Any information submitted to a HOPWA grantee, project sponsor, or housing owner or manager, including the fact that an individual is a victim, must be maintained in confidence:

- Employees of the grantee, project sponsor, or housing owner or manager (or those who administer assistance on their behalf, e.g., contractors), must not have access to the information unless specifically authorized for reasons that specifically call for these individuals to have access to such information under applicable Federal, State, or local law; and



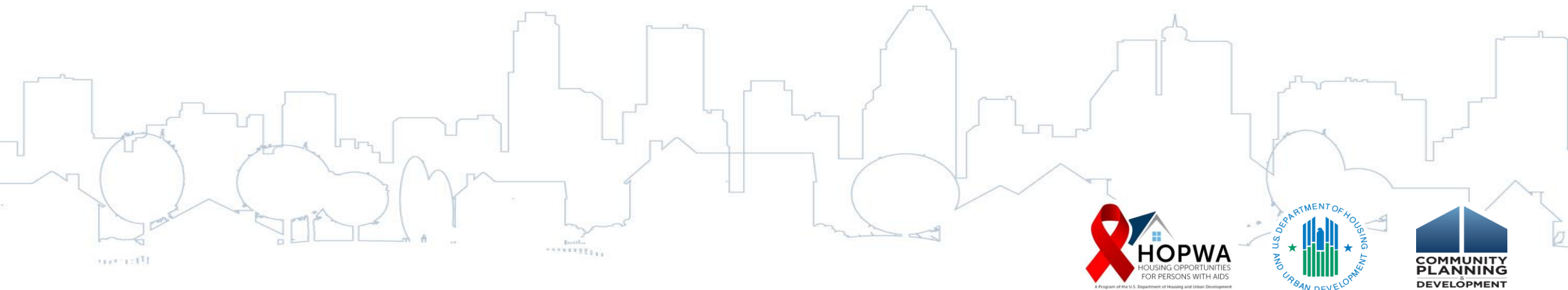
Confidentiality

The grantee, project sponsor, or housing owner or manager must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

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



Section V. Lease Bifurcation



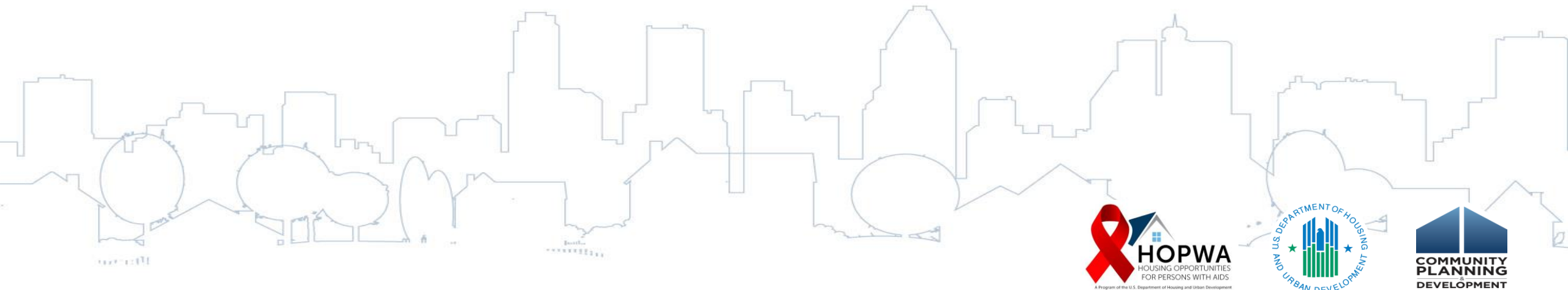
Lease Bifurcation

- A HOPWA grantee, project sponsor, or housing owner or manager **may** bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to a member who engages in criminal activity directly relating to one of the four VAWA abuses/violence
- When the option is exercised to bifurcate a lease to evict, remove, terminate occupancy rights, or terminate assistance to a HOPWA-eligible household member, the remaining persons residing in the unit must be provided a reasonable grace period to establish eligibility to continue receiving HOPWA assistance or find alternative housing



Lease Bifurcation

- The grantee or project sponsor is responsible for setting the reasonable grace period and notifying the remaining members of its duration, which shall be no less than 90 calendar days, and not more than one year, from the date of the bifurcation of the lease
- Housing assistance and supportive services continue to be provided to the remaining members during the grace period



Section VI.

Additional Guidance and Resources



Role of HOPWA Grantee & Project Sponsor

- Recognize and respond supportively when survivors disclose domestic violence, dating violence, sexual assault or stalking
 - [How to Identify Persons Impacted by Domestic Violence and Sexual Assault](#)
 - Identify and provide appropriate referrals for supportive, victim or legal services
 - Ensure the VAWA lease addendum is used (a sample unofficial addendum attached)
- Recognize when VAWA housing protections might be available to a client
 - Assist survivors in making requests related to VAWA housing protections
 - Ensure the VAWA lease addendum is used; facilitating VAWA protections for tenants
 - [Form HUD-5382](#) is the VAWA self-certification form that can be used by a survivor. It is not required.



Role of HOPWA Grantee & Project Sponsor

- Educate clients on VAWA Housing protections
 - Victim protection from denial of assistance, termination or eviction related to abuse
 - Victim right to confidentiality of records and in shared databases
 - Victim right to emergency transfer or lease bifurcation
 - Victim right to self report abuse
 - Victim right to [file a FHEO complaint](#)
- Grantees must have an emergency transfer plan. Project sponsors can create their own agency VAWA policies based on the grantee policies
 - [Form HUD-5381](#) is an Emergency Transfer policy template to be customized
 - [Form HUD-5383](#) is an Emergency Transfer request template



Role of HOPWA Grantee & Project Sponsor

Project sponsors must provide the notice of occupancy rights to all clients (**Form HUD-5380**) at these times:

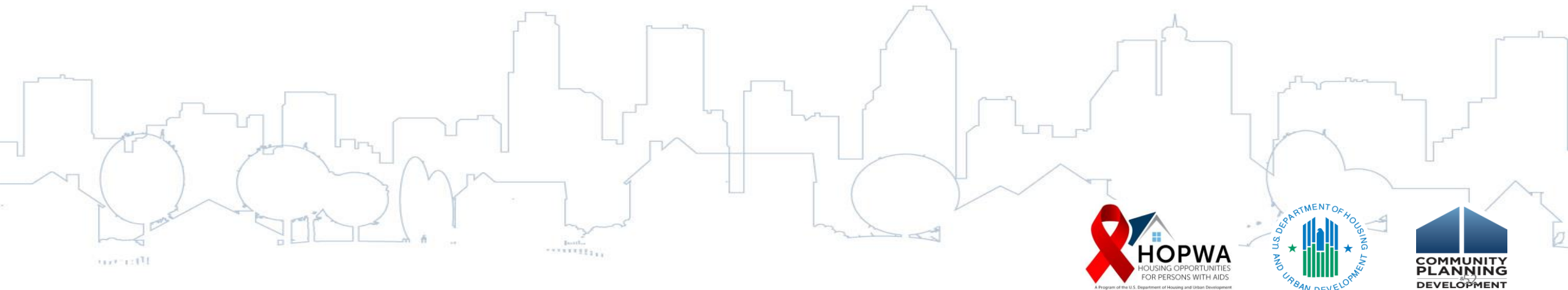
- At the time a person is denied rental assistance or admission to a HOPWA-assisted unit
- At the time a person is admitted to a HOPWA-assisted unit or is provided rental assistance
- With any notification of eviction from the HOPWA-assisted unit or notification of termination of rental assistance

If state regulations provide more protections than VAWA 2013, then grantees must comply with state regulations



Role of HOPWA Grantee & Project Sponsor

- Use current forms even if expired (HUD 5380, 5381, 5382, 5383)
- Grantees and PS should collect and report the data related to emergency transfer in their APR/CAPER as required



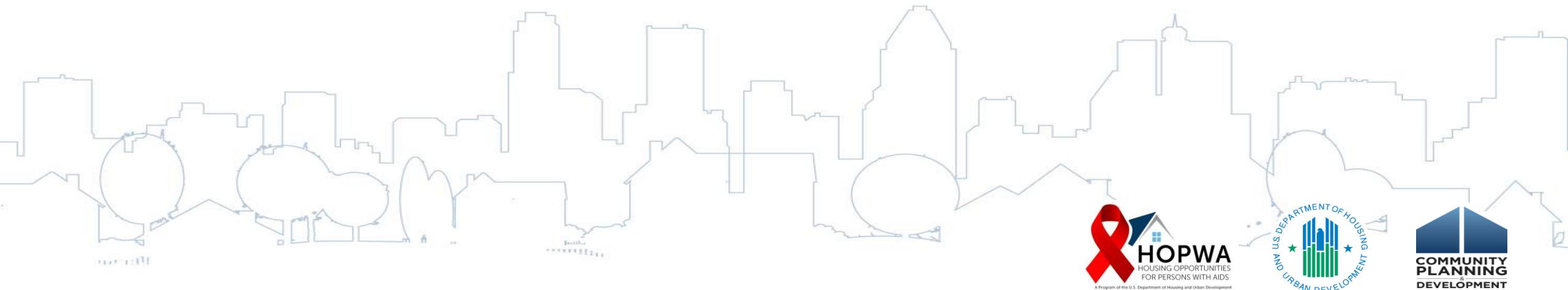
Guidance and Resources

- **HUD's Final Rule: VAWA 2013**
[Federal Register :: Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs](#)
- **Additional HUD VAWA Information and Resources (Includes FAQs, Forms, National Hotlines and Resources for Survivors)**
<https://www.hud.gov/vawa>
https://www.hud.gov/program_offices/fair_housing_equal_opp/VAWA
- **HOPWA Ask A Question:**
<https://www.hudexchange.info/program-support/my-question/>



Upcoming Webinar

| TOPIC | DATE AND TIME |
|---|---|
| HOPWA Federal Requirements vs. HOPWA Local Requirements: Dispelling the Myths | Wednesday, August 23, 2023 – 3:00 - 4:30 pm EDT |



HOPWA Technical Assistance and Ask-A-Question

Get Assistance!

- **HOPWA Technical Assistance (TA):** HUD is making additional TA available to grantees to support HOPWA/COVID-19 planning, program development, problem-solving. Those needing TA assistance in managing COVID-19-related program issues may submit an online request through the HUD Exchange at: <https://www.hudexchange.info/program-support/technical-assistance/>

Get Answers!

- **Submit a question to the HOPWA Ask-A-Question (AAQ) desk:** Grantees and Project Sponsors may ask program, policy, and COVID-related questions through the HOPWA AAQ: [HOPWA Ask A Question \(AAQ\) Portal](#)

