National Alliance to
END HOMELESSNESS
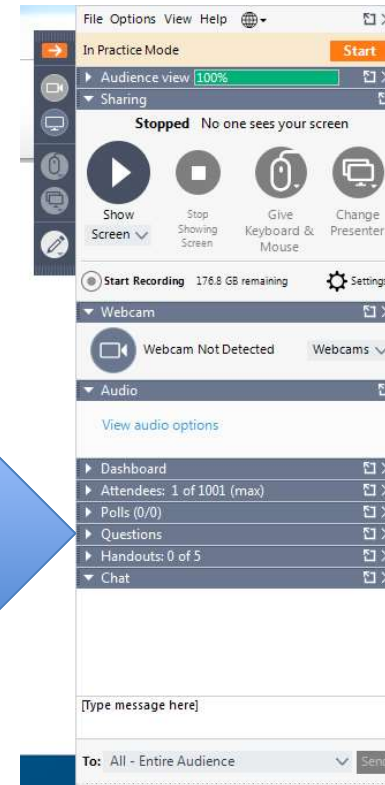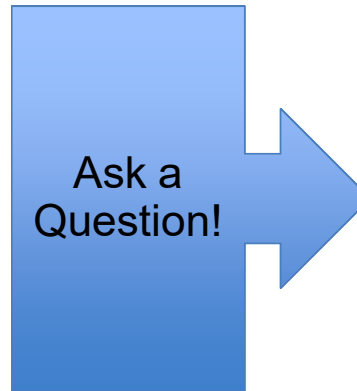
The Emergency Shelter
Learning Series

Increasing Access to Emergency Shelter:
HUD's Equal Access Rule

Today's Webinar

- Please note that all lines are on mute.

- Please pose questions at any time in the Questions box. We will try to get to as many as we can at the end.

- The webinar and slides will be posted following the presentation. Feel free to share with your staff and any other stakeholders.

Ask a Question!

Today's Speakers

THE
FIVE KEYS
TO EFFECTIVE EMERGENCY SHELTER

HOUSING FIRST APPROACH
Align shelter eligibility criteria, policies, and practices with a Housing First approach so that anyone experiencing homelessness can access shelter without prerequisites, make services voluntary, and assist people to access permanent housing options as quickly as possible.

SAFE & APPROPRIATE DIVERSION
Provide diversion services to find safe and appropriate housing alternatives to entering shelter through problem-solving conversations, identifying community supports, and offering lighter touch solutions.

IMMEDIATE & LOW-BARRIER ACCESS
Ensure immediate and easy access to shelter by lowering barriers to entry and staying open 24/7. Eliminate sobriety and income requirements and other policies that make it difficult to enter shelter, stay in shelter, or access housing and income opportunities.

HOUSING-FOCUSED, RAPID EXIT SERVICES
Focus services in shelter on assisting people to access permanent housing options as quickly as possible.

DATA TO MEASURE PERFORMANCE
Measure data on percentage of exits to housing, average length of stay in shelter, and returns to homelessness to evaluate the effectiveness of shelter and improve outcomes.

Ben Cattell Noll
Center for Capacity Building, NAEH

Abby Miller, PhD
SNAPS Office, HUD

David Canavan
SNAPS TA Provider
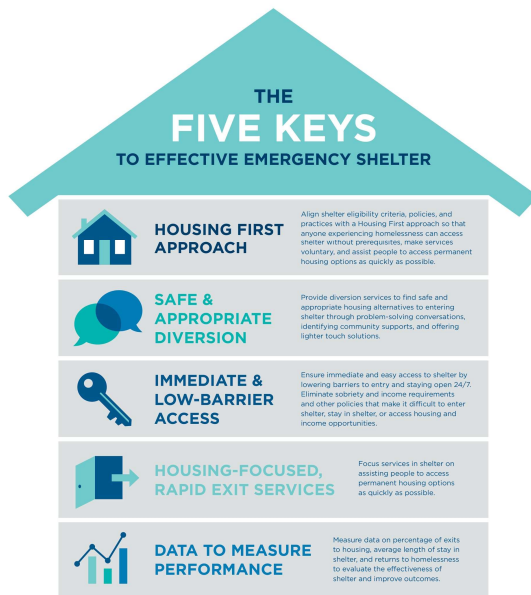
Emergency Shelter Learning Series
Goals

- **Strengthen** shelter policies and services to improve the housing outcomes for people experiencing homelessness across your crisis response system

- **Implement** a system-wide approach to ending homelessness that includes emergency shelters

- **Align** emergency shelters' goals with the community's goals to end homelessness

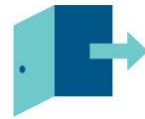- **Provide** low-barrier, safe, and housing-focused shelter

https://endhomelessness.org/resource/emergency-shelter/

THE
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HOUSING FIRST APPROACH

SAFE & APPROPRIATE DIVERSION

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HOUSING-FOCUSED, RAPID EXIT SERVICES

DATA TO MEASURE PERFORMANCE
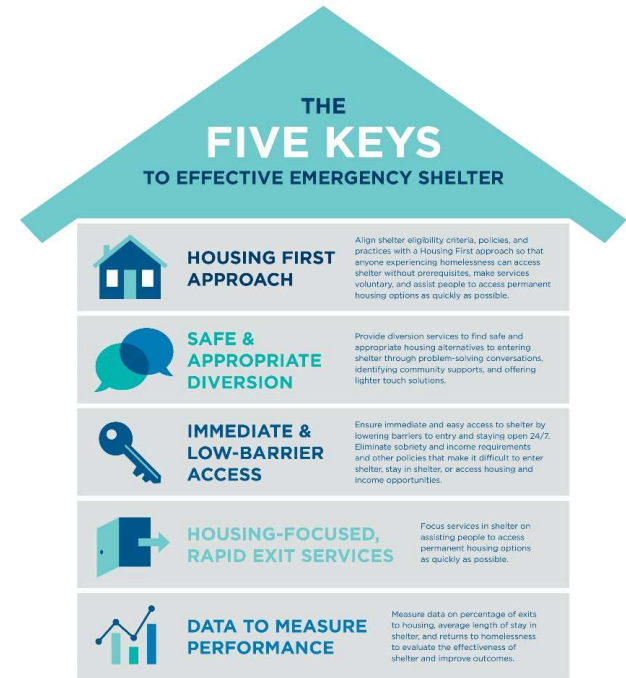
Immediate and Low-barrier Access

- Serving households of any configuration including couples without children, persons identifying as LGBT, two-parent households, mothers with teen boys, etc.

- Serving people using substances and/or with mental illness, regardless of treatment compliance

- Configuring space to serve different configurations of households and accommodate special needs

IMMEDIATE & LOW-BARRIER ACCESS

Today's Webinar

- **What is HUD's Equal Access Rule and how does it impact shelter operations and policies?**

- **How does HUD's Equal Access Rule help to provide better low-barrier access to people who need shelter?**

IMMEDIATE & LOW-BARRIER ACCESS

Implementing HUD's Equal Access and Gender Identity Rules

Abby Miller, PhD
SNAPS Office, HUD

David Canavan
SNAPS TA Provider

Agenda

1. Review terms that convey respect

2. Discuss the Equal Access Rule

3. Discuss specific scenarios at projects

4. Review resources to help going forward
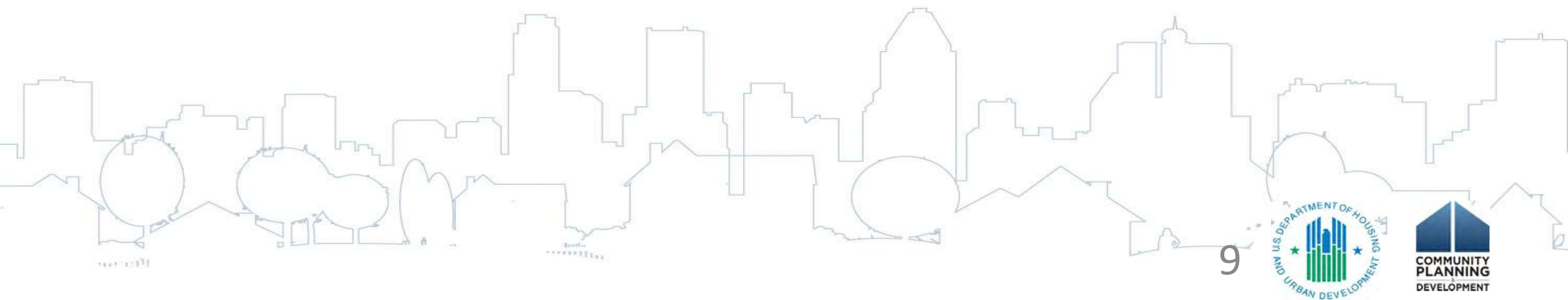
Language: Using Appropriate Terms

Gender Identity:
- Internal or innate sense of being male, female, or another gender
- May or may not match their assigned sex at birth

Gender Expression:
- External expression of gender identity (note that many times people do not feel they can safely express their gender identity)
- Exhibited through: behavior, clothing, hairstyle, body language, and voice

Sexual Orientation:
- Physical or emotional attraction to the same and/or opposite sex
- Distinct from one's gender expression or identity

Language: Using Appropriate Terms

Transgender:
- Umbrella term for people whose gender identity is different from their assigned sex.
- Occasionally, an individual may determine they no longer identify as transgender after they transition.

Transitioning (Gender Transition):
- Process that some (but not all) transgender people go through to begin living as the gender with which they identify, rather than the sex assigned to them at birth.
- Transitioning does not require medical treatment.

Experience Poll: Are These Terms New to You?

Have you used this language in your project/setting?

- ❑ Yes, these are very familiar terms that I use regularly.
- ❑ Yes, these are terms I've heard before, but don't use regularly.
- ❑ No, these are new terms.

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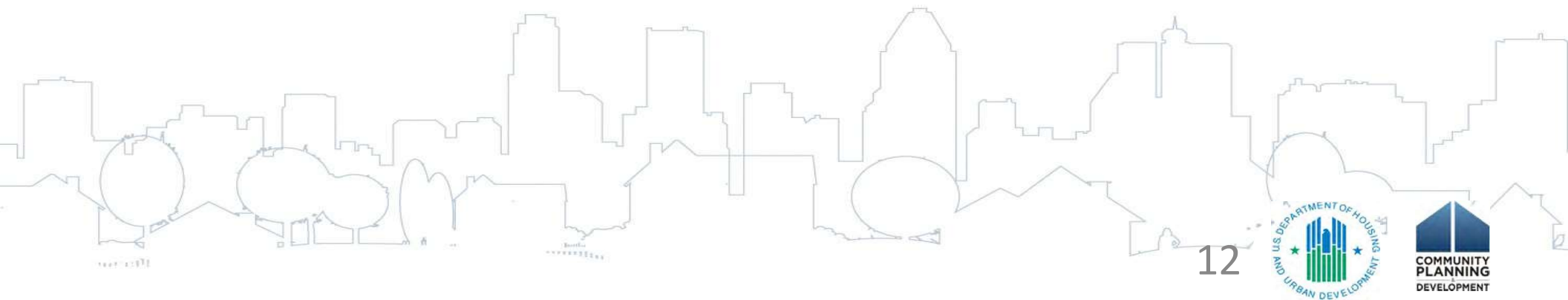
HUD's Equal Access and Gender Identity Rules

- Equal Access Rule published in February of 2012
- Gender Identity Rule published in October of 2016
- Equal access is provided in all HUD assisted programs
- Individuals are placed in accordance with gender identity
- No requirements for individuals to "prove" gender identity
- Providers must update policies and procedures to reflect requirements

Why are Equal Access Protections Necessary?

- Among homeless LGBT youth (up to age 24), the average age of being homeless for the first time is 15 years old.

- In a recent study, nearly two thirds of homeless shelters failed to enroll a person properly once they identified as transgender.

- Nearly a quarter of homeless transgender residents report being assaulted by other residents or staff at homeless shelters.
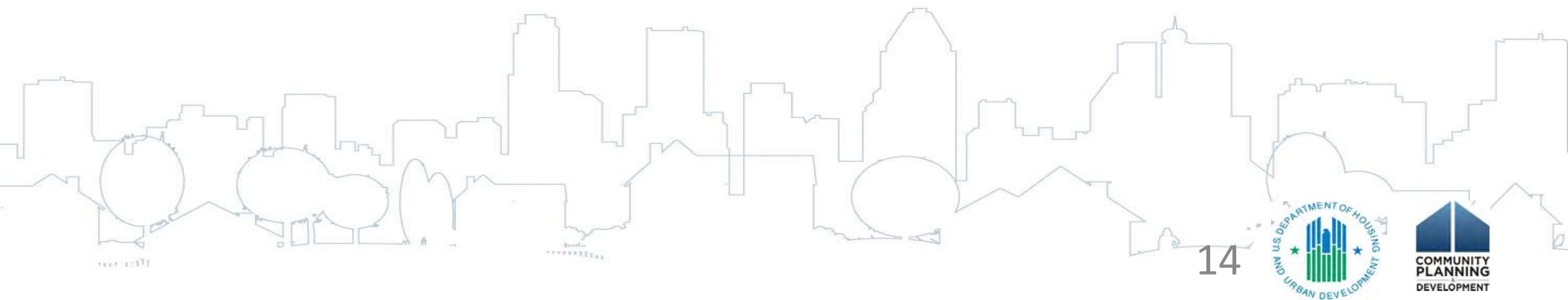
Is My Project Required to Comply with the Equal Access Rule?

Yes.

All HUD programs, from sheltering to mortgage programs, must comply with the Equal Access Rule. This includes all Community Planning and Development Programs:

- CDBG
- HOME
- CoC
- ESG

- HOPWA
- Housing Trust Fund
- Rural Housing
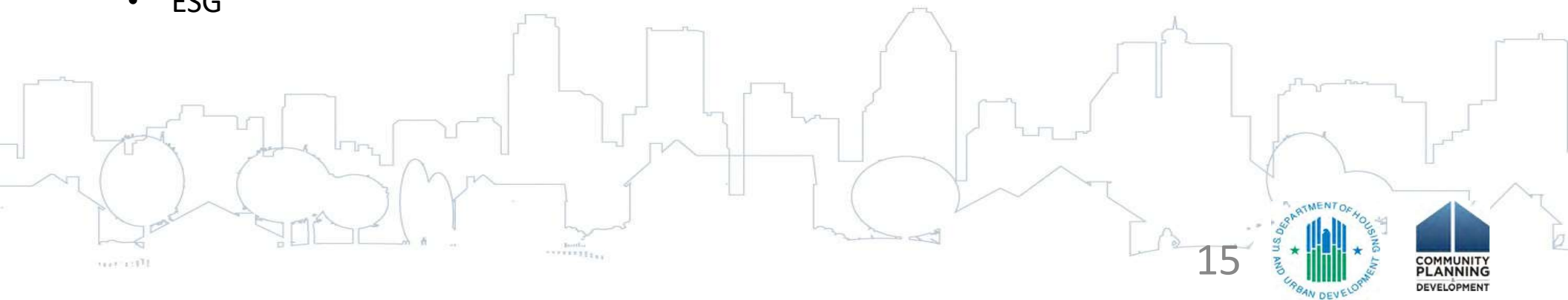
Pause for Questions:

What questions have come in from participants?
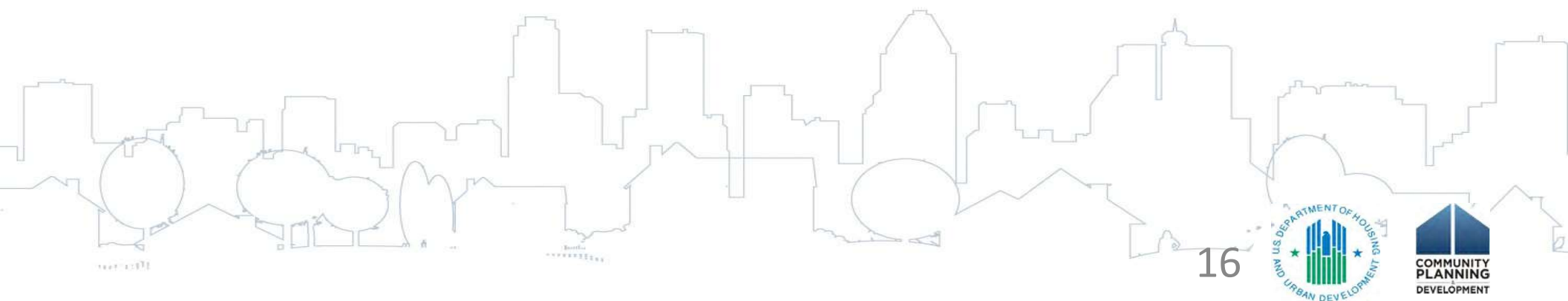
Is My Project Required to Comply with the Equal Access Rule?

- I operate a CoC funded domestic violence shelter that only serves women and children. Does the HUD Equal Access Rule apply to me?

- I operate a CoC funded homeless shelter that only serves women and children. Does the HUD Equal Access Rule apply to me?

- I operate an SRO for homeless men. Does the HUD Equal Access Rule apply to me?

- I operate a housing choice voucher project. Does the HUD Equal Access Rule apply to me?

- I operate an emergency shelter for men funded by ESG. Does the HUD Equal Access Rule apply to me?

What Discrimination in CPD and Other Programs Looks Like:

- Management of housing projects or facilities failing to address complaints from LGBT individuals regarding harassment by other residents.

- Project staff revealing an individual's status as transgender and requiring special procedures for households with a transgender person.

- Project staff excluding individuals based on family composition.
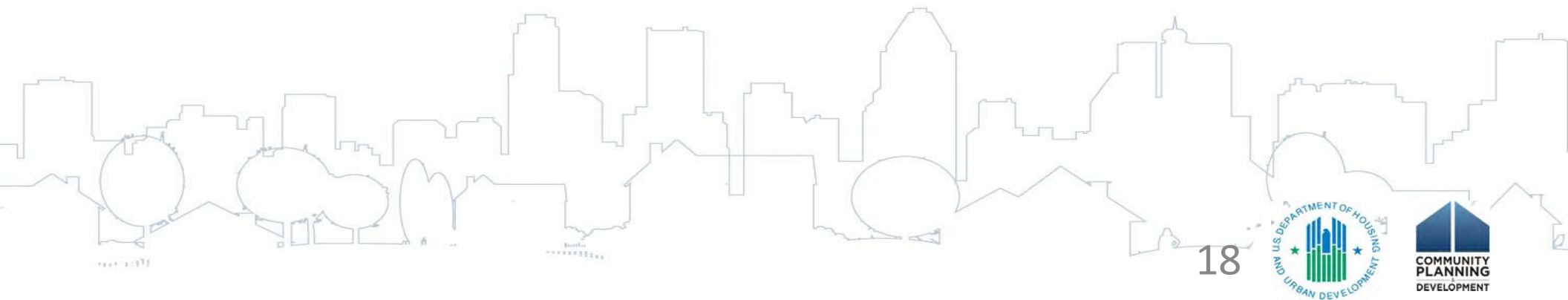
What Discrimination in CPD and other Programs Looks Like:

- A coordinated entry call center that hangs up when a caller identifies as transgender.

- A shelter worker inquiring about an individual's anatomy prior to enrolling them.

- A site manager who enforces project rules differently for single-father households than for single-mother households.

- A family shelter that requires boys over the age of 13 to move out.

- A project staff person refusing to enroll an eligible individual because "you will make the other residents uncomfortable."

Experience Poll

What have you seen in your project?

- ❑ None of these issues have come up in my project/community.
- ❑ These are issues that have come up, but are not managed well.
- ❑ These are issues that have come up and are managed in accord with the Equal Access Rule.
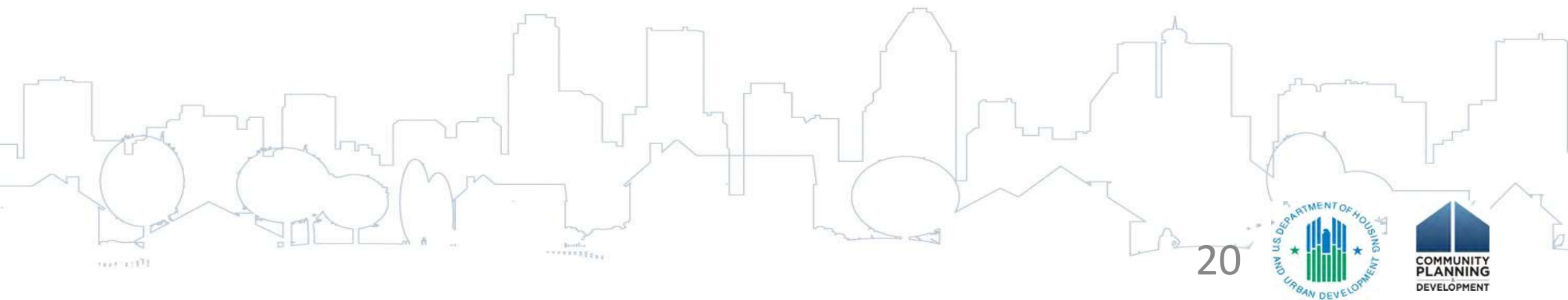
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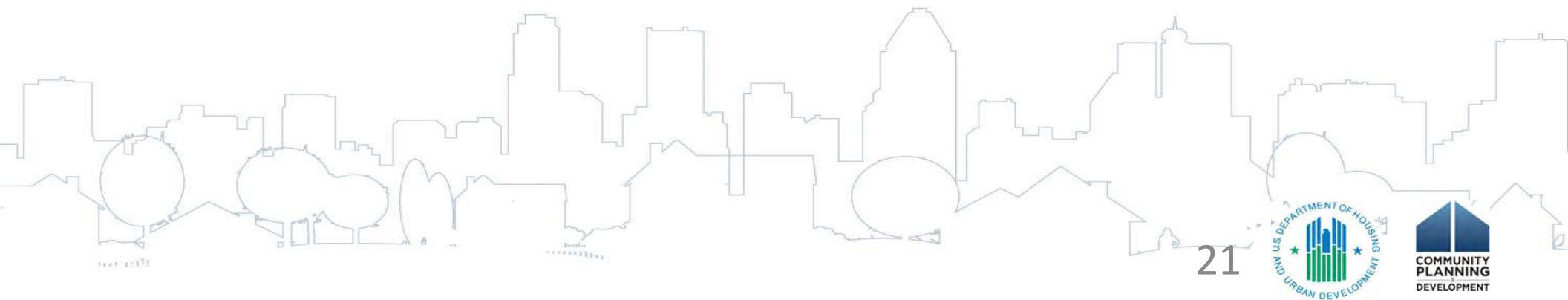
Scenario #1: Sleeping Arrangements

I run a 50 bed emergency shelter for men. My project is housed in an old firehouse and only has congregate sleeping and bathroom facilities with no privacy for any clients. One of the men staying in the shelter comes to a volunteer staff person and identifies as transgender. Do I allow them to continue using the same facilities as other clients?

1. Not only can you allow it, but are required to do so.
2. Do not isolate clients based on their transgender status.
3. A client may request an accommodation (in this case perhaps requesting a bed assignment near the staff workstation or access to space set aside for highly vulnerable clients) however, staff may not impose or require a client accept an accommodation.
4. Treat all clients who are eligible, in this case anyone identifying as male, with the same services, staff, questions, and setting that all other clients receive.

Scenario #2: Domestic Violence Shelter

I run a domestic violence project that serves women. We house residents in two separate buildings on the same property. All residents have access to the same services, but I've decided to house women who identify as transgender in one building and women who do not in the other. I did this because I'm worried about triggering traumatic experiences for residents of the project as they begin to rebuild their lives.

Can I require all women who identify as transgender be served in a different building or project?

Pause for Questions:

What questions have come in from participants?
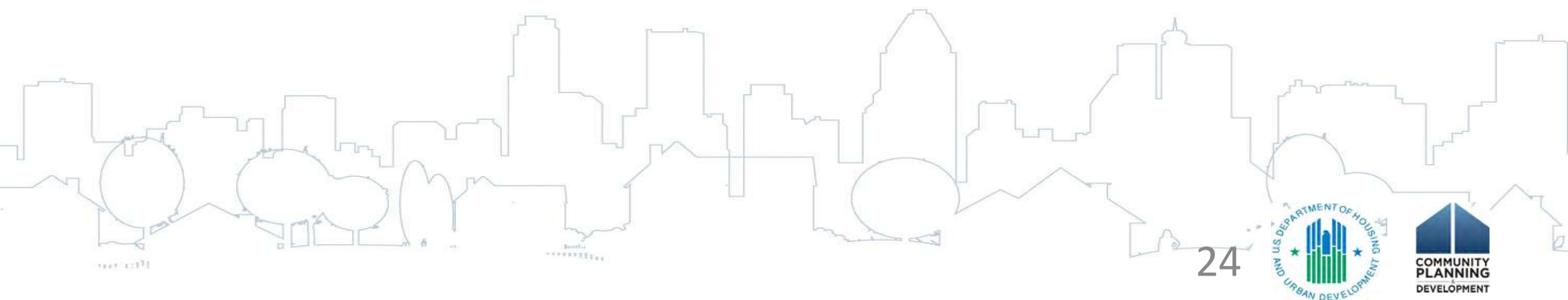
If I operate a project using HUD funds that serves women and children, do I need to serve men with children?

- ❑ Yes
- ❑ No
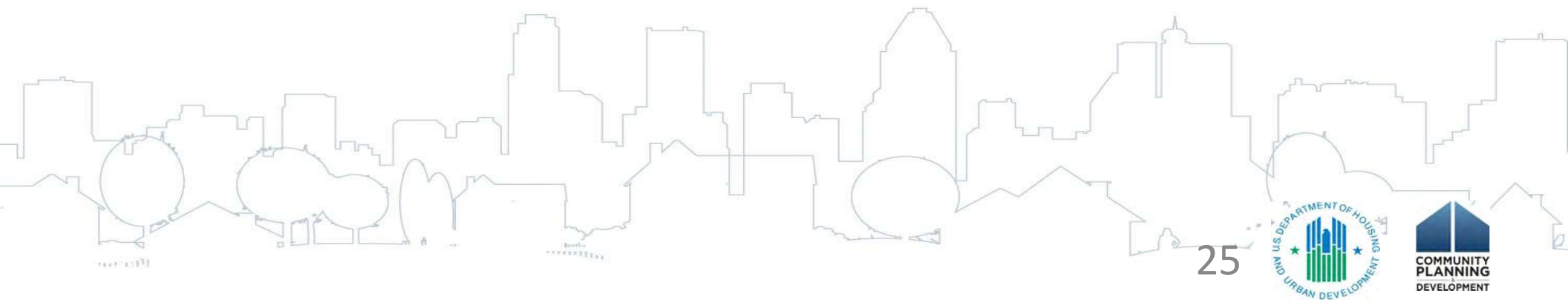
Knowledge Check

HUD funded projects that serve families with minor children are not permitted to exclude families based on the gender of the head-of-household.

A household with a head-of-household who is male, and eligible for the service, must be provided access to the same services, facilities, and staff to which all households enrolled in the project have access.

Projects may establish a requirement that they only serve households with minor children and exclude households comprised entirely of adults.

Next Steps

Frontline staff:

- Do we have an anti-discrimination policy?
- Is it posted publicly? No? Get a notice of rights at: https://www.hudexchange.info/resources/documents/Notice-on-Equal-Access-Rights.pdf

Managers and Directors:

- Do we have an anti-discrimination policy?
- Do we regularly train staff and volunteers on the policy and how to implement? (Hint: use the staff training scenarios to get started!)

CoC Boards and other planning bodies:

- Do our projects have anti-discrimination policies?
- Do we support projects to train staff on the policy and how to implement it?
- Have we been clear that projects must comply with these requirements?

Where to Begin?

- Does your agency have an anti-discrimination policy?

- Does it include gender identity, gender expression, and sexual orientation in the list of protected attributes?

- Are your staff, volunteers, and contractors trained on this policy?

Where to Begin?

- Ask for help, reach out to statewide and local LGBTQ advocacy organizations, or other organizations with expertise:

    - Find statewide LGBTQ advocacy organizations at:
      http://www.equalityfederation.org/members/list/

    - Find state and local fair housing enforcement agencies at:
      https://www.hud.gov/program_offices/fair_housing_equal_opp/partners/FHAP/agencies
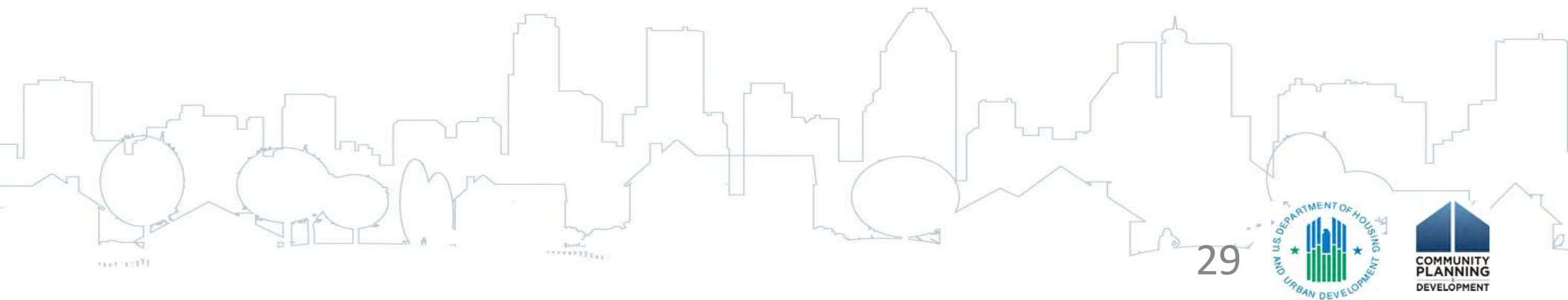
Next Steps: Who Can I Ask for Help?

Visit the HUD Exchange LGBT Homelessness Resource Page:

- https://www.hudexchange.info/homelessness-assistance/resources-for-lgbt-homelessness/

Additional resources available:

- Resources for people in crisis- https://www.hudexchange.info/homelessness-assistance/resources-for-lgbt-homelessness/#resources-for-homeless-lgbt-individuals-in-crisis
- Web link and phone number to report violations-https://www.hudexchange.info/homelessness-assistance/resources-for-lgbt-homelessness/#report-a-violation-or-discrimination

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Next Steps: Where Can I File a Complaint?

The Fair Housing Act also prohibits discrimination based on gender identity and on sexual orientation where the evidence establishes discrimination is based on sex stereotyping.

File complaints at:
http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination

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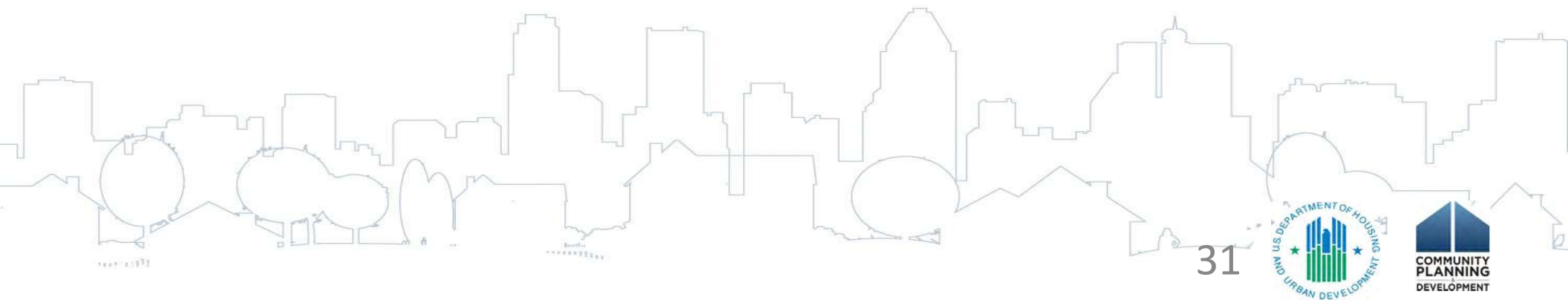
Appendix A: Topics Addressed in Resources
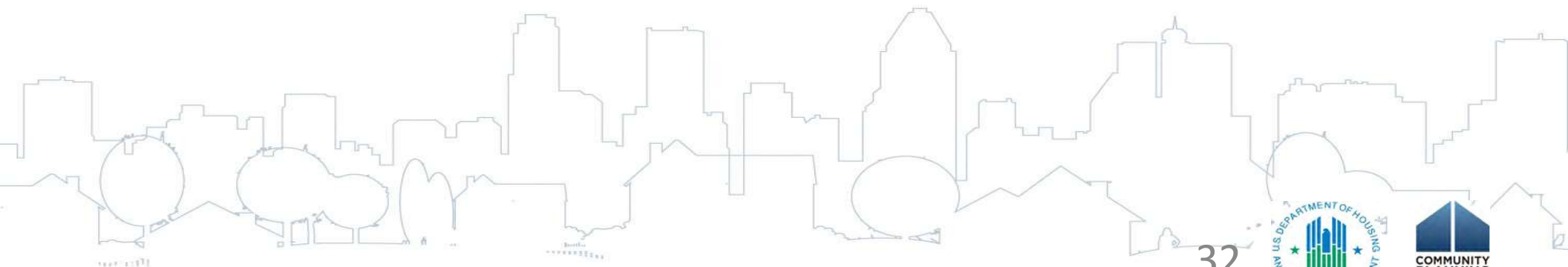
Intake Forms: Example

Forms

1. Legal Name: _____

2. Preferred Name: _____

3. What is your current gender identity? (Check and/or circle ALL that apply)

☐ Male

☐ Female

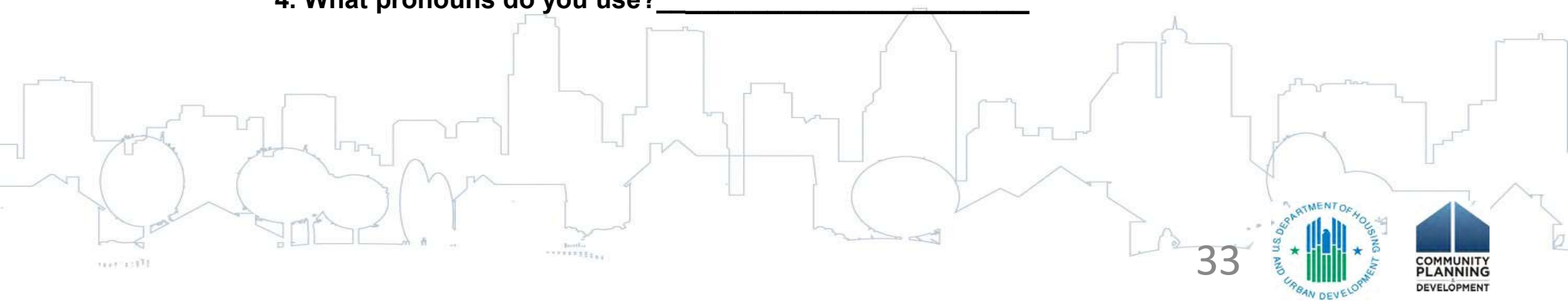☐ Transgender Male/Transman/FTM

☐ Transgender Female/Transwoman/MTF

☐ Do not identify as Male, Female or Transgender

☐ Additional category (please specify): _____

☐ Decline to answer

4. What pronouns do you use?_____

Creating a Safe Space in your Facility

People will ask the following when walking into your space:

- Is this a place where I can be myself or will I have to hide who I am?
- Is this a place where I will experience violence from people around me—employees, volunteers, or other residents?
- Will the people who work here understand what I need?
- Am I safe enough here to stay off the streets tonight?
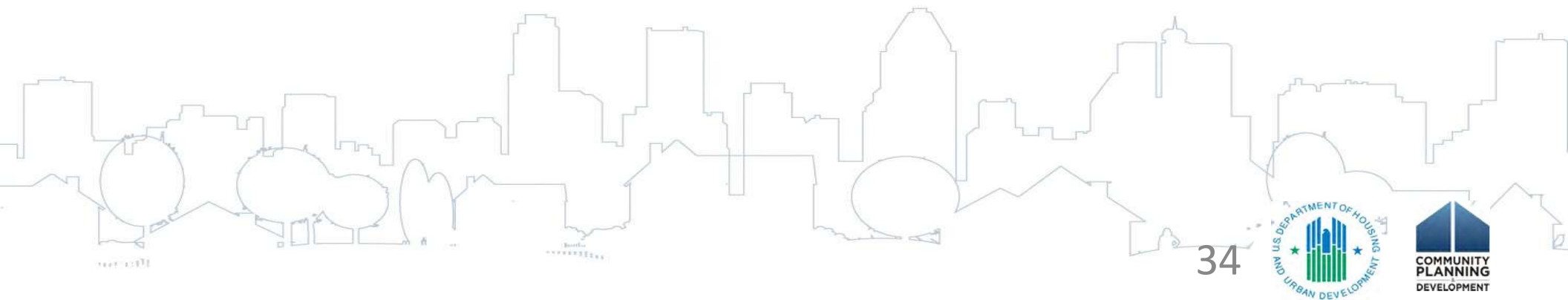
Safe Spaces: Showers and Bathrooms

- Access is based on gender identity
- Increase privacy, when possible, by:
  - Installing temporary or permanent curtains
  - Installing locks, doors, or partitions to toilet stalls
  - Make single-use facilities all-gender, meaning anyone can use them
  - Increase privacy through staggered shower times for those who request more privacy

COMMUNITY PLANNING & DEVELOPMENT
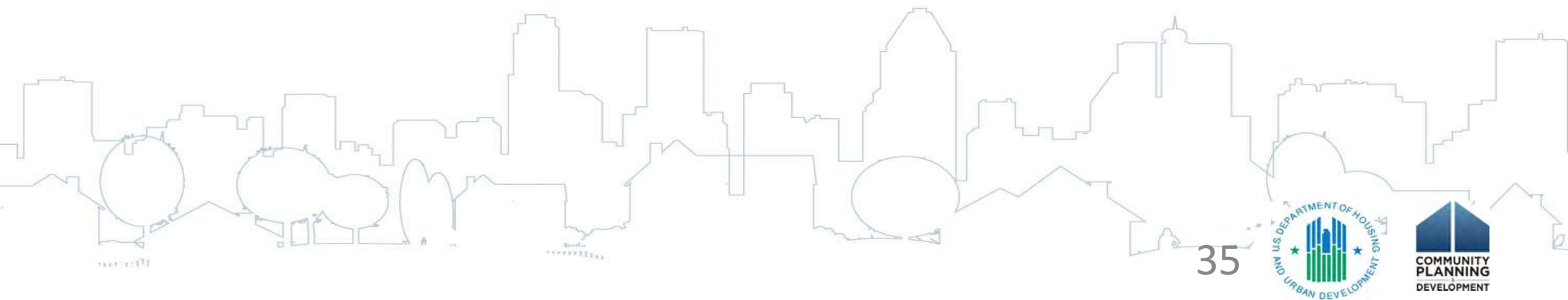
Safe Spaces: Conflict Resolution

- Don't target the more cooperative, harassed individual to make changes. Focus on the aggressor.

- Staff training should incorporate multiple ways to address and resolve impermissible conduct among residents.

- **Conflict resolution should not involve expulsion of the victim of harassment.**
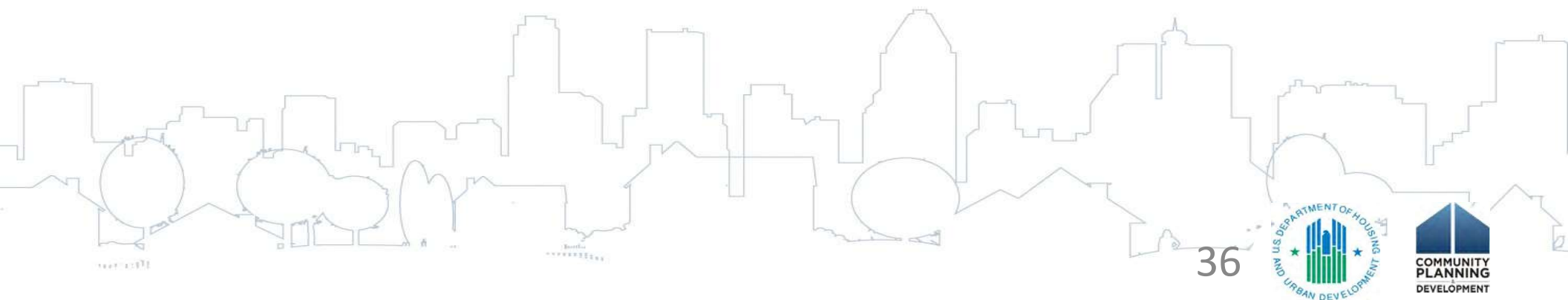
Making Room for All Families

- When projects serve ANY families with children, they must serve ALL families with children.

- That includes families of any composition type: single dad, single mom, same-sex couples, opposite-sex couples, multi-generational, and non-romantic groups who present for services as a family…

- For more information, visit https://www.hudexchange.info/faqs/1529/how-is-the-definition-of-family-that-was-included/

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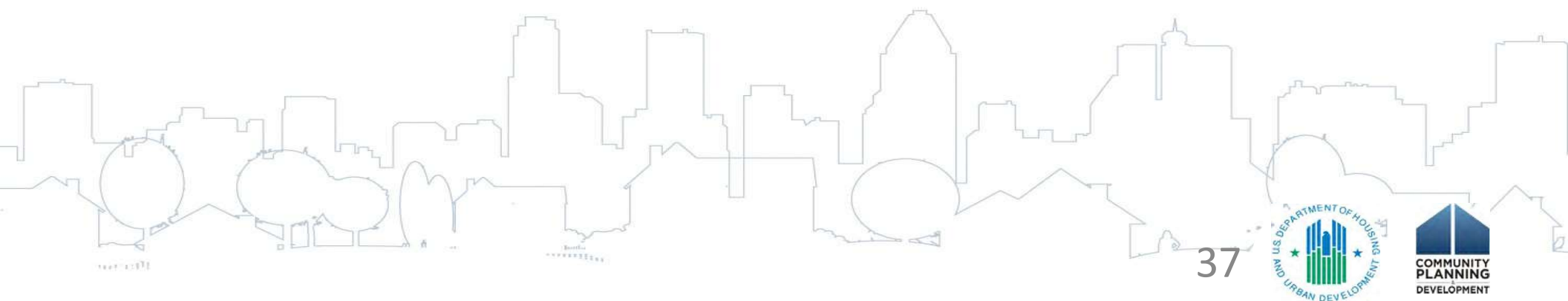
# Safe Spaces:
Non-Binary Clients in Single-Sex Facilities

Some clients may not identify as either male or female
BUT
Most shelters assign housing and programming based on only two genders:
male and female

How should project staff resolve this?

- **Explain** that the shelter's decisions are based on only two genders.
- **Ask** the client to choose the gender with which they most closely identify.
- **Make decisions** for placement that are appropriate to the gender selected by the individual.

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Appendix B: Applicable Regulations
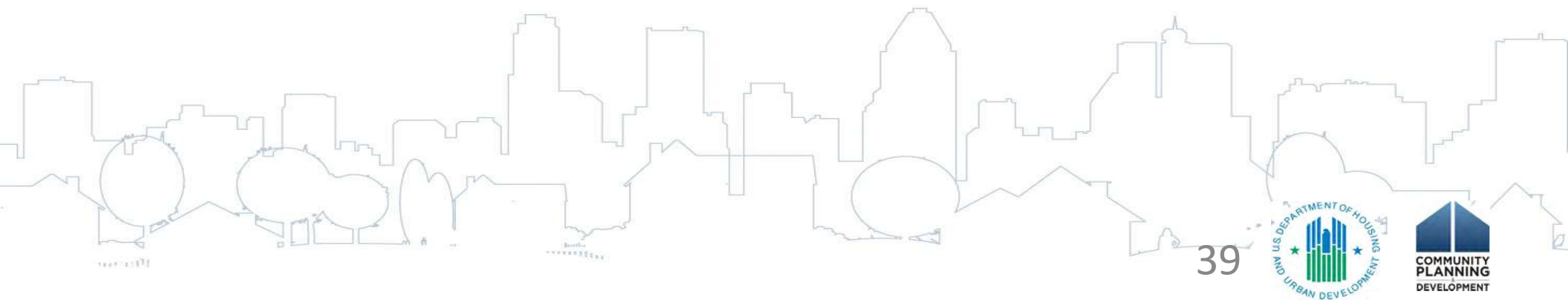
Equal Access Rule (Published in 2012)

- Ensures that lesbian, gay, bisexual, and transgender people are guaranteed equal access to HUD's housing and shelters.

- Clarifies the term "family" and "family unit", as used in the HUD programs (see https://www.hudexchange.info/faqs/1529/how-is-the-definition-of-family-that-was-included/).
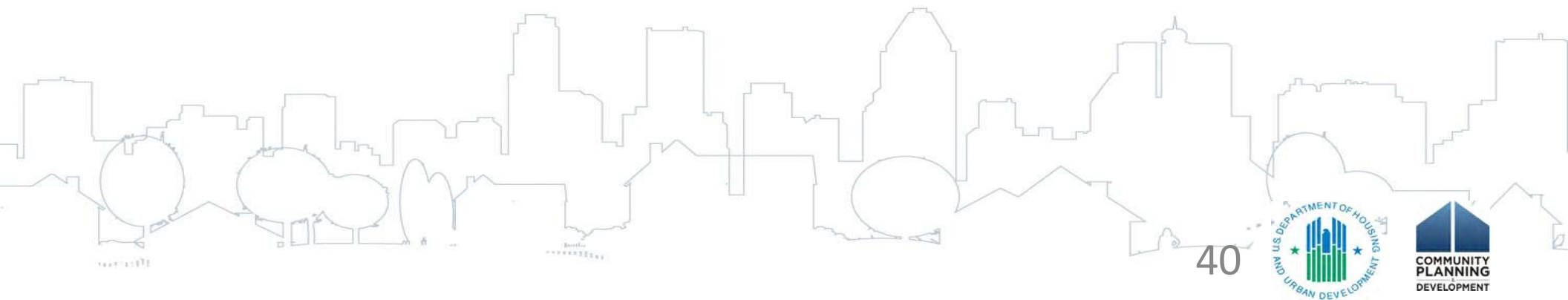
Requirements of Gender Identity Rule

- Published on September 21, 2016. Effective on October 21, 2016.

- Requires that policies and procedures to protect privacy, health, safety, and security, shall be established or amended, as necessary, and administered in a nondiscriminatory manner to ensure that:
  - Equal access to all CPD programs is provided in accordance with gender identity;
  - In single-sex facilities, individuals are placed, served and accommodated in accordance with their gender identity; and
  - Individuals are not subjected to intrusive questioning or asked to provide anatomical information or documentary, physical, or medical evidence of their gender identity.

- Plus, non-discriminatory steps must be taken to address privacy concerns, including updating operating policies and procedures.

Department of Justice's Office of Civil Rights: FAQs on the Nondiscrimination Grant Condition in the Violence Against Women Reauthorization Act of 2013:

- Issued April 9, 2014

- VAWA 2013 imposes a new grant condition that prohibits discrimination on the basis of sexual orientation and gender identity by recipients of such grants.

- The FAQ also addresses how a recipient of DOJ funds can operate a single-sex facility funded through VAWA and not discriminate on the basis of gender identity.

- FAQs can be found at http://www.justice.gov/sites/default/files/ovw/legacy/2014/06/20/faqs-ngc-vawa.pdf.

United States Equal Employment Opportunity Commission (EEOC)

EEOC established the following employer liability for harassment:

The employer is automatically liable for harassment by a supervisor that results in a negative employment action such as termination, failure to promote or hire, and loss of wages. If the supervisor's harassment results in a hostile work environment, the employer can avoid liability only if it can prove that:
1) it reasonably tried to prevent and promptly correct the harassing behavior;
2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer. The employer will be liable for harassment by non-supervisory employees or non-employees over whom it has control (e.g. independent contractors or customers on the premises), if it knew or should have known about the harassment and failed to take prompt and appropriate corrective action.

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United States Equal Employment Opportunity Commission (EEOC)

EEOC harassment standards:

The United States Equal Employment Opportunity Commission (EEOC) has established guidelines for employers regarding behaviors that create a hostile work environment and require correction. It is important to remember that homeless projects are also workplaces. As defined by the EEOC, harassment can include:

- Offensive jokes, slurs, epithets, or name-calling
- Physical assaults or threats
- Intimidation, ridicule, mockery, insults, or put-downs
- Offensive objects or pictures
- Interference with work performance