

Violence Against Women Act in 2025

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Who Am I?



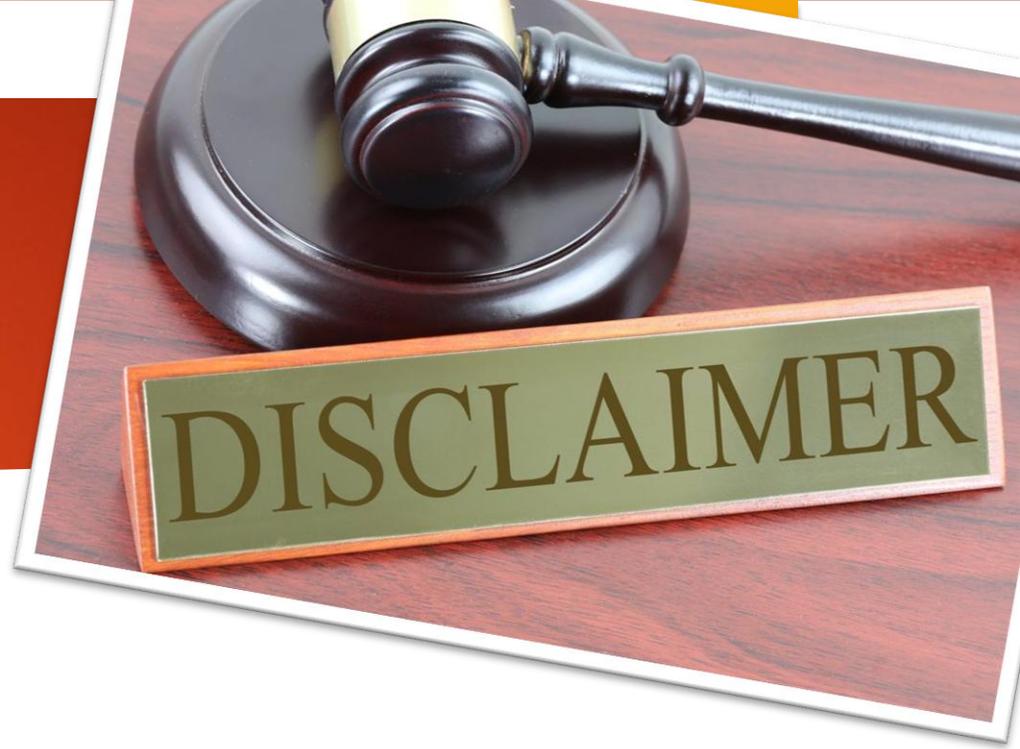
- ▶ General Counsel to the Housing and Redevelopment Authority of Duluth, MN.
- ▶ Adjunct Professor for the University of Wisconsin-Superior
 - ▶ Judicial Process;
 - ▶ Civil Procedure;
 - ▶ Constitutional Law.
- ▶ Board member for the 11th District Bar Association

Disclaimer

- ▶ I am a Lawyer;
- ▶ I am not **your** Lawyer.

- ▶ Opinions and points of view expressed in this discussion represent those of the speaker and do not necessarily represent the official position or policies of the Housing and Redevelopment Authority of Duluth, Minnesota.

- ▶ Seek individualized legal advice to review your particular situation.



Goals Today

- ▶ Outline What is VAWA;
 - ▶ What triggers VAWA;
 - ▶ How people can request VAWA;
 - ▶ Cover the new 2025 Forms; and
 - ▶ Address the issues those new forms create.
-
- ▶ + Special Bonus Material on Defending Against *Bad* VAWA Claims.

What is VAWA

- ▶ Federal statute addressing domestic violence, dating violence, sexual assault, and stalking (collectively **DV**) in housing programs.
- ▶ Applies to “covered housing programs”
 - ▶ Public Housing;
 - ▶ Voucher Programs like HVC, PBV, PBRA
 - ▶ And More.

Violence Against Women Act

- ▶ Passed in 1994;
- ▶ Reauthorized in 2000;
- ▶ Reauthorized in 2005;
- ▶ Reauthorized in 2013;
- ▶ Reauthorized in 2022;
- ▶ **Up for Reauthorization in 2027.**

Effect of Non-Reauthorization

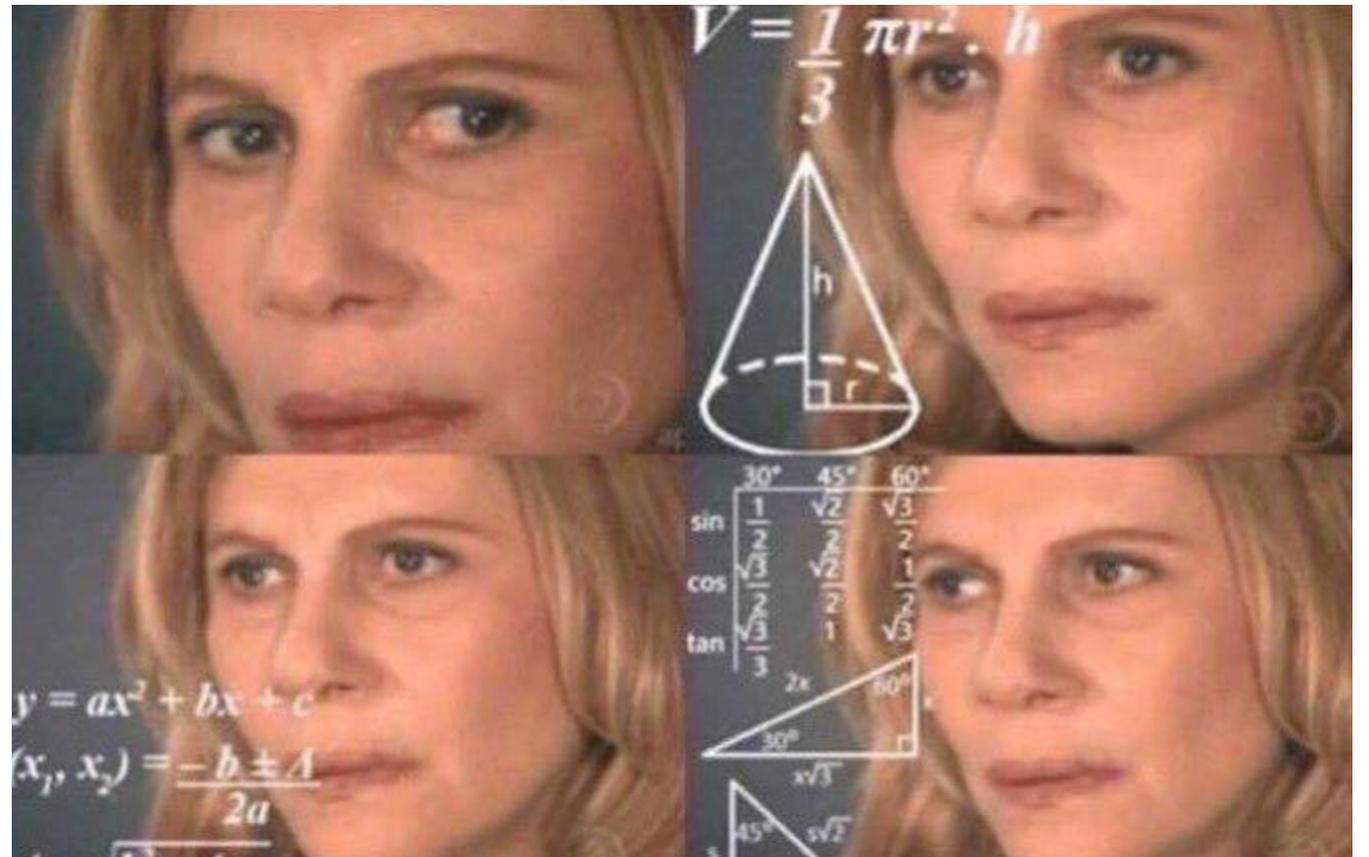
- ▶ Specific funding grants will expire.
 - ▶ Sexual Assault Services Program;
 - ▶ Transitional Housing Program;
 - ▶ Etc.

Effect of Non-Reauthorization

- ▶ Core protections continue.
 - ▶ Prohibition on denial of assistance or admission;
 - ▶ Prohibition on termination or eviction;
 - ▶ Unit transfers;
 - ▶ Etc.

Reauthorization

► ... Why?



Reauthorization

- ▶ An opportunity for **expansion** by new policy makers.
- ▶ An opportunity for **restriction** by new policy makers.

- ▶ Keep in mind, VAWA goes **beyond housing**.

What Triggers VAWA? Pt. 1

▶ Domestic Violence

- ▶ Includes felony or misdemeanor crimes by a current/former spouse or intimate partner under applicable **DV** laws.
- ▶ Also includes physical or sexual abuse or a pattern of other coercive behavior (verbal, psychological, economic, or technological) used to gain/maintain power and control, whether or not chargeable as a crime.
- ▶ Covered relations include:
 - ▶ current/former spouse or intimate partner;
 - ▶ cohabitant/former cohabitant;
 - ▶ close family relation; etc.

What Triggers VAWA? Pt. 2

▶ Dating Violence

- ▶ Violence by someone who is or has been in a romantic or intimate relationship with the victim.
- ▶ Whether a “**dating partner**” relationship exists is determined by:
 - ▶ (1) length of the relationship;
 - ▶ (2) type of relationship;
 - ▶ (3) the frequency of interaction between the persons involved in the relationship.

What Triggers VAWA? Pt. 3

▶ Sexual Assault

- ▶ Any non-consensual sexual act proscribed by Federal, Tribal, or State law, including where the victim lacks capacity to consent.

▶ Stalking

- ▶ A course of conduct directed at a specific person that would cause a reasonable person to:
 - ▶ (1) fear for their safety or others' safety, **or**
 - ▶ (2) suffer substantial emotional distress.

What Triggers VAWA? Pt. 4

▶ **Economic Abuse**

- ▶ Coercive, deceptive, or unreasonable control that restricts a person's ability to acquire, use, or maintain economic resources to which they are entitled.

▶ Examples:

- ▶ Restricting access to money/assets/credit/financial information;

- ▶ Exploiting another's financial resources for one's own advantage;

- ▶ Undue influence over financial decisions;

- ▶ Forcing default, exploiting conservatorship, etc.

What Triggers VAWA? Pt. 5

▶ **Technological Abuse**

- ▶ Acts or patterns within domestic violence, dating violence, sexual assault, or stalking intended to harm, threaten, intimidate, control, harass, impersonate, exploit, extort, or monitor another person using technology.
- ▶ Includes use of internet-enabled devices, online platforms, computers, mobile devices, cameras/imaging apps, location-tracking devices, communications tech, or other emerging technologies.

What Triggers VAWA? Pt. 6

▶ Sex Trafficking

- ▶ Defined in 18 U.S. Code § 1591.
- ▶ Recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person **or**
- ▶ Benefits, financially or by receiving anything of value

Questions?



Core VAWA Housing Protections Pt. 1

- ▶ **No adverse action because of victim status.**
 - ▶ You may not deny, terminate, or evict because a person is or has been a victim of **DV**.
- ▶ **Abuse incidents aren't violations by the victim.**
 - ▶ Actual or threatened **DV** is not a lease or program violation by the victim and is not good cause to end their tenancy or assistance.

Core VAWA Housing Protections Pt. 2

- ▶ **Protection from abuse-related criminal activity.**
 - ▶ Criminal activity directly related to **DV** (by a household member, guest, or other under the tenant's control) cannot be the sole basis to deny, evict, or terminate the victim.
- ▶ **Emergency transfers to a safe unit.**
 - ▶ Victims of **DV** may bifurcate the lease to remove the abuser while preserving the victim's tenancy, allowing reasonable time to establish eligibility or relocate.

Core VAWA Housing Protections Pt. 3

- ▶ **Emergency transfers to a safe unit.**
 - ▶ Victims have a right to transfer to a new unit after suffering or being at risk of **DV**.

Access to Protections

- ▶ How does a victim of **DV** access these core protections?
- ▶ Generally, they ASK for them.
 - ▶ How?
 - ▶ HUD forms and/or alternative documentation.

Agency / Provider Required HUD Forms

- ▶ These are things the Agency / Provider complete and provide that **do not require** the victim to do anything with them.
- ▶ **Notice of Occupancy Rights under VAWA (Form HUD-5380)**
 - ▶ Provides information on protection.
 - ▶ You must complete contact information.
- ▶ **Model Emergency Transfer Plan (Form HUD-5381)**
 - ▶ Provides a model on how you handle transfer requests.
 - ▶ You must make substantial changes to this document.

Example: 5380

Notice of Occupancy Rights under VAWA

How can tenants request an emergency transfer? Victims of VAWA violence/abuse have the right to request an emergency transfer from their current unit to another unit for safety reasons related to the VAWA violence/abuse. An emergency transfer cannot be guaranteed, but you can request an emergency transfer when:

1. You (or a household member) are a victim of VAWA violence/abuse;
2. You expressly request the emergency transfer; **AND**
3. **EITHER**
 - a. you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit; **OR**
 - b. if you (or a household member) are a victim of sexual assault, either you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) were to stay in the unit, or the sexual assault occurred on the premises and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

You can request an emergency transfer even if you are not lease compliant, for example if you owe rent. If you request an emergency transfer, your request, the information you provided to make the request, and your new unit's location must be kept strictly confidential by the covered housing provider. The covered housing provider is required to maintain a VAWA emergency transfer plan and make it available to you upon request. To request an emergency transfer or to read the covered housing provider's VAWA emergency transfer plan,

[REDACTED]

[REDACTED]. The VAWA emergency transfer plan includes information about what the covered housing provider does to make sure your address and other relevant information are not disclosed to your perpetrator.

Example: 5381

Model Emergency Transfer Plan

Priority for Transfers

Tenants who qualify for an emergency transfer under VAWA will be given the following priority over other categories of tenants seeking transfers and individuals seeking placement on waiting lists.
[INSERT ANY MEASURE OF PRIORITY GIVEN UNDER THIS EMERGENCY TRANSFER PLAN.]

DRAFTING NOTES FOR CHPs (MUST NOT APPEAR WORD FOR WORD IN PLAN)

- *The emergency transfer plan must detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA in relation to other categories of tenants seeking transfers and individuals seeking placement on waiting lists.*
- *The emergency transfer plan must allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available.*
- *The emergency transfer plan must ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that the CHP may already provide to other types of emergency transfer requests.*
- *CHPs should also refer to the applicable program regulations to determine if priorities or admission preferences apply with respect to external emergency transfers.*

Victim Facing Forms

- ▶ These are things the victim can complete and submit.
- ▶ **Self Certification (Form HUD-5382)**
- ▶ **Emergency Transfer Request (Form HUD-5383)**
- ▶ Note all HUD VAWA forms were revised in 2025.
- ▶ You need to update contact information etc. on these new forms.
- ▶ **Do not use the old forms.**

Assertion of VAWA Rights

- ▶ When seeking VAWA protection a victim can submit either:
 - ▶ **HUD 5382 self certification form or**
 - ▶ **Alternative documentation:**
 1. A statement from a victim/survivor service provider, attorney, mental health professional or medical professional who has helped the address the incident of VAWA violence/abuse.
(special requirements)
 2. A police, administrative, or court record that shows they were a victim of VAWA violence/abuse; OR
 3. If allowed by your covered housing provider, any other statement or evidence provided.

Assertion of VAWA Rights

- ▶ You cannot require self certification **AND** alternative documentation.
- ▶ The victim gets to choose what to submit and either one can be enough to establish protection.

Updated HUD 5382 Self Certification

- ▶ Let's compare the old and new Self Certification forms.

Old

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's): _____

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

New

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. **Name(s) of victim(s):** _____

2. **Your name** *(if different from victim's)*: _____

3. **Name(s) of other member(s) of the household:** _____

4. **Name of the perpetrator** *(if known and can be safely disclosed)*: _____

5. **What is the safest and most secure way to contact you? (You may choose more than one.)**

If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

Phone Phone Number: _____

Safe to receive a voicemail: Yes No

E-mail E-mail Address: _____

Safe to receive an email: Yes No

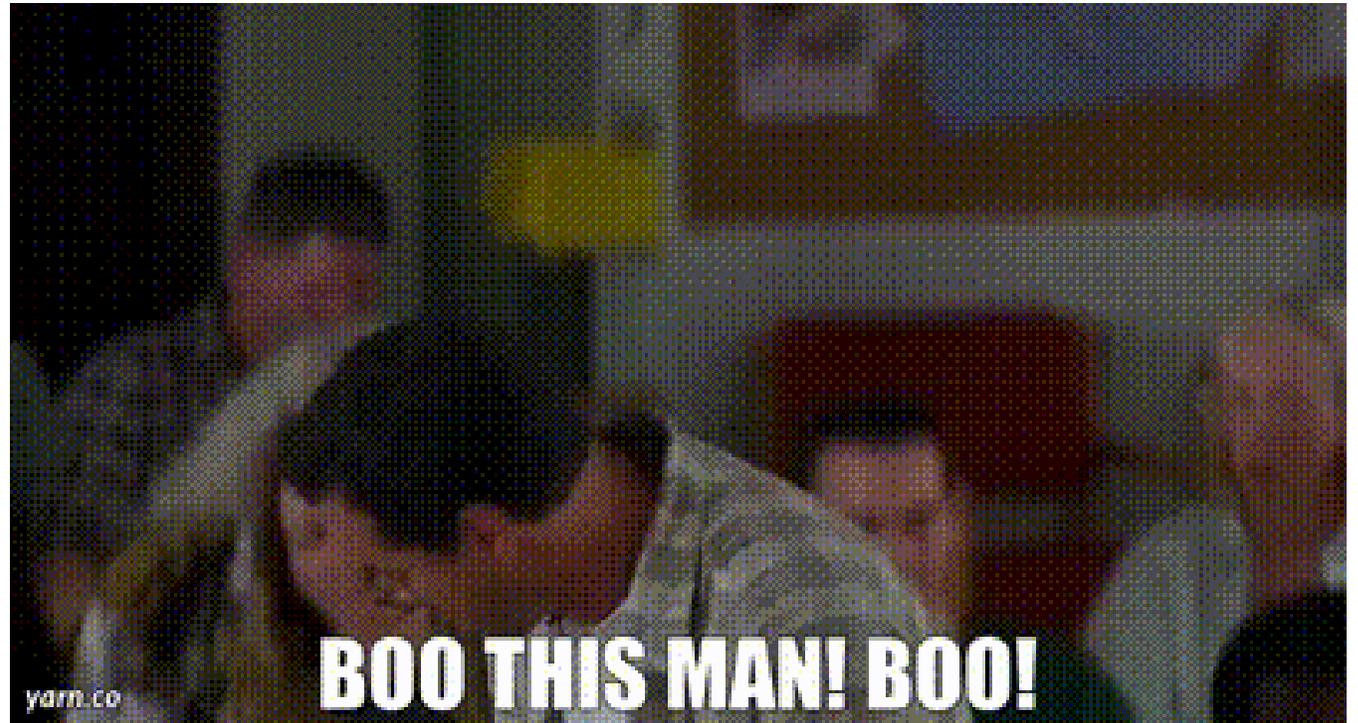
Mail Mailing Address: _____

Safe to receive mail from your housing provider: Yes No

Other Please List: _____

6. **Anything else your housing provider should know to safely communicate with you?**

Reactions to
the new form?



Net Effect

- ▶ What can you do to stop abuse of VAWA claims?
 - ▶ ... Not a whole lot.

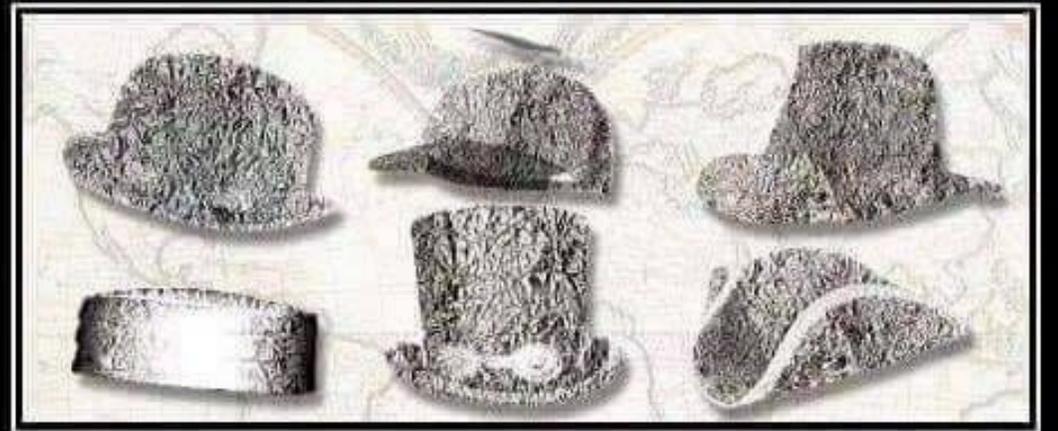


Net Effect

- ▶ Agencies and Providers have lost most of their ability to **critically evaluate** a VAWA claim via the self certification.
- ▶ You **MUST** process requests based on the self certification that is what is provided to you.

Special Bonus Material

- ▶ However...
- ▶ I have an idea.



Stylish Tin-Foil Hats, for the discerning conspiracy theorist.

Special Bonus Material

- ▶ Recall when submitting for VAWA.
 - ▶ Self Certification;
 - ▶ Qualified Professional Statement;
 - ▶ Police, Admin. or Court Record; or
 - ▶ **Other Statement or evidence**

- ▶ **We're leaning on Other Statement.**

Disclosure

- ▶ This is what my agency is pioneering.
- ▶ I cannot guarantee it works.
- ▶ Its our attempt to reject **objectively ineligible** VAWA claims.



Disclosure

- ▶ I cannot guarantee HUD wont be *big mad* about it.



VAWA Victim Statement – 24 C.F.R. § 5.2007 (b)(1)(iv)

You may use this form to share information you want the Housing and Redevelopment Authority of Duluth, Minnesota, to consider regarding your request for VAWA. This victim statement is optional. Completion is not required, and declining to fill out this form will not affect your rights. You may instead use any alternative documentation option permitted by law to request VAWA protections. Information provided on this form will be kept confidential as allowed by law.

Name of victim: _____

Relationship of the accused perpetrator to the victim: _____

Date(s) and times(s) of incident(s) (if known): _____

Location of incident(s): _____

In your own words, briefly describe the incident(s): _____



Other
Victim
Statement
Form

The Idea

- ▶ Claw back the items removed from the old Self Certification.
- ▶ We've baked the Victim Statement form into our **VAWA packet**.
- ▶ Everyone gets the VAWA packet when applicable.
 - ▶ **They choose** what to fill out and return.
 - ▶ We process the request **as it is presented** based on what they provide us.

Processing VAWA Claims

- ▶ If a person provides both the Self Cert **and** the Victim Statement:
 - ▶ We process both.
 - ▶ If both qualify for VAWA protections, we'd provide VAWA protections.
- ▶ If a person only provides either the Self Cert **or** Victim Statement but not both.
 - ▶ We'd process the one provided.
 - ▶ If the one item qualifies for VAWA protections, we'd provide VAWA protections.

However...

- ▶ If they only provide the **Victim Statement** and it does not qualify...
 - ▶ No VAWA protections.
 - ▶ **A traditional denial.**
- ▶ If they provide both the **Self Cert and Victim Statement**, and the Victim Statement indicates that VAWA is not applicable...
 - ▶ We move to Conflicting Information Status.
 - ▶ **Don't Deny Outright.**

Conflicting Information Status

- ▶ A rather rare occurrence, historically.
 - ▶ Often dueling submissions.
 - ▶ Example.

Conflicting Information Status

- ▶ 24 C.F.R. § 5.2007(b)(2)
 - ▶ **If a covered housing provider receives documentation under paragraph (b)(1) of this section that contains conflicting information (including certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator), the covered housing provider may require an applicant or tenant to submit third-party documentation, as described in paragraphs (b)(1)(ii), (b)(1)(iii), or (b)(1)(iv) of this section, within 30 calendar days of the date of the request for the third-party documentation.**

Conflicting Information Status

- ▶ In English:
 - ▶ The Agency or Provider may require **other third party documentation**.
 - ▶ What might those other documents be?
 - ▶ They're the same as what they could submit in lieu of the self cert.
 - ▶ List on Next Slide.

1. (ii) A document:

- ▶ (A) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
- ▶ (B) Signed by the applicant or tenant; and
- ▶ (C) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under this subpart, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under § 5.2003; or

2. (iii) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

3. (iv) At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

Conflicting Information Status

- ▶ The Victim Statement approach provides the *opportunity* to:
 1. **Discover** Conflicting Information to further evaluate claims;
 2. Provides legal authority to ultimately reject **ineligible** VAWA claims.

Questions?



Quick Note: VAWA Transfers

- ▶ Require the HUD 5383 Form.
- ▶ **In addition to that form**, they need to provide another document.
 - ▶ Self Certification;
 - ▶ Qualified Professional Statement;
 - ▶ Police, Admin. or Court Record; or
 - ▶ Other Statement or evidence.

Questions?



Other Notes

- ▶ VAWA does not protect people who pose an **actual and imminent** threat to:
 - ▶ Other tenants; and
 - ▶ Employees of the Agency /Provider .

Other Notes

- ▶ **Actual and imminent threat:**

- ▶ Refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm.
 - ▶ The duration of the risk,
 - ▶ the nature and severity of the potential harm,
 - ▶ the likelihood that the potential harm will occur, and
 - ▶ the length of time before the potential harm would occur.

VAWA Best Practices

- ▶ If you receive information that sounds like the situation touches any sort of abuse or control issue.
 - ▶ Provide VAWA papers to the program participant or victim.
- ▶ If you are taking adverse action in a covered housing program.
 - ▶ Provide VAWA papers to the program participant or victim.
- ▶ **Let them fill it out so you can make a determination on what protections they have or don't have.**

End & General Questions

