

# THE HFA INSTITUTE 2024

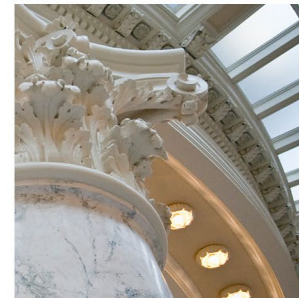
## Ensuring VAWA Compliance



National Council of  
State Housing Agencies



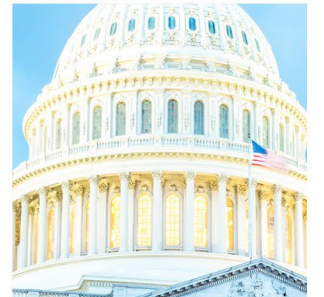
**MRBs and  
Other Federal  
Homeownership  
Programs**  
JANUARY 10 – 12



**Housing Credit**  
JANUARY 9 – 11



**Section 8 and  
Other Federal  
Multifamily  
Programs**  
JANUARY 10 – 12



**HOME and  
Housing Trust  
Fund**  
JANUARY 7 – 9



## SPEAKERS

**Karlo Ng**, Director on Gender-Based Violence Prevention and Equity | Office of the Secretary, HUD

**Debbie Piltch**, President | Piltch Associates, Inc.

# National Council of State Housing Agencies

## The HFA Institute

January 11, 2024

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Karlo Ng, Director on Gender-Based  
Violence Prevention and Equity,  
Office of the Secretary, HUD

Debbie Piltch, President,  
Piltch Associates, Inc.



# Presenter - Debbie Piltch



Debbie has a Master's degree in Labor Relations and a Juris Doctorate. Since 1994, she has operated Piltch Associates, Inc., a consulting business that provides technical assistance and training to government and private entities on their rights and responsibilities in relation to civil rights and housing laws. She has developed a national reputation in the fields of discrimination law and housing law and has been fortunate to work with leading government and private organizations involved in housing issues.

Debbie has served for many years as the Vice President of Compliance for Maloney Properties, which offers comprehensive real estate services and expertise to clients in multiple states.

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# Learning Objectives

By the end of the training, participants will understand:

- The unique barriers survivors face to accessing and maintaining housing, particularly for survivors of color, immigrant survivors, LGBTQIA+ survivors, survivors with disabilities, and others from marginalized communities;
- A brief history of the Violence Against Women Act (VAWA), an overview of the VAWA 2013 Housing Title and VAWA 2022 reauthorization;
- VAWA's Housing Title provisions, HUD's VAWA regulations and guidance specific to Multifamily housing, including discrimination, notice/lease addendum, documentation, and emergency transfers; and
- How implementing VAWA effectively using best practices facilitates survivor access to their VAWA rights and protections.



# HUD's Recent VAWA Implementation Efforts

Karlo Ng, Director on Gender-Based Violence Prevention and Equity,  
Office of the Secretary, HUD

# HUD's Recent VAWA Implementation

**2022**

- Supported passage of VAWA 2022 Reauthorization
- Started VAWA 2022 trainings for HUD grantees
- Began study on housing needs of trafficking survivors
- Held first interagency VAWA housing meeting
- Published 60-day notice for VAWA 2013 forms

**2023**

- Created centralized VAWA website: [www.hud.gov/vawa](http://www.hud.gov/vawa)
- Published in Federal Register VAWA 2022 interim guidance for HUD grantees
- PIH, MFH, SNAPS, and OHH issued VAWA 2022 memos to grantees.
- FHEO issued VAWA enforcement notice.
- FHEO launched VAWA enforcement pilot project.
- Held VAWA listening sessions

**2023–2024**

- Provided training series for HUD field staff
- FHEO reached two VAWA settlements with providers.
- Awarded \$10M in FY22 and FY23 VAWA training and technical assistance funding
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- Publish updated VAWA forms
- Publish proposed VAWA 2022 rule
- Establish Office of GBV Prevention

# Are You Going To Be Asked To Participate?

Yes, please ask questions!

We will also use polls and ask people to offer ideas.



# Overview: Gender-based Violence Survivors & Housing

# Trauma

- Survivors of sexual assault, stalking, dating violence, and domestic violence have experienced (or are experiencing) trauma, sometimes multiple times and in many forms.
- The trauma that survivors experience directly impacts accessing and maintaining housing.

# Trauma

- Understanding the impact of the trauma as it connects to sexual assault, stalking, dating violence, and domestic violence is critical for housing providers and programs because the trauma and/or violence connects directly to survivors' housing stability and safety.
- There is a direct correlation between violence, trauma, and housing instability.

# Communities of Color and Other Marginalized Communities

- Survivors from communities of color experience barriers to accessing and maintaining housing and are disproportionately impacted, as are survivors from other marginalized communities with intersectional identities, including survivors who are disabled, LGBTQI+, immigrant, youth, and children.
- Due to systemic and institutionalized racism and discrimination, a survivor's intersectional identity may impact how they are treated by housing providers, their navigation of services, and safety.

# Examples of Survivors' Barriers to Housing

**Employment History:** Some survivors may miss work, or experience violence/trauma at the workplace, impacting employment history and financial stability.

**Credit History:** Some survivors may not have a credit history or have their credit negatively impacted by the harm-doer (e.g. the harm-doer taking out credit cards in the survivor's name).

# Examples of Survivors' Barriers to Housing

**Rental History:** Some survivors may miss rent payments due to the violence and/or trauma (e.g. missing work results in a loss of income) or there may not be a rental history because the survivor has never been on a lease.

**Criminal History:** Some survivors have a criminal record due to the violence and/or trauma they experienced (e.g. a survivor was forced by the harm-doer to write bad checks).

# Systems and Gender-Based Violence

**Housing is one of many systems that survivors may interface or connect with, including but not limited to:**

- Faith communities
- Health care
- Government
- Victim Services
- Child/Family Services
- Multicultural services
- Mental health systems
- Criminal and/or Civil Justice Systems



# Brief History of Housing Rights for Survivors

# Brief History of Housing Protections for Survivors

## 1960s – 1970s

- The history of housing protections for survivors grew out of several movements -labor, civil rights and anti-war movements and is rooted in the women's rights movement.
- Survivors led the movement, wanted to stop the “privatization” of abuse.
- Advocated for legal and systemic public policy change – federal, state and local protections.

## 1980s – 1990s

- Among the first organizations formed were networks of safe homes and shelters, including the first emergency rape crisis center (in Washington DC).
- Advocacy and momentum for the groundbreaking Violence Against Women Act (VAWA).

# VAWA - Brief History

**1994**

Ground-breaking federal law. Created protections, dedicated additional and new federal funding for programs that support survivors. Created DOJ Office on Violence Against Women (OVW).

**2005**

VAWA Housing Title:  
Mandated for the first-time housing protections in certain federal housing programs for survivors who were applicants and tenants. Provided statutory protections for survivors of domestic violence, dating violence, and stalking.

**2013**

VAWA Housing Title:  
Extended housing protections to survivors of sexual assault, added “affiliated individual” definition to help determine if individual is covered. Additional federal housing programs included under VAWA (basically all of HUD rental assistance programs).



# Overview: Housing Rights under VAWA

# VAWA Housing Protections

- VAWA protects survivors of domestic violence, dating violence, sexual assault, and stalking applying for or living in units under VAWA-covered programs.
  - \* Right to report crime provision
- VAWA housing protections apply regardless of someone's sex, marital status, gender identity, or sexual orientation, and **MUST** be applied consistent with all non-discrimination and fair housing requirements.

# Overview: Housing Rights under VAWA 2013

Not Be	denied admission or assistance, threatened with eviction/assistance termination because of the violence committed against them or trauma they experienced;
Receive	a notice of their housing rights and VAWA Self-Certification Form when admitted, when denied admission or program assistance, and when receive an eviction/termination notice;
Request	a harm-doer be removed from the lease or housing unit, where applicable;
Move	with continued assistance (for participants with Housing Choice Vouchers or Tenant-based Rental Assistance);

# Overview: Housing Rights under VAWA 2013

Stay

in their current unit, even if there is (or has been) criminal activity that is directly related to the violence/trauma;

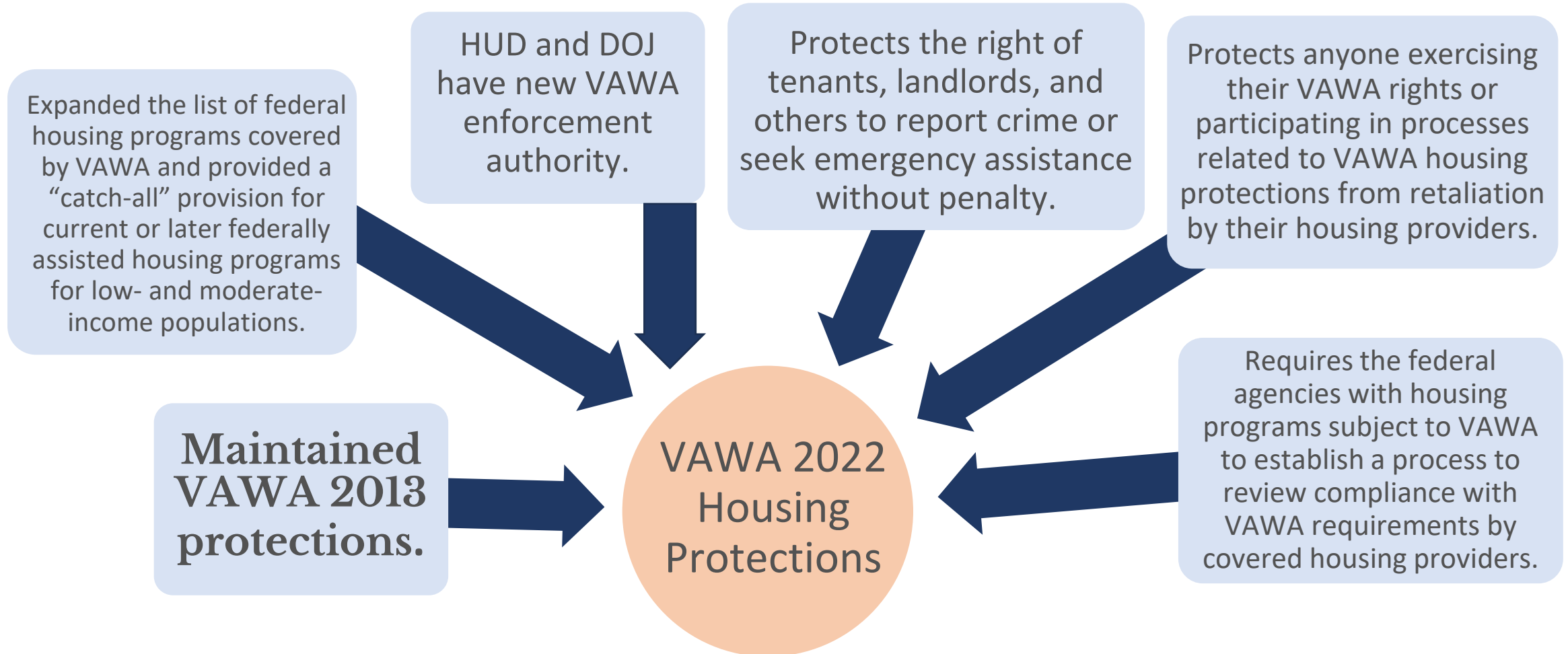
Request

an emergency transfer to another unit in the same program or under another federally subsidized housing program;

Strict

confidentiality of their information related to the violence and trauma they experienced, including their status as a victimized person.

# VAWA 2022 Housing Protections



# VAWA-Covered Housing Programs

## HUD Programs

### **(2022)** Housing Trust Fund & Section 202 Direct Loan

- Public Housing
- Section 8 Vouchers
- Project-based Section 8
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for People with Disabilities
- 221d3/d5 Below Market Interest Rate (BMIR)
- 236 Multifamily rental housing
- HOME
- HOPWA (Housing Opportunities for People with AIDS/HIV)
- McKinney-Vento Homelessness Programs (includes Emergency Solutions Grant; Continuum of Care)

## Treasury/IRS

Low Income Housing Tax Credit (LIHTC)

## USDA

### **(2022)** RD Vouchers

- Rural Development (RD) Multifamily Programs

## Department of Justice

### **(2022)** OVW Transitional Housing Assistance Grants

## Veterans Affairs

### **(2022)**

- The Grant and Per Diem (GPD) Program
- The Supportive Services for Veteran Families (SSVF) Program;
- HUD-Veterans Affairs Supporting Housing (HUD-VASH)



# VAWA's Discrimination Protections - A Deeper Dive

# Non-Discrimination Poll

**Question:** Under VAWA, are survivors of domestic violence, sexual assault, stalking and dating violence protected against discrimination due to the violence or trauma they experienced or are experiencing?

**Answer:**

*Please select one of the following:*

- Yes
- No
- Not sure
- Maybe

# Non-Discrimination Poll

**Question:** Can someone be protected from discrimination under other federal, state and local laws, for reasons other than their status as a survivor?

**Answer:**

*Please select one of the following:*

- Yes
- No
- Not sure
- Maybe

# VAWA Discrimination

- Survivors cannot be denied admission, be evicted/threatened with eviction, or have their assistance terminated/threatened with termination because of the violence committed against them or trauma they experienced.
- Covered housing providers often attempt to evict for reasons that are directly related to the violence (i.e. damage to the property, harm-doer trespass or presence in the unit, absence from the unit, failure to pay rent).

# VAWA Discrimination Protections: Adverse Impact and Direct Result

Covered housing providers are prohibited from denying assistance or admission, terminating participation in, or evicting an applicant/tenant/program participant, based on an adverse factor (such as a criminal record, credit history, eviction or rental history), if determined that the adverse factor is a direct result of domestic violence, dating violence, sexual assault, or stalking.

# VAWA Discrimination Protections: Adverse Impact and Direct Result

## **Credit History -**

- Forcing a survivor to obtain credit, including credit cards for the perpetrator's use
- Using a survivor's credit or debit card without permission, or forcing them to do so

## **Poor Rental History -**

- Property damage
- Noise complaints
- Harassment
- Eviction

## **Criminal Record -**

- Forcing a survivor to write bad checks, misuse credit, or file fraudulent tax returns
- Property damage
- Theft
- Disorderly conduct



# VAWA Notice Requirements & Lease Addendum - A Deeper Dive

# VAWA Notice Requirements

## **VAWA Notice -**

All tenants must get a Notice of Occupancy Rights (HUD Form 5380) and VAWA Self Certification Form (HUD Form 5382) (*available in 15 different languages*) –

- When an applicant is denied admission or assistance.
- When someone is admitted or given assistance.
- With any notification of eviction or assistance termination.


# VAWA Notice Requirements

- The VAWA self-certification form and the VAWA notice of rights that housing providers use were published with HUD's VAWA 2013 final rule.
- HUD has translated these documents and posted them on HUDCLIPS.
- Remember the requirements regarding applicants/residents with limited English proficiency (LEP) apply, as does reasonable accommodation and effective communication for persons with disabilities.
- **HUD is updating these forms.**

# VAWA Notice - Best Practices

- Encourage covered housing providers (CHPs) to post the VAWA notice of occupancy rights in public areas such as waiting rooms, community bulletin boards, and lobbies, where all tenants may view them.
- Encourage CHPs with websites to post online the VAWA self-certification form and notice of occupancy rights.
- The VAWA regulations **must** be made available to tenants and applicants who request to see them (already publicly available and free online).

# VAWA Lease Addendum

HUD Multifamily is updating form HUD-91067, “VAWA Lease Addendum” to include required elements. 

All CHPs must use this updated form when providing or modifying a lease.

- Definitions
- VAWA protections
- Documentation requirements
- Remedies available to survivors, including emergency transfers

# VAWA Lease Addendum - Best Practices

- Encourage CHPs to include in their house rules any additional protections made available to victims of domestic violence, dating violence, sexual assault, or stalking.



# VAWA Documentation Requirements - A Deeper Dive

# VAWA Documentation

- CHPs are free to take the applicant or tenant's **verbal statement or other corroborating evidence** or they can ask for documentation.
- **Applicant/tenant gets to choose documentation type.**
- CHPs **must accept** whatever documentation the applicant/tenant provides.
- **Only exception:** When there is conflicting evidence, CHPs can ask for third-party documentation.
  - CHPs can require 30-days to submit third-party documentation and grant extensions.
  - CHPs cannot engage in additional fact-finding to determine if someone is “really” a survivor (e.g. conducting interviews w/ neighbors, employers, etc.).

# Types of VAWA Documentation

## 1. VAWA Self-certification Form

HUD Form 5382 (for all HUD programs)

## 2. Police, court, or administrative record

Record can be from a federal, state, tribal, territorial, or local entity or administrative record.

## 3. Statement from third party

- Can be from a victim service provider, medical professional, mental health professional or attorney.
- Must be signed by both third party and survivor under penalty of perjury.

## 4. Statement or other evidence (housing provider's discretion)\*

Emails, text messages, voicemails, social media postings

# VAWA Documentation

- Documentation to “prove or certify” the domestic violence, sexual assault, stalking, or dating violence is **not** required under VAWA.
- Any request for documentation by CHPs **must be in writing**.
  - Solely providing a HUD VAWA self-certification form (HUD Form 5382) is **not** a written request.
  - Note: The self-certification form comes in 15 different languages.
- The applicant/tenant has **14 business days** from the request to provide documentation, but the provider is encouraged to grant an extension if the applicant/tenant needs more time.

# Other Documentation

**Remember:** Some state/local laws provide additional (or more extensive) protections for survivors that could include early lease termination, lock changes, and eviction protections. These state/local laws may have their own documentation requirements.



# VAWA Emergency Transfer Requirements - A Deeper Dive

# VAWA Emergency Transfers

- CHPs have differing program and structural requirements/operations and those may change or alter how they are able to operationalize the technical requirements of VAWA.
- This is a common issue and it means there is no one-size-fits-all approach to ensure the technical requirements under VAWA are met by CHPs.

# VAWA Emergency Transfers

- HUD-5381 - Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking is a critical foundation, but alone, is not operational.
- Partnerships with Victim Service Providers (VSP), statewide DV/SA coalitions, local DV/SA culturally specific organizations and other housing entities that provide federal, state or local housing resources, are critical to help CHPs operationalize emergency transfer plans (ETPs).

# VAWA Emergency Transfer Plans (ETPs) - Areas Of Opportunity

## **Operational, Functional & Streamlined –**

- ETPs must ensure survivors understand how to use and navigate the process.
- ETPs must ensure CHPs staff understand their role and how to navigate the process.

## **Emergency Transfers are Not Discretionary Based on Staff “Proof” of Violence/Trauma**

- CHPs move transfers forward based on survivor, not staff perception, playing detective, adding requirements. Survivors determine how and if to move forward. Survivors can change their minds too.


# VAWA Emergency Transfer Plans (ETPs) - Areas Of Opportunity

## **Safe Units – Determined by Survivor \*not\* Staff**

- Not a punitive experience, survivors determine if unit is safe.

## **ETPs Are Not About CHP's Staff Safety**

- CHPs cannot move survivors and call them VAWA emergency transfers because of violence or trauma of staff.



# Effective VAWA Implementation - A Deeper Dive

# What Does Effective VAWA Implementation Mean?

- At minimum, it means:
  - Following the “musts” contained in the applicable statute, regulations, and implementing guidance; and
  - Not engaging in the “must not” behavior.
- Is following the letter of the law enough for survivors to access their VAWA rights?
  - Let’s discuss Emergency Transfer Plans.

# What Can Your Agency/Division Do To Effectively Implement VAWA?

- It will depend on which program(s) you are involved with and your role.
- Are you responsible for implementing an existing directive system and limited to what you can monitor for, or do you have control over creating a directive system and can create your own rules regarding an owner/agent's obligations?

# What Can Your Agency/Division Do To Effectively Implement VAWA?

- It will depend on who you interact with and in what capacity.
- What relationship or interactions do you have with owners and agents beyond oversight?
  - Do you offer educational opportunities?
  - Do you provide technical assistance?

# What Can Your Agency/Division Do To Effectively Implement VAWA?

- What, if any, engagement do you have with local domestic violence and sexual assault programs, including culturally specific organizations?
- What, if any, interactions do you have with survivors?
- If staff interacts with survivors seeking information resources or assistance, are trauma-informed and confidentiality protocols in place? Has the agency worked with staff on secondary trauma?

# What Can Your Agency/Division Do To Effectively Implement VAWA? (cont'd)

Depending on your role, develop and implement best practices.

- For example, NCSHA recently updated their [Recommended Practices](#) in Housing Credit Administration, which is located on their website.
- Many of these Recommended Practices are applicable to other roles that Housing Finance Agencies play, and mirror recommendations made by HUD in its guidance and already discussed throughout the training.

# HUD's VAWA Website – [www.hud.gov/vawa](http://www.hud.gov/vawa)

[Home](#) / Violence Against Women Act (VAWA)

A close-up photograph of a person's hand holding a small, simple house made of brown cardboard. The house has a gabled roof and a white rectangular window cutout. The background is a soft-focus green, suggesting foliage.

**Violence Against Women  
Act (VAWA)**

# What Would Be Helpful To Your Agency?

1. What additional Technical Assistance (TA) would you like to support VAWA implementation and compliance?
2. How would you like TA and training delivered? (Examples: webinar, toolkit, videos/modular training, virtual, in-person, direct TA, etc.)



Thank You!

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