

March 6, 2023

The Violence Against Women Act Reauthorization Act of 2022:
Overview of Applicability to HUD Programs
Regulations Division, Office of General Counsel
Department of Housing and Urban Development
451 7th Street, SW, Room 10276
Washington, D.C. 201410-0500

RE: Docket No. FR-6330-N-01

To Whom It May Concern:

The undersigned organizations represent domestic violence, sexual assault, human trafficking, legal aid, culturally specific organizations, and foundations, dedicated to a successful implementation of the Violence Against Women Act's ("VAWA") housing provisions, so that survivors are consistently able to secure and maintain safe and affordable housing. The comments below reflect our collective experiences working to support survivors with their housing, safety, and trauma needs over decades since the first VAWA housing provisions came into effect in 2006.

We thank the U.S Department of Housing and Urban Development for their work to quickly implement the VAWA 2022 housing provisions via this proposed rule and related work at the department. Strong and consistent implementation of the VAWA 2022 housing protections will help survivors maintain their subsidized housing in the aftermath of abuse and resulting trauma, secure safe housing through emergency transfers, or access Continuum of Care housing resources. Advancing survivors' housing rights also helps to address the first two priorities in the [National Strategy on Gender Equity and Equality](#): (1) improving economic security and accelerating economic growth; and (2) eliminating gender-based violence. By centering the perspectives of culturally specific organizations and underserved communities in implementation, HUD will also meet goals that are outlined in the [Executive Order on Further Advancing Racial Equity and Support for Underserved Communities Through The Federal Government](#).

Domestic violence, dating violence, sexual assault, stalking, and human trafficking are consistently identified as significant factors in homelessness and housing insecurity, especially for women, children, families, and particularly for LGBTQ+ individuals and communities of color. Domestic violence is often life threatening; In the U.S., three women are killed each day by a former or current intimate partner. Almost half of women and almost a quarter of men have experienced other forms of unwanted sexual contact. Survivors must often leave their homes to escape danger or heal from trauma, yet do not have the means to secure permanent, affordable and independent housing. Survivors also face barriers in maintaining their housing after ending an abusive relationship or experiencing sexual violence, due to discrimination and being held accountable for the perpetrators' actions. Complex relationships exist between housing insecurity, sexual assault, and power. Homelessness and sexual violence often affect the most vulnerable members of society. When access to basic needs such as housing and safety are compromised, individuals can experience heightened risks of violence. Access to safe, affordable

housing can be a critical protective factor from sexual violence. Advocates and survivors identify housing as a primary need of survivors and a critical component in survivors' long-term safety and stability.

The impact of homelessness and domestic and sexual violence is compounded for women of color and LGBTQI communities, particularly Native American and African American women. Native American face both a lack of housing and disproportionate rates of violence. Discriminatory nuisance ordinances disproportionately target and impact African American survivors of violence resulting in evictions and homelessness. Racial and gender disparities have been exacerbated as a result of the pandemic, the economy, racist, transphobic, and homophobic attacks, and on-going natural disasters. At the same time, immigrant and LEP survivors face the dual threat of violence and instability due to their status, and often not routed to culturally specific organizations who can meet their needs, including language access.

Although safe housing can give survivors pathways to freedom, there are many barriers that prevent survivors from maintaining or obtaining safe and affordable housing. In implementing VAWA 2022, HUD has the opportunity to reduce barriers for survivors and advance their access to safety and healing.

The Inclusion of Economic Abuse and Technological Abuse in the Definition of Domestic Violence

HUD is seeking comments on: (1) common forms of economic and technological abuse that affect survivors' rental assistance and continued tenancy, and (2) how HUD policy can help prevent or mitigate such violence against survivors and best practices or appropriate services to assist survivors.

HUD should explicitly incorporate the VAWA 2022 "may or may not constitute criminal behavior" clause into HUD's domestic violence definition and explicitly apply it to the VAWA housing provisions. This explicit incorporation will help to remind stakeholders that they are not equipped to or being asked to assess whether a crime has been committed. Their obligation is only to assess whether a person is eligible for VAWA protections by meeting the documentation requirements set forth under the law. While VAWA expressly allows survivors to self-certify about the abuse, the undersigned organizations often find that survivors are still being asked to prove the abuse with criminal legal documentation from law enforcement or the courts. For a number of reasons, many survivors do not willingly engage with law enforcement or the criminal legal system in the aftermath of abuse. The broader definition of domestic violence, especially focused on coercive control and not dependent on determining criminal acts, will help educate covered housing providers and other stakeholders about the dynamics of abuse and improve access to VAWA's protections for survivors.

Economic abuse is one of the most common tactics of abusers and has a disproportionate impact on survivors who have limited economic means. As a way to exert power and control over the survivor, abusers commonly sabotage a survivor's economic stability by "intentionally deplet[ing] [the survivor]'s available resources, as a means of limiting their options ... including stealing partners' money, creating costs, and generating debt." (Adams et al. *Development of the Scale of Economic Abuse* (2008) *Violence Against Women*. Vol. 14, no. 5, p. 567). The Biden

Administration's National Strategy on Gender Equity and Equality notes that "[a]cross the world, the effects of economic insecurity are profound; women are more likely to experience poverty, hunger, and housing instability. Their safety, too, is compromised, as economic insecurity often keeps women trapped in abusive situations and increases vulnerability to abuse." Having control over a survivor's housing is a significant and common way to exert extreme control over a survivor. Housing is so central to a family's emotional and economic stability. Abusers know that survivors are motivated to maintain their housing, which gives perpetrators great control over the survivors when they control the housing. Perpetrators often control all of the finances so that the survivor is entirely reliant upon them for survival. Abusers are able to do this by creating an environment, such as a demand that the survivor become solely responsible for rent and utilities, where refusing demands becomes dangerous for the survivor. (Littwin, A. *Coerced debt: The role of consumer credit in domestic violence* (2012) *California Law Review*, 100, 1-74.).

Covered housing providers often miss or misinterpret the impacts of economic abuse, such as the inability to pay rent or utilities because the perpetrator spends all of the survivor's resources, the perpetrator does not pay the rent or utilities, or the perpetrator does not allow the survivor to pay the rent or utilities. Thus, survivors continue to be evicted by covered housing providers for non-payment of rent (or utility shut-offs, which is often a condition of maintaining HUD housing) that is actually a result of the abuse. Such evictions lead to survivors' homelessness and cause survivors to remain in abusive relationships. (Wilder Research Center, *Homelessness in Minnesota: Detailed Findings from the 2018 Minnesota Homeless Study* (2020, p. 27) (53% of homeless women reported that they had previously stayed in abusive relationships because they did not have any other housing options.).

Without explicit guidance from HUD, housing providers simply see these cases as nonpayment cases (or utility shut-off cases) unrelated to VAWA and seek to terminate assistance and/or evict the survivor. HUD should give explicit direction to housing providers that economic abuse is covered, along with a non-exhaustive list of the types of economic abuse. Housing providers are then more likely to understand the dynamics of economic abuse and help survivors stay housed, which in turn could reduce the power and control of perpetrators. Explicitly including economic abuse and describing its many common forms will also reduce the number of covered housing providers unlawfully enmeshing consideration of a survivor's VAWA rights, such as the right to seek an emergency transfer, with whether or not the survivor is not in "good standing" due to non-payment of rent. If covered housing providers understand the impacts of economic abuse and their explicit coverage by VAWA, they are more likely to comply with VAWA and reduce harm and homelessness among survivors.

Economic abuse is exacerbated when the survivors' primary language is not English or when they do not have eligible immigration status for HUD housing programs. For example, very common tactics of economic abuse include barring the survivor from acquiring language or other skills to gain employment, or confiscating immigration documents so the survivor cannot secure eligible status, work, or obtain economic assistance. Providers who have failed to provide language access assistance to Limited English Proficiency (LEP) applicants and residents make the situation even worse. These same providers need to also be aware of what culturally specific

and linguistically relevant support there is available in the community for LEP and immigrant survivors so that they can receive appropriate support.

It is also important to note that economic abuse includes situations where abusers tactically keep survivors off the lease and housing assistance (such as a Section 8 Housing Choice Voucher) in order to maintain strict control over the housing, housing assistance, and finances. Here again, immigrant and LEP survivors are particularly vulnerable to these tactics. Even when the survivor is a formal part of the household, the perpetrator will often demand that the perpetrator be the head of the household. As head of the household under the HUD programs, perpetrators often exercise their power to remove survivors from the housing assistance and lease, generally without their knowledge. At the same time, survivors who have been invisible to housing providers are often later identified (including when they are seeking help) as unauthorized occupants or guests, and then as a result, deemed ineligible to secure VAWA housing protections. Keeping a survivor off the lease or voucher or securing that head of household status (to remove them at any time) thus gives the perpetrator a superior set of rights and power when the survivor attempts to end the abuse and secure housing and housing assistance. Family break-up policies, lease bifurcation, and even the process for establishing eligibility for housing fail to recognize these forms of economic abuse. HUD's inclusion of economic abuse in the definition of domestic violence must include directions to housing providers that family break-up, lease bifurcation, unauthorized guest/occupancy, and admission policies must consider these forms of economic abuse and housing providers should not become a tool in furtherance of the abuse. Any proposed removals of a household member must be done with notice and an opportunity to be heard by the household member and a copy of the VAWA Notice of Occupancy Rights. If it is determined that someone is residing in the home without authorization, they also must be given a Notice of Occupancy Rights and a chance to be heard, as well as time to establish eligibility for HUD housing programs.

Economic abuse is not limited to actions directly in the housing context. Rather, it is a pattern of actions, as HUD in part previously identified in [HUD Notice PIH-2017-08](#), that limit survivors' ability to gain employment, education, credit, or any financial stability. For example, abusers often sabotage work by refusing to care for children, showing up at the survivor's work, and more. Perpetrators intentionally destroy a survivor's credit, by taking out credit cards in their names, writing bad checks, or emptying out bank accounts. One study found that over half of women survivors had debt generated in their name via a coercive and/or fraudulent transaction. (Adams et al., *The Frequency, Nature, and Effects of Coerced Debt Among a National Sample of Women Seeking Help for Intimate Partner Violence (2019)* Violence Against Women p. 7). Thus, economic abuse can have a defining impact on admissions to covered housing programs and providers reviewing applicants' rental and credit histories must be required to take such considerations into account and explicitly ask if a poor rent or credit history is a result of economic abuse.

HUD should build upon PIH Notice 2017-08 and develop admissions policies that allow survivors to explain the context of their rental histories. For example, encouraging housing providers to have an admissions preference for domestic violence, sexual assault, dating violence and stalking would help providers better understand the broad impacts of abuse and violence on their applicants and in turn help more survivors access housing. Additionally, eviction policies

must be reflective of the process in PIH-2017-08 and even improve upon it, by expressly allowing survivors to explain how economic abuse and domestic violence are impacting their tenancies. This is especially critical now, as public housing authorities are reporting millions in rental debt by tenants, but virtually no part of the discussion includes a consideration of whether the debt is a result of economic abuse, even though domestic violence and economic abuse skyrocketed during the pandemic, with researchers identifying rising economic abuse and calling it a “pandemic within a pandemic.” (Mihir Zaveri, *As Thousands Fall Behind on Rent, Public Housing Faces ‘Disaster,’* New York Times (Jan. 23, 2023) <https://www.nytimes.com/2023/01/23/nyregion/rent-crisis-public-housing.html>; Charlotte Cowles, *The Pandemic Is Allowing Economic Abuse To Flourish,* The Cut (Nov. 26, 2020).

The undersigned organizations also support the inclusion of technological abuse under the definition of domestic violence, a kind of abuse that has grown exponentially over the last two decades. Perpetrators use tactics of technology-facilitated abuse in the housing context to stalk, surveil and monitor survivors, or to gain access to the property and unit. Information entered into shared databases is potentially accessible by the abuser. Yet survivors’ personally identifiable information is often shared in violation of VAWA protections, without consequence to the housing provider. Abusers who use technology to gain access to a property then become violent or disruptive at the property, which survivors are held accountable for. Abusers also misuse technology to commit identity theft or fraud or other tech-based crimes, doing so under the survivor’s name or identifiers, which not only seriously impacts a survivor’s financial resources, but often also results in a survivor getting blamed or criminally charged. Abusers also use technology to monitor survivor’s public benefits, housing application processes, and VAWA requests for help, including emergency transfer, lease bifurcation, and family break up requests. Abusers often remotely access a survivor’s accounts or devices, meaning that survivors are largely unable to seek help (including from a housing provider) without putting the abuser on notice. Even when they do seek help, with, for example, seeking an emergency transfer, abusers committing technological abuse easily find out where the survivor is moving. Providers, not recognizing technological abuse, blame the victim for the perpetrator finding out where they now live and refuse to offer a new transfer option. All of these forms of technological abuse affect survivors’ eligibility for assistance or continued housing assistance.

Just as with economic abuse, HUD should provide a non-exhaustive list of the forms of technological abuse. HUD must also explain how the growth of technology far outpaces society’s response to it, so providers must be vigilant in how they work with and support survivors experiencing technological abuse, including understanding that survivors may not be responsive because they may no longer have any control over any means of electronic communications. HUD must also discuss the role of technology in destroying survivor confidentiality in the context of VAWA’s strict confidentiality requirements. Housing providers routinely fail to comply with VAWA’s confidentiality requirements, which allows abuse, in particular technological abuse to flourish. For example, survivors who move to a new location as a result of VAWA emergency transfers must have their personally identifiable information strictly protected in order to stay safe. Beyond VAWA’s strict confidentiality requirements governing the sharing of information, survivors need to be able to work with housing providers to tailor how they will receive communication safely, based upon the survivor’s perception of what is safe, which should reduce the risk that the perpetrator will access it.

The successful addition of technological abuse and economic abuse into the definition of domestic violence will also require greater investment by HUD in training, technical assistance and partnership with sexual assault, domestic violence, and culturally specific organizations. These investments will help create best practices to combat technological and economic abuse and help to keep survivors housed and connected to appropriate services. Training and technical assistance should primarily be from qualified organizations that deeply understand the broad complexities of abuse and are capable of providing culturally specific support. When high quality, culturally specific training and technical assistance is coupled with HUD policies expressly recognizing economic and technological abuse, covered housing providers can greatly decrease the re-traumatizing impact of sharing one's story in order to secure help. HUD's actions here can help to mitigate economic and technological abuse in a foundational and profound way.

The Important Changes to the “Category 4 Homelessness” McKinney-Vento Homeless Assistance Act

The homelessness definition in McKinney-Vento was amended in 2009 by the HEARTH Act. The 2009 definition aimed to create access to homelessness assistance for survivors of violence - who were fleeing or attempting to flee domestic violence, sexual assault, dating violence or stalking. The original definition was created to recognize that many survivors appear to have housing but that housing is unsafe and therefore they need homeless assistance. The previous homeless definition language of “fleeing or attempting to flee” related to a very specific concept of domestic violence that often did not fit the lived realities of survivors of sexual assault and prevented them from receiving the support and services from homelessness and housing service providers they so desperately need.

The most recent amendment to the “Category 4 Homelessness,” subsection of the definition (which amends the subsection of the homeless definition that relates to domestic violence, sexual assault, and other dangerous, traumatic or life-threatening conditions) **clarifies** that a person can also qualify as “homeless” if they are “experiencing trauma or a lack of safety related to” “domestic violence, dating violence, sexual assault and stalking.” Survivors of sexual assault may experience homelessness due to a recent assault or the debilitating trauma and safety related to a previous assault. Survivors of sexual assault are in dire need of protection regardless of whether they are fleeing a current act of sexual violence, trauma associated with an act of sexual violence or from imminent threat of further harm. This amendment to the definition more closely addresses the lived realities of survivors.

According to the National Intimate Partner and Sexual Violence Survey, 26.8% of women and 3% of men have experienced a completed or attempted rape in their lifetime. Almost half of women and almost a quarter of men have experienced other forms of unwanted sexual contact. Almost 9.5 million women and almost 4.5 million men experienced sexual violence in the past year. Sexual violence continues to happen at a young age: 48.7% of female victims of rape were first raped before the age of 18 and 40.9% of male victims made to penetrate were first victimized before age 18. New data also confirms that the vast majority of victims know the perpetrator with most incidents being committed by an acquaintance or intimate partner. Rates sexual violence are particularly high for American Indian, Alaska Native, and multiracial women.

NISVS confirms that sexual violence has severe short and long term impacts. Among females, 1 in 7 victims contracted a sexually transmitted infection; 1 in 3 were injured; 2 in 3 were concerned for safety; 2 in 3 were fearful; and 1 in 7 became pregnant. Among male victims made to penetrate, 1 in 25 contracted a sexually transmitted infection; 1 in 18 were injured; 1 in 5 were concerned for safety; and 1 in 5 were fearful. Additionally, several health conditions were more prevalent in sexual violence victims including asthma, frequent headaches, chronic pain, and difficulty sleeping.

In a recent survey of local sexual assault programs conducted by National Alliance to End Sexual Violence, homeless survivors were ranked as the most underserved community. Sexual assault can happen anywhere, anytime, to anyone. It can create immediate housing needs, and housing needs throughout the lifespan. We know that far too often the “anywhere” means in a person’s home. “The majority of sexual assaults take place in or near victims’ homes or the homes of victims’ friends, relatives, or neighbors (Mindlin and Vickers as quoted by NSVRC 2010).” We also know that sexual violence that occurs outside of the home – in school; at work; in faith communities; online; in shelters; in prisons, jails and detentions centers; anywhere – can impact housing stability for survivors throughout the lifespan. Studies have noted that:

- Living on the streets puts individuals at an increased risk of additional assaults.
- Survivors of sexual assault may need housing because a perpetrator is a threat to them in their home or because their housing is unsafe in more general ways, or because they lack psychological safety in their home.
- Survivors may not feel safe or comfortable at home right after an assault, whether or not it occurred in their home.
- Survivors of sexual assault may need a place to stay to process what to do next (forensic exam, report, etc.).
- Housing needs may arise due to non-offending parents and children losing housing; landlords not helping to make housing safe; landlords engaging in sexual violence; couch surfing; lack of training on sexual assault victims; or teens being kicked out of their homes after disclosing sexual violence.
- Adult survivors of childhood sexual abuse and survivors of adult sexual assault may have long-term economic impacts directly resulting from the trauma of abuse that may make it difficult for them to find and keep safe housing.
- The trauma of the sexual violence, whenever it occurred, impacts a survivor’s mental and physical wellbeing to the point that their income and therefore housing is unstable.

The amended definition also clarifies that to qualify for homeless assistance it matters not just having no other residence; but a person must have no other “**safe**” residence. The focus on safety addresses the importance of survivors determining what options they have for safe alternatives to homelessness. As amended, this should help clarify confusion at assessment around survivors’ appearing to have housing but that housing being unsafe due to domestic violence, sexual assault, dating violence or stalking. Additionally the definition strikes the requirement that survivors demonstrate that they lack “support networks” to obtain other housing. This change means that survivors do not have to engage in the traumatizing and time-consuming process of reaching out to family and friends, many of whom have been alienated by the abuse, to

demonstrate they are indeed homeless. Overall, this change will increase safety because survivors will not be encouraged into situations that could be abusive to the survivor and/or their children.

Below are a few examples of the impact of the updated language:

“We have had many SA [sexual assault] survivors share about how housing stressors [...] are inextricably tied to the way the survivor experienced their SA. As a result, these survivors are re-traumatized - and yet would not be able to accurately say they are "fleeing sexual violence" in order to fit the pre-2022 VAWA definition. This broadened definition is a major benefit for survivors served by my agency, I can also offer some hypothetical/composite examples of scenarios where this has come up for our survivors:

-A survivor experiences non-sexual harassment by a neighbor who repeatedly knocks on their door late at night, monitors the comings-and-goings of the survivor's guests, and makes invasive comments. This surveillance triggers a trauma response residual from their experience of sex trafficking.

-A survivor's landlord continues to attempt to enter a unit without proper notice. As the survivor has previously experienced SA in their home, they are now experiencing hyper vigilance and disrupted sleep, frequently awakening in a panic thinking someone has entered their home.

None of these situations directly constitute a new SA experience, but the [trauma] of SA directly inhibits these individuals' ability to thrive in their current home [lack of safety]. So even though they are not fleeing, they are in need of housing because of [the trauma or lack of safety related to] sexual violence.”

The above scenarios demonstrated that “lack of safety” looks different for different survivors depending on their lived experiences and identities. **HUD should provide guidance that survivors define lack of safety related to the covered violence and self-certify their lack of safety.** In addition, because of the differences in survivors’ lived experiences of risk, danger, and safety and how those experiences are impacted by racism, ableism, classism and other forms of oppression, only a survivor can know define what is safe and what is not safe. **HUD should issue guidance that survivors determines “no other safe residence” and verification should be self-certification.**

We hear from the field that survivors coming from hotel/motel in lieu of shelter are denied access to CoC and ESG held resources because they are not considered homeless. Additionally, we hear from the field that hotel, motel, Airbnb or other short-term rental in lieu of shelter is often considered “other residence,” and in practice survivors are being deemed ineligible for homelessness assistance under any of the programs or activities covered under CoC or ESG. Many sexual assault victim service programs do not have emergency shelters; and at times they use hotel, motel, or Airbnb-rentals in lieu of shelter. Additionally, there are survivors of sexual assault who do not find emergency shelter safe (be it a homeless shelter or a victim specific shelter) so they prefer to go to hotel/motel/Airbnb. **We urge HUD to issue guidance that**

staying in these temporary housing options should not disqualify a survivor as having another safe residence when it is being used in lieu of shelter because there are no shelters or the shelters is not safe or appropriate for the survivors. This should be applicable to all the covered violence types.

We also regularly hear from the field that survivors struggle to enter the coordinated entry system for access to CoC, ESG, and other homelessness assistance funding if they are coming from transitional housing programs. They frequently told they are not homeless – even though people in transitional housing are counted as homeless in the point in time count. **We urge HUD to issue guidance addressing this because it becomes a barrier to permanent housing resources held within coordinated entry.**

The Need To Simplify The Complexity Of Different Survivor-Applicable Homeless Definitions And Eligibility For Homelessness Assistance Grants Resources: We also heard from the field that the complexity between the different homeless definitions in McKinney Vento and how those definitions are then split between different HUD Homelessness Assistance grants and program components. [For instance category 4 homelessness has not qualified as a period of homelessness necessary to be chronically homeless](#) in be eligible for permanent supportive housing. This is a barrier to survivors accessing Homeless Assistance programming. Commenters from the field also talked about the difficulty in aligning federal homeless definitions amongst federal programs (HUD versus Department of Education) and then state and local definitions of homelessness. They commenter said: “It would be more efficient and effective to have one single definition for all housing programs.”

The Post-VAWA 2022 Victim Specific Definition, HUD Homelessness Assistance Programs, and Sub-regulatory Guidance: The notice highlights the homeless definition’s impact on Continuum of Care and Emergency Solutions grants. We urge HUD to issues guidance on the implementation of the post-VAWA 2022 victim-specific homeless definition as it applies to all aspects of applicable federal regulations, including coordinated entry, allowable activities, and recordkeeping, as well as the point in time count. Guidance will be needed from HUD for the implementation of this definitional change across other HUD programs impacted by the McKinney Vento Homeless Definition: Emergency Housing Vouchers, HOME-ARP, and Community Development Block Grants, among others. The following are links to some of the sub-regulatory guidance and trainings that are applicable to the change in the victim-specific homeless definition.

1. [Criteria and Recordkeeping Requirements for Definition of Homelessness](#)
2. [Recording and Documents Homeless Status - HUD sponsored training](#)
3. [Resources on homeless definition](#)
4. [Tips and Resources on Homeless Definition](#)
5. [EHV Sample Certification for Survivors of DV SA and HT](#)

In order to enhance utilization of this expanded definition, HUD should support training and technical assistance, especially with regard to documentation, coordination entry, assessment, prioritization and more. HUD should amend existing ESG and CoCs rules on documentation, which impact implementation of this definition. The CoC NOFO could alert communities to the amended definition.

HUD should alert communities to the change in definition on the HUD exchange and USICH should incorporate it into their messaging. HUD should encourage national homeless organizations, with a large reach into the homelessness field, to elevate this change. Communities will need training about how the definition is used at screening, assessment, and prioritization. **It is important that HUD support training on these critical issues for survivors of domestic violence and sexual assault by organizations that primarily serve such survivors (including culturally specific organizations) and have the subject matter expertise.**

The Critical Importance of the VAWA Director

As HUD notes, there is no regulatory action needed for the funding of this position and Congress authorized the funding. The undersigned organizations note that for the VAWA Director and the Office on Gender-Based Violence and Equity to be successful, the office must be fully staffed and fully funded and resourced. This office and director position must ensure that domestic violence, sexual assault, dating violence, stalking, and human trafficking are understood and considered in all of HUD's programs. The VAWA Director must be someone capable of coordination and the person and office must be institutionalized to continue in any administration. Staffing within the office must be comprised of individuals with domestic violence, sexual assault or human trafficking field expertise to fulfill the mission of the office with the VAWA Director. Staff must be capable of fully supporting the implementation of the new VAWA provisions inclusive of sexual assault, domestic violence, and human trafficking survivors. There should be coordination across HUD components and with federal agencies on policy, implementation, funding, and other issues affecting the VAWA housing provisions, as well as other issues related to advancing housing protections for survivors of domestic violence, sexual assault, dating violence, stalking, and human trafficking. This coordination should include engagement with the U.S. Treasury, U.S. Department of Agriculture, and Veterans Affairs needing additional supports and alignment with VAWA implementation, along with other federal agencies that support survivors including the Departments of Justice and Health and Human Services. The office also needs the capability to respond to Congressional and Administration requests to educate, inform, and advance the housing needs of survivors within the larger framework of addressing the needs of survivors of violence. There should also be effective coordination with state and local governments and non-profit agencies (VSPs, culturally specific, and legal aid entities), including state housing finance agencies, local housing authorities, and CoCs regarding advancing housing protections for survivors of VAWA related violence.

The office should also have oversight and vision on advancing technical assistance and support to organizations and housing providers regarding VAWA implementation, as well as other issues related to advancing housing protections for survivors of violence. With the first ever compliance reviews at the program level and within HUD's Office of Fair Housing and Equal Opportunity,

the office must implement internal systems to track, monitor and address compliance failures and create some parity in reviews across the covered housing programs. The office should also identify and address barriers faced by immigrant and LEP survivors as well as survivors as a result of racism, ableism, classism, and other forms of oppressions immigrant and LEP survivors. The office should also identify where existing HUD VAWA policies may escalate violence and exacerbate trauma, such as family break-up, lease bifurcation, conflicting certifications, and emergency transfers and proposed solutions across HUD components.

Because VAWA implementation has often primarily been focused on domestic violence survivors, it is important to address the housing needs and barriers faced by victims of sexual assault, as well as sexual coercion and sexual harassment by covered housing providers. The undersigned organizations urge HUD to begin staffing this office in the very near future so that there are no delays with VAWA 2022 implementation.

CoC coordination responsibilities on confidentiality and transfers.

Under VAWA 2022, CoC grant awards can be used for facilitating and coordinating activities to ensure and monitor compliance with VAWA's emergency transfers provision and confidentiality protections. This VAWA provision aims to address two critical issues for survivors - emergency transfers and confidentiality. It is critical that the conforming amendments address key issues to ensure survivor safety and role clarity in enacting these provisions. CoCs play a critical role in providing housing resources for those experiencing homelessness, including survivors of domestic violence, sexual assault, dating violence and stalking. A number of CoCs work with covered housing providers beyond those funded by the CoC to work together to identify housing for individuals and families. CoCs inclusive of broader housing stakeholders may have a role to play in VAWA emergency transfers and may have great innovation to help advance emergency transfer access for survivors. CoCs may have or could be encouraged to have the capacity to support a community's emergency transfer process across covered housing programs. Working with local domestic violence, sexual assault and culturally specific organizations, communities could identify very short-term emergency safe housing or as a last resort, shelter, while urgently working to secure a permanent emergency transfer to a covered housing program equivalent in affordability to the one the survivor exited.

The undersigned organizations urge HUD and CoCs to ensure that emergency transfers are treated with a sense of urgency and that individuals and families are never offered or asked to accept a lesser/shorter housing subsidy than that provided in their existing housing. Emergency Solutions Grants (ESG) and CoC resources, which can offer individuals and families short-term, limited subsidies or emergency shelter, would not be a solution for individuals and families who have long-term subsidies.

The confidentiality provisions at 34 U.S.C 12491 (c)(4) outline covered housing providers' obligations to maintain, in strict confidence, any information submitted to the covered housing provider including the fact that an individual is a survivor. Disclosures, including into a shared database, are prohibited unless requested or consented to by the individual in writing, required for an eviction proceeding or other required by applicable law.

Ensuring VAWA confidentiality continues to be a challenge for many CoCs and it may be appropriate for HUD's compliance review regulations and guidance to be issued first before the conforming change is made to CoC regulations. Victim service providers funded by CoCs are obligated to follow confidentiality provisions at 34 U.S.C 12291 (b)(2), and therefore must not input survivor information into shared databases. These obligations are further outlined in the ESG, CoC and HMIS regulations. Although these provisions have existed for 18 years, there is still confusion around the confidentiality provisions. While the obligations at 34 U.S.C. 12491 (c)(4) differ from those at 34 U.S.C. 12291 (b)(2), there is serious concern that similar implementation issues are likely to arise with 34 U.S.C. 12491 (c)(4). As an example of some recent challenges, some CoCs that received Emergency Housing Voucher ("EHV") funds struggled with confidentiality obligations, treating survivors no differently than other eligible EHV applicants. This is an area of serious concern that compliance reviews, training and technical assistance, and required partnerships by CoCs with victim service providers could help to address.

Under this new provision, CoCs would be able to monitor compliance with the specific confidentiality obligations for their funded ESG and CoC programs. HUD's other covered programs would need to be monitored by their oversight entities. HUD's conforming amendments are critical to include information on role clarity on this nuanced and complex element of survivor safety, especially where covered housing providers, such as PHAs, may be a part of the CoC.

Partnerships between CoCs and victim service providers and culturally specific providers, help advance other related goals as well. With these partnerships, there can be better triage and referrals, opportunities to address challenges with language access, and a better alignment of the needs of survivors who need culturally and linguistically competent support. One of the longstanding problems is that as soon as someone is screened with domestic or sexual violence, they automatically get referred by the CoC to a domestic violence or sexual assault provider, without meaningfully looking at whether those providers can provide culturally and/or linguistically relevant support, including situations where culturally relevant services providers are oversubscribed with individuals for whom the agency isn't necessarily a good fit-and then survivors who do need such services are sent elsewhere without the language capacity and cultural relevance. By building partnerships in this context, CoCs can address a number of access issues for survivors.

VAWA Training and Technical Assistance

HUD specifically requests comment on entities' needs for training and technical assistance (TA) to support the implementation of VAWA as envisioned by 2022. Too often HUD funded TA and training comes into a local area without engaging with national, state, or local organizations with expertise addressing domestic violence or sexual assault; and when they do invite the local experts, such experts often do not have the resources (staffing time or allocable funding) to engage in this work. So local experts are technically invited to the table but cannot fully or meaningfully participate. This deficit impacts the quality of the training and technical assistance offered in a community. Thus, national entities funded by HUD for training and technical

assistance on the implementation of VAWA 2022 should be required to meet the following standards:

- Invite state/territory/tribal sexual assault coalitions and domestic violence coalitions, community based culturally specific sexual assault, domestic violence and other gender-based violence programs, mainstream sexual assault, domestic violence, and other local gender-based violence programs, and survivors of sexual assault and domestic violence and other covered gender-based violence to be meaningfully involved in the planning and implementation of training and technical assistance that happens at the local/state/territory/tribal level and ensure that all participants are fully compensated for their engagement;
- Employ staff and/or contract with consultants with demonstrated expertise in gender-based violence (either professional and/or lived experience), culturally specific approaches to gender-based violence, and housing; and
- Prioritize organizations with a primary mission focused on working to end and prevent gender-based violence, including culturally specific organizations.

At the same time, training offered to a national audience on VAWA implementation should also require a collaborative group of sexual assault, domestic violence, and other gender-based violence experts from state/territory/tribal level including culturally specific experts to provide meaningful input into the planning and implementation of the training. Gender-based violence experts would be defined as people or organizations (including culturally specific people or organizations) with demonstrated experience in domestic violence, sexual assault and human trafficking, and housing instability. Entities that are providing the training and TA should be required to fully compensate the collaborative group for their participation, including staffing time at competitive wages, travel, and other expenses related to participation in the group. As one local advocate noted, “[o]ften we are called upon to train and we do so as a community partner but it costs us to do so.” This unethical transactional relationship must end.

Information from state and local programs also underscore how training and technical assistance must meet a range of needs and circumstances, and educate both covered housing providers and victim service providers. Here are a few examples:

- “HUD-funded programs are often not administered in partnership with victim service providers. Yet HUD-funded programs and their staff members can find themselves advocating for survivors’ needs, educating property owners/ managers, navigating circumstances where one program participant has experienced violence from another participant, without having received trauma-informed, survivor-centered training on the dynamics of abuse and their role in supporting survivors. Similarly, victim service providers may not be aware of how to best support survivors in HUD-funded programs and what survivors’ rights may be. It is important that HUD provide technical assistance to not only those entities receiving HUD funding, but also to victim service providers who may provide long-term supports to those programs and participants.”
- “... [T]echnical assistance to those receiving funds should be required and that assistance should be provided by state coalitions [...], or other country wide coalitions or the local state designated family violence center or sexual assault provider as opposed to the charity on the corner that happens to serve survivors.”

- “It is important to have culturally specific organizations and advocates that understand the intersection of systemic racism, gender-based violence and housing instability.”
- “I realize that each region will have varying ways they implement specifics – but our local region [...] already struggles with prioritization and coordinated entry that is responsive to survivors. This is especially the case for safe relocations related to stalking and sexual assault. The system(s) cannot mobilize fast enough to ensure proactive safety planning. If there are effective best practices, then these should be a priority for TA and a mandatory training requirement for any grantee for ESG and all COCs. I am hopeful that the new language will help make this process easier and build access for survivors.”

VAWA Implementation and Enforcement

VAWA 2022 created new enforcement mechanisms for those whose rights are violated. The statute provides that “The Secretary of Housing and Urban Development and the Attorney General shall implement and enforce this chapter consistent with, and in a manner that provides, the rights and remedies provided for in title VIII of the Civil Rights Act of 1967 (42 U.S.C. 3601 et seq.)” 34 U.S.C. §§ 12494(c), 12495(d). Thus, HUD is now required to enforce the housing rights enacted in VAWA. We commend HUD for moving forward with using the complaint and investigation processes currently in place for cases arising under the Fair Housing Act and publicizing their availability through public notices and websites. We urge HUD to continue to take concrete steps towards implementation, including by providing further guidance as well as trainings to housing providers, fair housing agencies, and other organizations and groups working with residents and survivors. In this initial period of implementation, we also urge HUD to retain VAWA-related complaints for investigation, rather than referring to state and local agencies, to ensure consistent interpretation of VAWA’s housing protections, adoption of conciliation measures, and understanding of how VAWA interacts with other Fair Housing Act protections.

Compliance Reviews

Survivor advocates welcome the VAWA 2022 requirement that federal agencies establish a process to review compliance with the applicable requirements in title IV of VAWA (34 U.S.C chapter 121, subchapter III, Part L.). For the first time, covered housing providers will be required to demonstrate compliance with VAWA housing protections in key ways: 1) requirements prohibiting the denial of assistance, tenancy or occupancy rights on the basis of domestic violence, dating violence, sexual assault or stalking; 2) confidentiality provisions; 3) notification requirements; 4) accepting documentation; 5) emergency transfer requirements; and 6) the prohibition on retaliation.

Until VAWA 2022, there was no mechanism to hold covered housing providers accountable for a lack of implementation of the VAWA housing protections. A well-known lack of implementation by covered housing providers meant that survivors were often not able to access the protections enshrined in VAWA. VAWA’s robust housing protections – in law and in regulation – diminish in strength in communities where implementation is non-existent. Essentially, VAWA’s housing protections are only as strong as the implementation by the covered housing providers and their accountability to the law and rights of survivors. The new compliance reviews, along with related corrective action plans, should help ensure that survivors

across the country can access their VAWA rights. We look forward to reviewing subsequent regulations that will define the standards of compliance and corrective action plans. Standards of compliance must go beyond being able to, self-certify compliance, check a box, or show a policy in writing. Covered housing providers must be asked to meaningfully demonstrate their compliance with VAWA, including through an audit of tenant and applicant files and required documentation of assistance they have offered to survivors. Similar to HUD compliance reviews under the Office of Fair Housing and Equal Opportunity (FHEO) and HUD Multifamily management and occupancy review processes, interviews should be conducted with front line staff, tenants, including survivors, and local advocacy (including victim service providers and culturally specific organizations) to be able to assess the quality of the implementation. Compliance reviews should also evaluate the interplay between VAWA compliance and other required policies, such as Section 504/ADA compliance, Fair Housing Act compliance, immigration policy compliance, and Limited English Proficiency compliance. This intersectionality lens is a critical component to ensuring that HUD's VAWA policies also consider the impact of racism, national origin discrimination, ableism, and other forms of oppression. Covered housing providers should be required to share data on admission denials, terminations, evictions, family break-ups, lease bifurcations, emergency transfers, charges to tenants for property damage, tenant-related debt, etc. With regard to both compliance reviews and any resulting corrective action plans, we encourage HUD to demand immediate action on the behalf of a survivor, as to not delay survivors' access to VAWA protections as HUD undertakes what is sometimes a lengthy investigation. HUD could, for example, suggest to a survivor to file HUD FHEO complaints for VAWA violations as the compliance review is underway. We encourage HUD to seek the additional resources needed to ensure there is sufficient staffing to undertake compliance reviews and enforcement actions.

Thank you for the opportunity to provide these important comments. Please contact Monica McLaughlin at mmclaughlin@nmedv.org or Terri Poore at tpoore@naesv.org if you have any questions.

Sincerely,

(in alphabetical order)

American Civil Liberties Union
Asian Pacific Institute on Gender-Based Violence
California Partnership to End Domestic Violence
Center for the Pacific Asian Family
DC Coalition Against Domestic Violence
Delaware Coalition Against Domestic Violence
Domestic Violence Services of Benton and Franklin Counties
Esperanza United (formerly Casa de Esperanza: National Latin@ Network)
Family Violence Appellate Project
Freedom Network USA
Indiana Coalition Against Domestic Violence, Inc.
Jane Doe Inc., (MA Coalition Against Sexual Assault and Domestic Violence)
Kentucky Coalition Against Domestic Violence
Maine Coalition to End Domestic Violence

Mid-Minnesota Legal Aid
National Alliance to End Sexual Violence
National Domestic Violence Hotline
National Housing Law Project
National Network to End Domestic Violence
National Organization of Sisters of Color Ending Sexual Assault
National Resource Center on Domestic Violence
National Safe Place Network
Nebraska Coalition to End Sexual and Domestic Violence
New Jersey Coalition to End Domestic Violence (NJCEDV)
Ohio Domestic Violence Network
Pennsylvania Coalition Against Domestic Violence
Piltch Associates, Inc.
Texas Council on Family Violence
WA State Coalition Against Domestic Violence