

# THE HFA INSTITUTE 2024

## VAWA Compliance for HUD Properties



National Council of  
State Housing Agencies



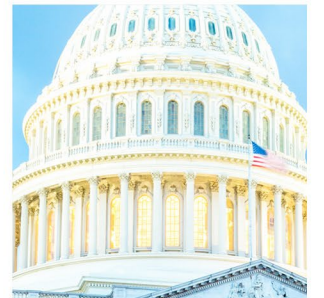
**MRBs and  
Other Federal  
Homeownership  
Programs**  
JANUARY 10 – 12



**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  
U.S. Department of Housing and Urban Development

### **Doug Carlson**

Chief Executive Officer and Managing Partner | Community Development Strategies LLC

### **Laura Kovach**

Gender-Based Violence and Public Health Specialist | The Cloudburst Group

### **Suzanne Marcus**

Gender-based Violence and Housing Specialist, Public Health | The Cloudburst Group



National Council of State Housing Agencies  
The HFA Institute  
January 9, 2024



# Presenters

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

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

## Cloudburst Consulting Group

- Doug Carlson, Community Development Strategies
- Suzanne Marcus, Gender-Based Violence and Housing Specialist

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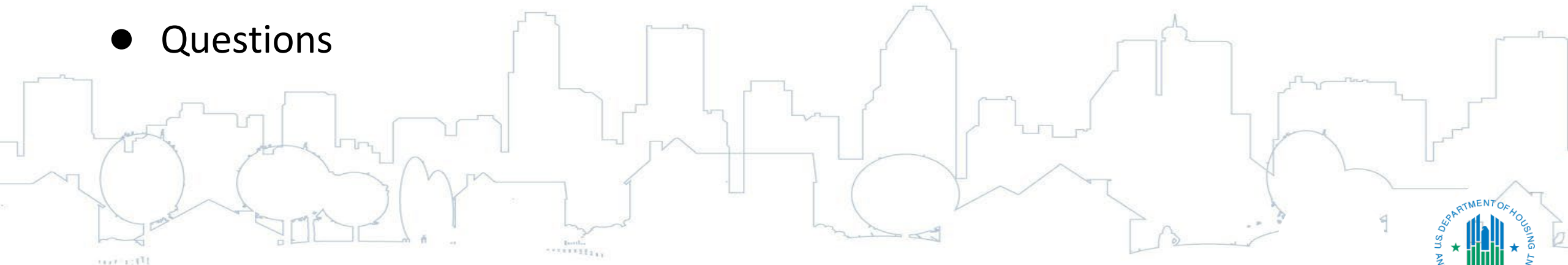
# Learning Objectives

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.
- The Violence Against Women Act's (VAWA) Housing Title provisions.
- How implementing recommended practices can help ensure survivors are able to fully access their VAWA rights and protections.

# Agenda

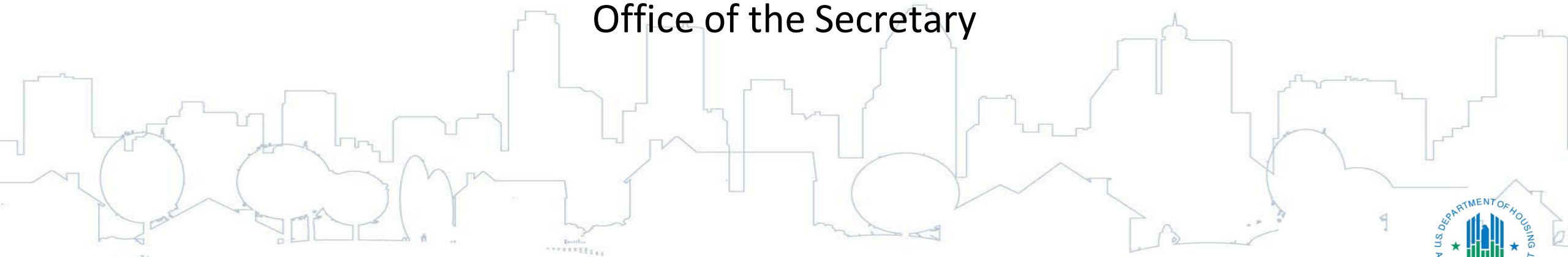
- Opening Remarks
- Barriers Survivors Face to Accessing and Maintaining Housing
- Brief History of Housing Rights for Survivors
- HUD's VAWA Rule & HOME and HTF Requirements
- Beyond the Requirements: Making HOME/HTF Programs Safe for Survivors
- Resources
- Questions



# HUD's Recent VAWA Implementation Efforts

Karlo Ng

Director on Gender-Based Violence Prevention and Equity  
Office of the Secretary



# 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
- Publish updated VAWA forms
- Publish proposed VAWA 2022 rule
- Establish Office of GBV Prevention

# Polling Questions

We will use a variety of feedback methods to capture questions and ideas for future training and technical assistance:

- Notecards/handout
- Raise your hand (by choice)
- Mentimeter



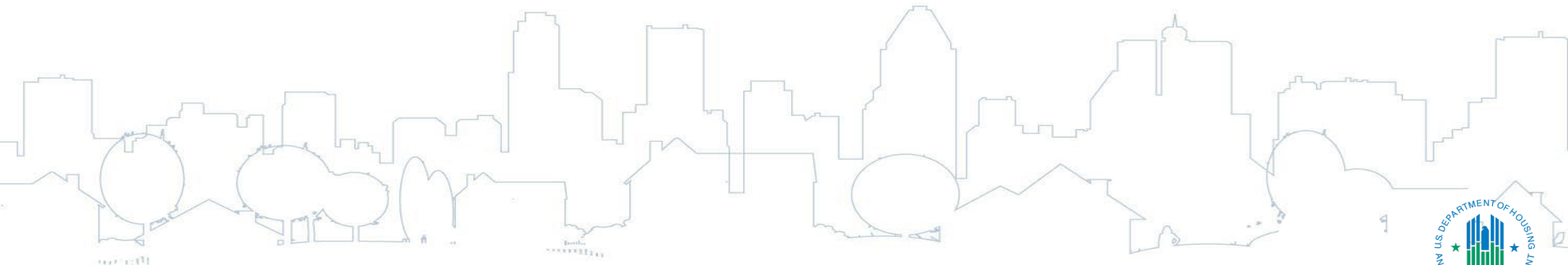
# Polling Questions

Please ask questions during the presentation by using mentimeter. We will answer questions at the end of the presentation.

Join at [menti.com](https://menti.com) | Use code 2530 7809

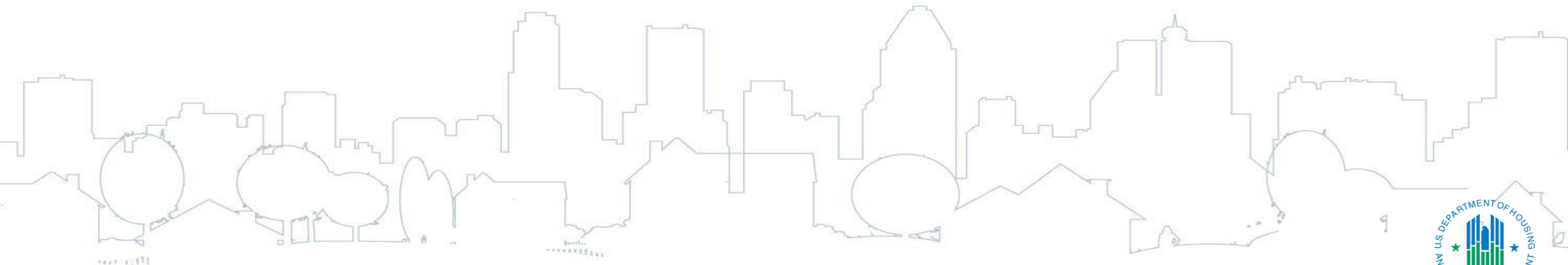


# Barriers Survivors Face to Accessing and Maintaining Housing



# 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 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, LGBTQIA+, immigrant, and 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 their 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 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.

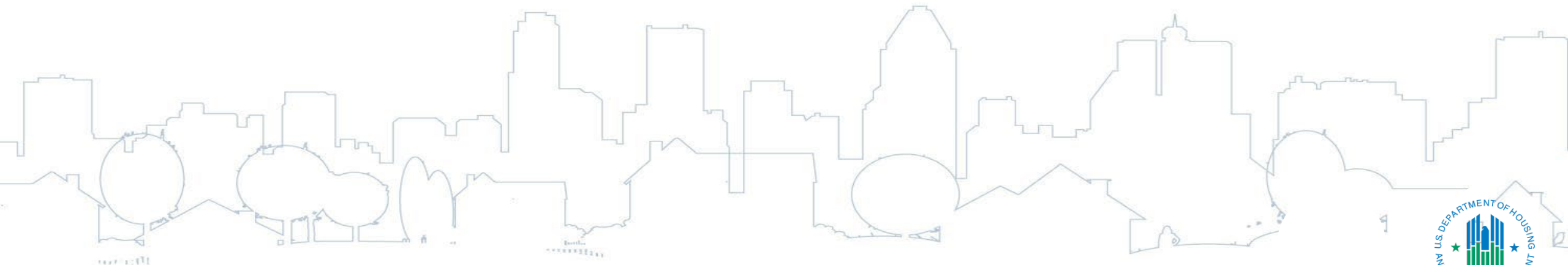
**Criminal History:** Some survivors have a criminal record due to the violence or trauma they experienced (e.g., a survivor was forced by the harm-doer to write bad checks).

# 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
- Healthcare
- Government
- Victim services
- Child/family services
- Multicultural services
- Mental health systems
- Criminal or civil justice systems

# Brief History of Housing Rights for Survivors



# Brief History of Housing Protection 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; they 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 VAWA.

# VAWA — Brief History

1994

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

2005

## VAWA Housing Title:

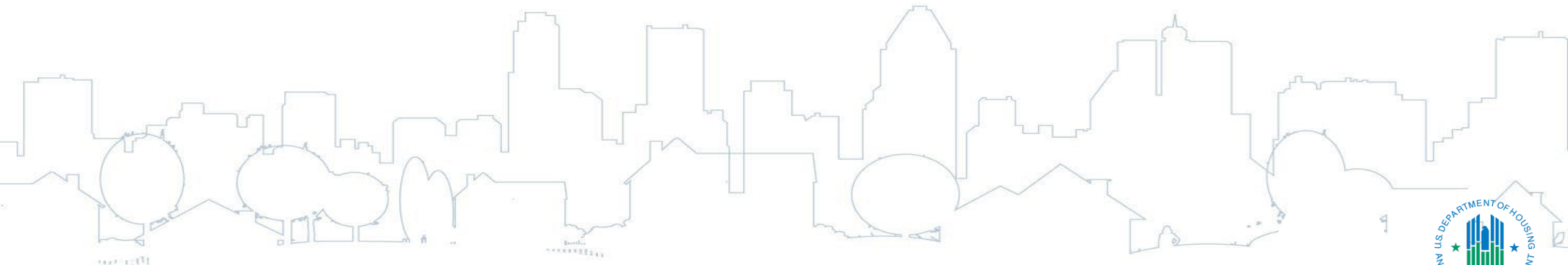
Mandated for the first-time housing protections in certain federal housing programs for survivors who were applicants and residents. Provided statutory protections for survivors of domestic violence, dating violence, and stalking.

2013

## VAWA Housing Title:

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

# Overview: Housing Rights Under VAWA



# VAWA Protections

- VAWA protects survivors of domestic violence, dating violence, sexual assault, and stalking from discrimination when applying for or living in units under VAWA-covered programs.

\*Right to report 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 or threatened with eviction/assistance termination because of the violence committed against them or trauma they experienced.            |
| Receive | a notice of housing rights and VAWA Self-Certification Form when admitted, when denied admission or program assistance, and when receiving eviction/termination notice. |
| Request | a perpetrator 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.

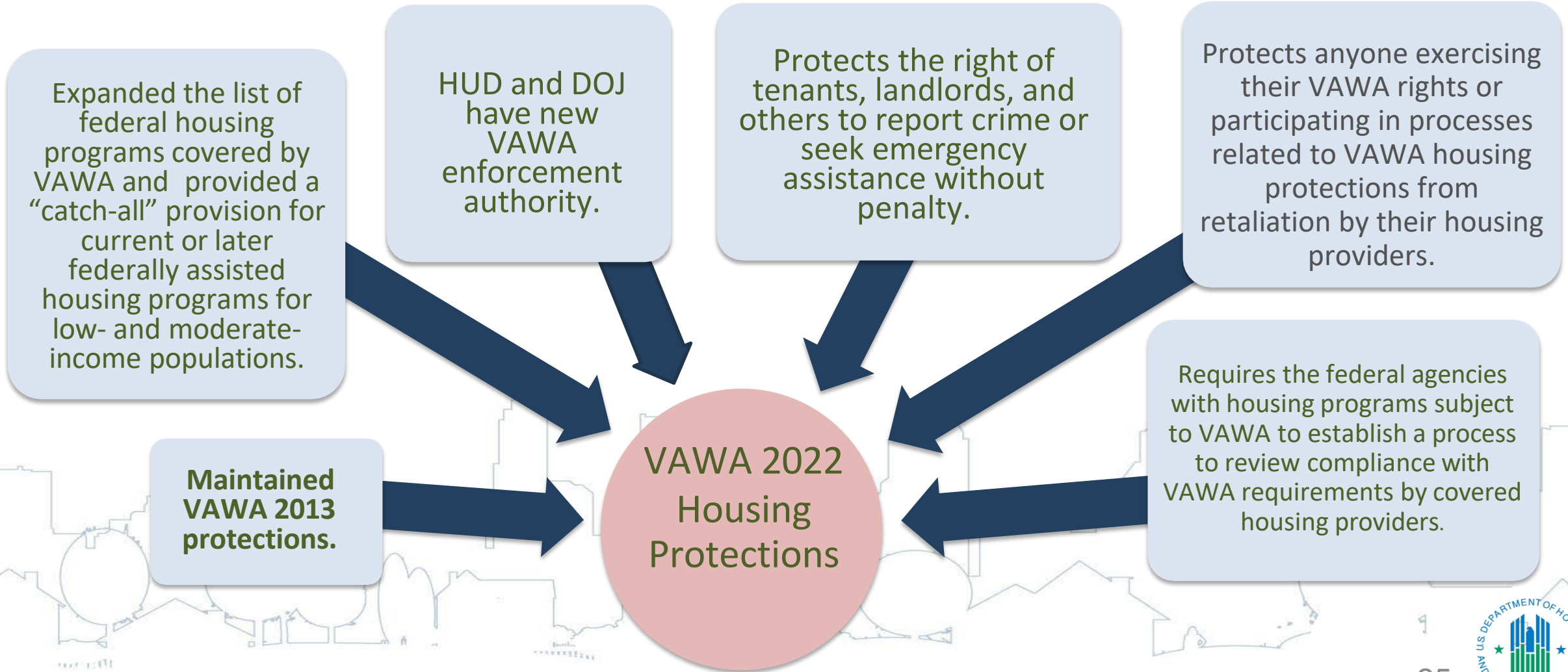
Request

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 Programs



# VAWA Covered-Programs (Includes 2022)

## HUD Programs

### **(2022)** HTF & 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
- Housing Opportunities for People with AIDS/HIV (HOPWA)
- McKinney-Vento homelessness programs (includes Emergency Solutions Grant; Continuum of Care)

## Treasury/Internal Revenue Service

Low-Income Housing Tax Credit (LIHTC)

## U.S. Department of Agriculture

### **(2022)** Rural Development (RD) Vouchers

- RD Multifamily Programs

## DOJ

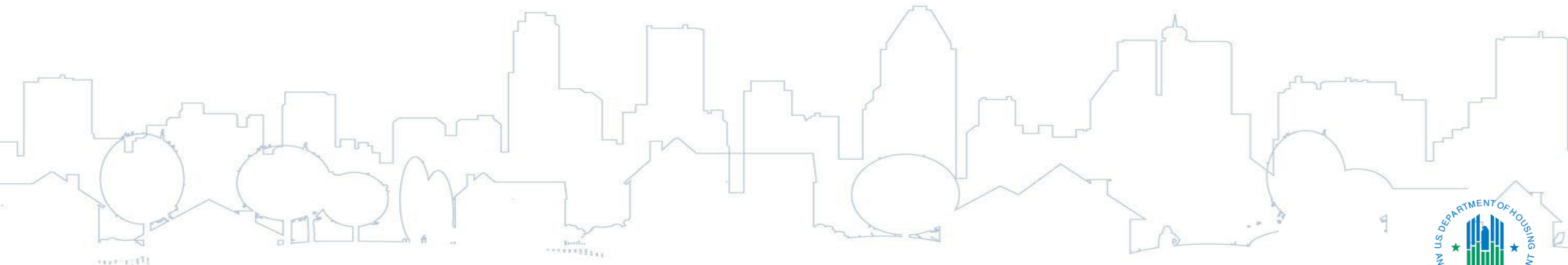
### **(2022)** OVW Transitional Housing Assistance Grants

## 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)

# HUD's VAWA Rule Requirements



# Discrimination Protections Under HOME-HTF

Survivors cannot be denied admission/TBRA, be evicted or threatened with eviction, or have their assistance terminated or threatened with termination because of the VAWA violence committed against them or the trauma they experienced.

Prohibited bases for termination or eviction:

- Victim (or perceived) status.
- Incidents of VAWA violence against the tenant.
- Direct results of VAWA violence against the tenant.
- Criminal activity directly relating to VAWA violence against the tenant or an affiliated individual.
- Assertion of protections under the VAWA statute or regulations.

# VAWA Documentation

- Documentation to prove or certify the domestic violence, sexual assault, stalking, or dating violence is **not** required under VAWA.
- Covered housing providers (CHPs) **may** ask for documentation.
- **Any request for documentation by CHPs must be in writing.**
  - Note: The VAWA Self-certification Form comes in 15 different languages.
  - The applicant/tenant has **14 business days** from the request to provide documentation. The provider can grant an extension if the applicant/tenant needs more time.

# VAWA Documentation

- **Applicant/tenant gets to choose documentation type.**
- **Only exception: When there is conflicting evidence, CHPs can ask for third-party documentation.**
  - CHPs can require 30 calendar days to submit third-party documentation.

# 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



# When to Provide Notice of VAWA Occupancy Rights & VAWA Self-certification Form

| HOME-assisted rental units<br>(applies to HOME funds committed on or after December 16, 2016)   | HOME TBRA  | HTF-Assisted Rental Housing  |
|---|--|--|
| <p>The participating jurisdiction (PJ) must provide the owner with a standard notice and certification form.</p> <p>The owner must provide the notice and certification form:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> when the applicant is admitted,</li> <li><input type="checkbox"/> when the applicant is denied admission based on the owner's tenant selection policies and criteria, and</li> <li><input type="checkbox"/> with any notification of eviction.</li> </ul> <p><b>24 CFR 92.359</b></p> | <p>The PJ must provide the notice and certification form:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> when TBRA is approved or denied,</li> <li><input type="checkbox"/> when the PJ provides the tenant with notification of termination, and</li> <li><input type="checkbox"/> when the PJ learns the tenant's housing owner intends to provide the tenant with notification of eviction.</li> </ul> <p><b>24 CFR 92.359</b></p> | <p>The grantee must provide the owner with a standard notice and certification form.</p> <p>The owner must provide the notice and certification form to the applicant or tenant of an HTF-assisted unit:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> when the applicant is admitted,</li> <li><input type="checkbox"/> when the applicant is denied admission based on the owner's tenant selection policies and criteria, and</li> <li><input type="checkbox"/> with any notification of eviction.</li> </ul> <p><b>24 CFR 93.356</b></p> |

# Emergency Transfer Plan

PJ/HTF grantee must develop and implement an emergency transfer plan (ETP):

- Plan must meet the requirements in 24 CFR 5.2005(e), as supplemented by 24 CFR 92.359(g) (HOME) or 93.356(f) (HTF)
- HUD Model Emergency Transfer Plan—[Form HUD-5381](#)

Note: HOME and HTF project owners are NOT required to develop their own ETPs unless they are required to do so under other VAWA-covered housing programs.

# Emergency Transfer Plan

## Key components:

- Define the qualification criteria for an emergency transfer.
- Describe how an emergency transfer may occur and to whom to make the request.
- List the documentation needed.
- Confidentiality policy.

## Plan must explain:

- How an emergency transfer request can be made.
- Who determines whether a tenant qualifies.

# Emergency Transfer Policies (HOME/HTF)

The PJ/grantee must provide a list of properties in the jurisdiction that include units assisted under HOME or HTF as applicable for tenants who qualify for an emergency transfer and who wish to make an external emergency transfer when a safe unit is not immediately available.

The list must include the following information for each property:

- Address.
- Contact information.
- Number of bedrooms for HOME-assisted units.
- If known, any tenant preferences or eligibility restrictions for the HOME-assisted units.

# Emergency Transfer Policies

The PJ may:

- Establish a program preference for tenants who qualify for VAWA emergency transfers.
- Coordinate with victim service providers (VSPs) and advocates to develop the emergency transfer plan, make referrals, and facilitate emergency transfers to safe and available units.
- In the HOME program, provide HOME TBRA to tenants who qualify for emergency transfers.

# ETP — Owner Obligations

The PJ/HTF grantee must make sure owners understand their obligations under the PJ's or HTF grantee's ETP. Specifically, the PJ/HTF grantee must:

- Require owner to use a VAWA lease addendum that allows the tenant to terminate the lease without penalty if the PJ/HTF grantee determines that the tenant has met the conditions for a VAWA emergency transfer.
- Make sure the terms of the HOME or HTF written agreement sets forth all obligations the PJ or HTF grantee imposes on the owner to meet the PJ's or HTF grantee's ETP.

# Emergency Transfer Model Massachusetts

**Stephanie Brown, Executive Director, Casa Myrna**

# Lease Bifurcation

- Bifurcating a lease means that a housing provider removes a household member who engages in criminal activity directly relating to VAWA violence or abuse from a lease.
- A housing provider may choose whether to bifurcate the lease in accordance with federal, state, or local laws and the requirements of the covered housing program.
- If the removed household member was the eligible housing program tenant, the housing provider must give those who remain a reasonable time (usually 90 days) to establish eligibility under the same program or under a different program, or to find other housing.

## HOME/HTF Requirement:

- HOME/HTF units allow the owner to remove only the tenant(s) engaged in criminal activity; the remaining tenant(s) may remain in the HOME or HTF assisted units or retain TBRA.

# Right to Strict Confidentiality — HOME/HTF Requirement

Any information concerning incident(s) of violence must be kept confidential, including:

- The fact that the applicant or tenant is a victim.
- Any information on certification form, other victim status documentation, or emergency transfer request provided by applicant/tenant on VAWA inquiry/assertion of rights.

Confidential information:

- Must be maintained in strict confidence.
- Must only be accessed by employees/contractors with explicit authorization for specific and legally permissible reasons requiring their access to that information.
- Must not be entered into a shared database or disclosed to any other entity or individual, with three narrow exceptions.

# Lease Addendum

PJ/grantee must develop a VAWA lease addendum to incorporate applicable requirements, including:

- Prohibited bases for eviction under VAWA.
- VAWA limits on construing lease terms.
- Tenant option to end lease without penalty if emergency transfer conditions are met.

Additional rules for TBRA:

- Lease addendum must require owner to notify PJ before owner bifurcates lease or provides notification of eviction to tenant.
- VAWA lease addendum may be written to expire at end of the rental assistance period, unless it is required for other assistance to the unit.

# No Retaliation (VAWA 2022)

Public housing agencies (PHAs), owners, managers of assisted housing under a covered housing program cannot:

- Discriminate against anyone who exercises VAWA rights or testified, assisted, or participated in any manner related to VAWA housing rights.
- Coerce, intimidate, threaten, interfere with, retaliate against someone because they exercise rights/protections, have exercised rights/protections, or have aided or encouraged someone else to exercise rights/protections.

# Right to Report Crimes and Emergencies (2022)

Landlords, homeowners, tenants, residents, occupants, and guests of and applicants for housing:

- Shall have the right to seek law enforcement or emergency assistance on their own behalf or on behalf of another person in need of assistance.
- Shall not be penalized based on their requests for assistance or on criminal activity of which they are a victim or otherwise not at fault under statutes, ordinances, regulations, or policies adopted or enforced by covered governmental entities.

HOME/HTF—HUD is in the process of rulemaking. Please review current policies to ensure they are in alignment with the VAWA statutory requirements.

# **VAWA Monitoring Requirements for HOME and HTF Programs**



# HUD Monitoring for VAWA Requirements

VAWA requirements have been incorporated into HOME Monitoring Exhibits. These exhibits do not yet include new VAWA 2022 requirements.

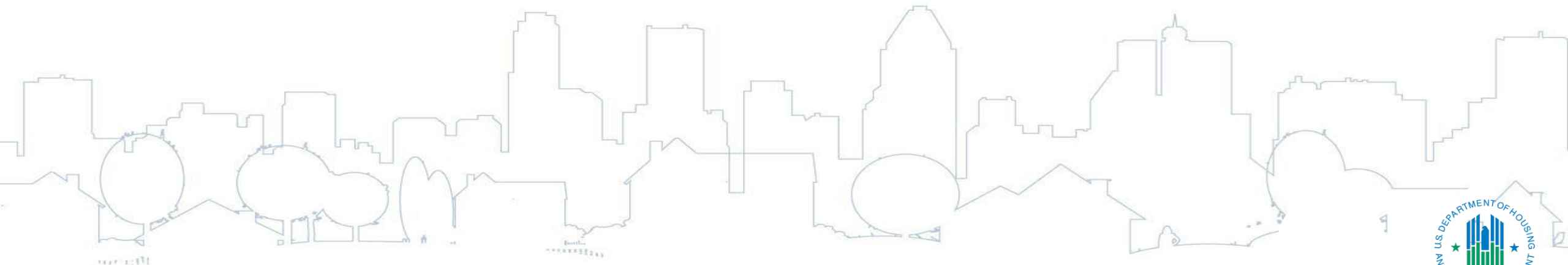
Written agreements exhibits for rental housing include VAWA requirements in accordance with 24 CFR 92.359 and 93.356, including:

- Notice requirements
- Obligations under ETP
- Bifurcation of lease requirements
- Imposition of all VAWA requirements for the duration of the HOME periods of affordability
- Recordkeeping

# Tracking

PJ/HTF grantee must maintain records and annually report on:

- Emergency transfers requested
- Outcomes of those requests

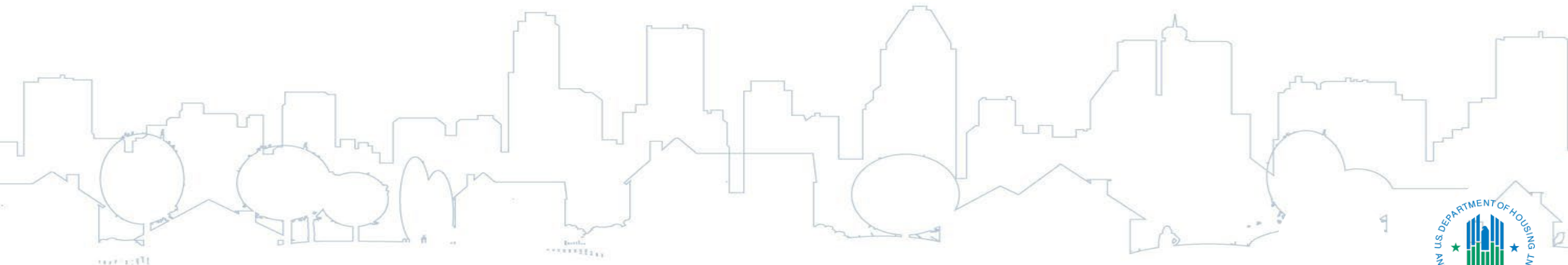


# VAWA and Fair Housing

- VAWA 2022 directs FHEO to investigate and enforce the housing provisions of VAWA consistent with the Fair Housing Act.
- This includes VAWA-specific allegations.
- [HUD Announces Settlement Agreement in California—HOME.](#)



# Making HOME/HTF Programs Safe for Survivors

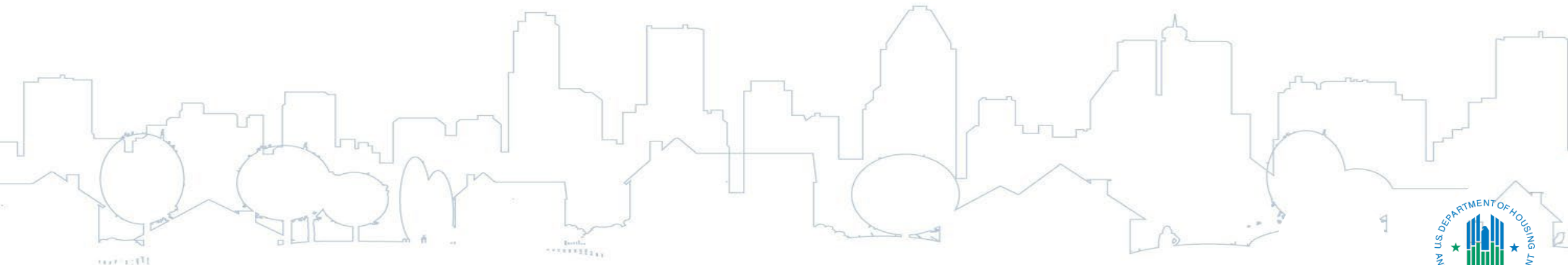


# Five Ways to Promote Survivor Access to VAWA Protections in HOME/HTF Programs

1. Implement [NCSHA's recommended practices](#) (see VAWA recommendations on p. 41).
2. Build relationships with victim service providers (VSPs) for training and survivor resources.
3. Connect to your state [domestic violence](#) and [sexual assault coalitions](#).
4. Draw on already established relationships between PJs and VSPs through their HOME planning and implementation. location
5. Ensure VAWA awareness training is consistent with staff turnover by routinely analyzing capacity needs.



# VAWA Resources



# Resources

<https://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 rectangular white window cutout. The background is a soft-focus green, suggesting foliage.

## Violence Against Women Act (VAWA)

# Resources: VAWA Forms

Forms HUD-5380, 5381, 5382, and 5383 are [available in multiple languages](#).

- Notice of Occupancy Rights under VAWA ([Form HUD-5380](#))
- Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking ([Form HUD-5381](#))
- Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking, and Alternate Documentation ([Form HUD-5382](#))
- Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking ([Form HUD-5383](#))

