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>> Our captioning people should
be here too. So let's pull up
there. Why did I close my
email? That's what I wanted.
I do love how we always use the

same url, it makes it easier to find.

>> Hi, Lauren.

>> Hello.

>> There we go.

>> Hey, Paula.

>> There we go.

>> I have already talked with them.

>> Okay. Do you want to start, or you want me to start?

>> I'm okay starting.

>> Sure. So we flip on our webcam and that will signal -- when I flip on that signals you that I'm ready and you say interpreter switch and I'll begin.

>> And the only expert that can be challenging is if they introduce people too fast at the beginning and I did another one and they do introduce people very quickly at the beginning.

>> Okay. Got it.

>> We will try to slow that down.

>> It's hard to get it all across, especially if you're talking about different organizations and their last name and we have to spell all of that.

>> Okay. It's just going to be Nathan and I today. And I'll make a note to go a little bit slower and to pause on that screen.

>> Great.

>> Thank you.

>> *Cate Tracz*: No, it's really helpful.

>> Lauren I will drop my camera for right now.

>> *Nathan Darus*: And I our closed captioning set up and ready.
Woo!

>> *Cate Tracz*: So, Nathan, how do you want to handle questions? I guess when one is presenting, the other can handle it?

>> *Nathan Darus*: That's what I usually do. I think that for this one we're not going to necessarily want to stop. I think that we have a ton of time, so we're not going to run out of time to do questions so I say that we just hold until the end.

>> *Cate Tracz*: Okay. In slide three we say that we'll answer questions after every segment.

>> *Nathan Darus*: Did we say that on the slide?

>> *Cate Tracz*: So I will delete it right now if you have any questions please enter them into the chat box and I'll just leave it at that. And then I'll talk about --

>> *Nathan Darus*: I would have to reopen this now.

>> *Cate Tracz*: Sorry.

>> *Nathan Darus*: No, it's okay. You know what, let's -- we'll just leave it like it is and then we can pretend that we don't have any questions. Or at least any questions that are -- we have seen our are relevant yet.

>> *Cate Tracz*: I can say that we'll enter questions into the chat box and if we see that there's you know a lot of questions to answer right away we will. And we will probably hold questions to the end.

>> *Nathan Darus:* That makes sense. Yeah, that's probably the way to do it.

>> The broadcast is now starting. All attendees are in listen only mode.

>> *Nathan Darus:* Good afternoon, everybody.

My name is Nathan Darus, with the Texas department of housing and community affairs. We're going to get started at about 2:05 today, and so while we're waiting for that -- waiting for people to get on and take care of any technical problems that may occur, we will be putting up a short poll here. If you could go ahead and answer the questions as best you can.

While -- before we do that, I do want to give a quick bit of housekeeping. We are using go to webinar today. And we will be answering questions probably mostly at the end of the webinar. If you have questions, go ahead and put those into the questions box in the go to webinar platform.

Also to make sure that you are having the best audio experience you can, you can open up the audio tab and use the "sound check option."

So like I said we're going to get started at about 2:05 and I will be putting up the poll so that we will see you in just a few minutes.

>> *Cate Tracz:* Okay, good afternoon, everyone.

Welcome, everyone, and thank you for joining us for TDHCA's next topic in our fair housing

series. Today we'll talk about the violence against women act or VAWA and how it applies to TDHCA programs. A quick disclaimer before we get started. TDHCA is a recipient of HUD fair housing grant for education and outreach activities and initiatives. Today's presentation has been developed in support of this grant with support from this grant, so as a quick disclaimer the things that we're presented today do not necessarily represent the views of HUD. Before we get started, I have a few housekeeping reminders. All materials and a recording of this webinar will be available on the TDHCA website. If you have any questions, please enter them into the questions box and if we see question coming in on a certain topic we will try to answer those as we go, however, we will try to get to the bulk of questions at the end of the webinar. So, again, please enter those into the questions box in the go to webinar panel. The training presented today is just informational only. We're not going to be giving a test or issuing certificates at the conclusion of this webinar. This is for information purposes only as part of our celebration of this in Texas in April. So if you're looking to meet the requirements for some of our post-bond closing documentation or 10% test, training requirements, this is

not the webinar for you. This is, again, just for informational purposes only and we're not going to do certificates at the end. And so let's get started. I'm Cate Tracz, the manager of fair housing at TDHCA. Joining me today for our presentation is Nathan Darus. We'll be switching off on the material. So I'll start, and then Nathan will join us a little bit later. Nathan is our fair housing specialist at the department. If you have reached out to us for training or technical assistance, or help in putting together some of your plans that revolve around fair housing, you likely have talked to one or both of us at some point. So, welcome, and we're happy to have you here today. So today we're going to talk about the following things. We'll go over what the violence against women act re-authorization act is. And the HUD guidance, based on this act. And then required notification as a TDHCA administrator, or an administrator of HUD funding. How you document individuals or households that are covered under VAWA, and then Nathan will give a review of bifurcation before we get to the questions section. So hopefully by the end of the webinar today we really hope to increase your understanding of VAWA and its purpose, your roles and responsibilities as a

housing provider. Or someone else that, you know, someone that lives in a covered property. We also hope that you're able to know about the required notifications and documentations that are required under VAWA. And then have a better understanding of how to do a lease bifurcation and an emergency transfer plan. So before we get started I have another quick disclaimer. In today's training we will be covering the sensitive topics of domestic violence and sexual assault. Understandably, these topics are difficult to listen to for some, and we recognize that some may feel uncomfortable or sensitive to the subject. The language in the regulations to describe the population covered by this rule uses the word "victim" but that word has fallen into disfavor, so during this training we are going to use the word or the phrase "covered person" or "covered persons."

So "covered persons" refers to those covered under the violence against women act or VAWA. Again, we'll try to cover any questions that you have. We recognize that some questions may be specific to a certain case and may actually need legal advice. So, please, note that Nathan and I are not attorneys, but we will do our best to address any questions within our scope. So at this point I'm going to hand it over to Nathan and he is

going to talk about the fair housing act. Nathan?

>> *Nathan Darus*: Thank you, Cate. So, so far this month we have mostly talked about the fair housing act, both the federal and Texas fair housing acts. The fair housing act is the policy of the United States to provide within constitutional limitations for fair housing throughout the United States. No person should be subjected to discrimination because of their race, color, religion, sex, disability, familial status or national origin and in the sale, rental, or advertising of dwellings, or in the provision of brokerage services or in the availability of real estate-related transactions. The violence against women act provides protections for persons that have been subject to domestic violence, dating violence, sexual assault or stalking. A change or an exception to a standard policy or procedure to accommodate a household that is otherwise eligible for the housing related program and has experienced domestic violence, dating violence, sexual assault, or stalking. VAWA protections are available equally to all individuals regardless of sex, gender identity, or sexual orientation. VAWA originated and was signed into law in 1994 and re-authorized by Congress in 2000, 2005, and 2013. The re-authorization in 2013

expanded the law by including protections for American Indians, same-sex couples and increasing protections for victims of sex trafficking and covered some additional housing programs. As Cate mentioned, the language of the act includes the term "victim" when referring to people who have experienced domestic violence, dating violence, sexual assault or stalking. During today's webinar we will use the term covered person or covered persons when applicable.

In March 2021, the U.S. House of Representatives voted to re-authorize the Violence Against Women Act. Although the Senate has not yet done the same. Even though VAWA has not yet been re-authorized, the protections that it affords still exist and are still in effect. HUD published its VAWA final rule implementing the requirements of VAWA 2013 on November 16, 2016. The notice included the following changes for the HUD multifamily housing programs: it specified sexual assault as a crime covered by VAWA in HUD-covered programs. It established new requirements for notification of occupancy rights under VAWA -- specifically form 5380. It establishes the requirements for creating an emergency transfer plan. And Cate is going to talk about those required forms later in the training and I'll be

covering more about the emergency transfer plans after that. Many survivors of domestic violence who are living in or near the poverty line are often forced to choose between staying in abusive relationships or becoming homeless. For many survivors, concerns over their ability to provide housing for themselves or their children are significant reason for staying in or returning to an abusive relationship. Access to resources that increased the economic stability are essential to rebuilding life after abuse. Housing is a constant need for survivors of domestic violence. This table shows the total number of victims of domestic violence in Texas in the calendar year 2019. It must be noted that there's not a one-for-one relationship between the incidents and victims of domestic violence. One incident can involve multiple victims, and one victim can experience multiple incidents. Additionally, according to the Texas council on family violence 2019 state plan, Texas' network of health and human service programs served 71,500 survivors of domestic and family violence in 2018. So here are some definitions that are going to be important to understanding VAWA and it will be important in the rest of this webinar. Sexual assault is any non-consensual sexual

act prohibited by law or sexual offense that meets the definition of rape, fondling, incest or statutory rape. Sex offense is defined as any sexual act directed against another person without the consent of the victim, including instances where the victim is incapable of giving consent. For the purposes of this, it means voluntary positive agreement between the participants to engage in specific sexual activity. Domestic violence is found as any felony or misdemeanor crimes of violence committed by: a current or former spouse or intimate partner with whom the victim shares a child, person or a person who has cohabitated with the victim. A person in violation of any other state or local domestic and family violence laws. This means that even if none of those first three bullets apply, the act may be covered by a state or a local law. The national domestic violence hotline defines domestic violence to be a pattern of behaviors used by one partner to maintain power and control over another partner in an intimate relationship. Domestic violence is not only physical, it can be emotional, verbal or financial. Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The

existence of such a relationship shall be determined based upon the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes but is not limited to -- sexual or physical abuse or the threat of such abuse. Dating violence, however, does not include acts covered under the definition of domestic violence as defined previously. Stalking is any conduct directed toward a specific person that would cause a reasonable person to fear for safety or suffer substantial distress. For the purposes of this definition, substantial distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling. Similar to reasonable accommodations under the fair housing act, VAWA protections are a change or an exception to standard policies and procedures to accommodate a household that is otherwise eligible for the program and has experienced domestic violence, dating violence, sexual assault, or stalking. Unlike under the fair housing act, VAWA protections, including lease bifurcation,

do not apply to guests or unreported members of a household or anyone living in a unit who is not a tenant. Being a victim of domestic violence, dating violence, sexual assault, or stalking, is not a basis for denial for assistance or admission to assisted housing if the applicant otherwise qualifies for assistance or admission. For example, if a housing provider has adopted written standards to prioritize rental assistance for applicants with good rental history, and the exception to the written standards could be made if the rental history is related to violence as documented on the forms that we'll cover later in this presentation. A history of evictions, criminal activity, or poor credit directly related to the victimhood of domestic violence, dating violence, sexual assault or stalking are not cause for termination of assistance. These are examples of adverse factors from experiencing domestic violence or sexual assault. So what's an adverse factor? An adverse factor is any factor that can be used as a basis for denying admission or assistance into a housing program, terminating assistance or participation in a housing program, or eviction. Housing providers may have to determine whether an adverse factor is a direct result of

domestic violence, dating violence, sexual assault, or stalking. However, if a denial or termination is required by a federal statute, based on a particular adverse factor, the housing provider must still deny or evict the applicant or tenant. An example of this is the sex 811 project rental assistance program. If an applicant is subject to a lifetime registration requirement as a sex offender, the applicant is ineligible for admission, even if their offense was a result of being a victim of domestic violence, dating violence, sexual assault or stalking. An applicant or a tenant should inform the housing provider that they are a covered person and provide information or documentation to support the assertion that the adverse factor is a result of domestic violence, dating violence, sexual assault, or stalking. The housing provider may ask for additional information or clarification in order to objectively determine if the adverse factor is a result of the applicant or tenant being a covered person. So we've talked about what VAWA protections are under the act and examples of adverse factors. So what does this mean in practice? Having experienced domestic violence, dating violence, sexual assault, or stalking is not a basis for denial of assistance

or admission to assisted housing. If the applicant otherwise qualifies for assistance or admission. Incidents or threats of domestic violence, or stalking, will not be construed as serious or repeated violations of the lease or as good cause for termination of assistance, tenancy, or occupancy rights of a covered person. As a housing provider, it is your responsibility to provide a safe property for tenants and program participants. As housing providers are charged by law to uphold protections for victims of domestic violence, dating violence, sexual assault and stalking. It is very difficult for someone to self-identify as having experienced violence. VAWA protections are provided when a tenant or applicant self-identifies or is identified by a third party on their behalf. As a housing provider, your job is to follow the rights and protections under VAWA and provide documentation and have resources readily available to assist these covered persons. Since the beginning of the coronavirus pandemic, domestic violence hotlines and shelters have seen an increase in calls and check-ins because people were forced to quarantine with their abusive partners and/or family members. The domestic violence hotline alone had a 9%

increase of contacts over this time. This might be a good place to see if we have any questions that have come in yet.

>> *Cate Tracz*: Hi, Nathan, thank you. This is Cate Tracz again. We don't have any questions specific to the material. We were just helping folks get their audio up and running. And we did have one question about the slides. The slides from this presentation will be available after the webinar. They'll be posted on the TDHCA website. And we will send out a link about where to access the slides and all of the other information. So, again, if you have questions on the material that we're covering, please enter them into the questions box and we'll do our best to answer them.

>> *Nathan Darus*: Great.

>> *Cate Tracz*: So I will continue with the presentation here. Let me get to the next slide. Thank you. So we've talked about who is protected under VAWA. But what programs does VAWA apply to? The latest re-authorized version of VAWA is divided into 12 titles. The provisions in title 6, which is titled "safe homes for victims of domestic violence, dating violence, sexual assault and stalking" protects victims from denial of admission, denial of assistance, termination of assistance, or termination of tenancy if the applicant otherwise qualifies

for assistance or admission. And the VAWA title 6 provisions are applicable to all HUD programs, many of which are administered in state-wide programs in Texas by TDHCA. Additionally, the VAWA title 6 provisions apply to rural housing, which is covered by USDA and the low-income housing tax program regulated by the IRS and administered in Texas by TDHCA. So on this slide here's a list of the programs covered by VAWA. It includes single family programs such as ESG or the emergency solutions grant program and home single family. And it includes multifamily programs such as the low-income house tax program and the programs in the direct loan program. So basically all of our multifamily properties. This also includes the section 811 project rental assistance program and the housing choice voucher program, either tenant based and project based. So as we mentioned earlier, in 2013, HUD expanded VAWA coverage to some additional programs. And this expansion included the national housing trust fund program, which was newly enacted at the time and was being rolled into many other federal regulations. So in short, VAWA is applicable to all HUD funded programs and to all TDHCA multifamily programs regardless of the funding source. So now that we've gone over what programs are covered,

we'll talk about how these requirements are reflected within TDHCA's rules. All tenants and applicants of TDHCA properties, or those who receive rental assistance from section 8, section 811, the home TBRA program or those distributed by TDHCA or by a TDHCA funded organization, may not be denied assistance, terminated from participation, or be evicted from their rental housing because they have been subject to domestic violence, dating violence, sexual assault or stalking. So if any household member has been subject to domestic violence, dating violence, sexual assault, or stalking, by another member of the household or by any guest, the household member may not be denied rental assistance or occupancy right under TDHCA program solely on the basis of criminal activity directly related to that domestic violence, dating violence, sexual assault, or stalking. Affiliated individual can mean a spouse, a parent, a brother, a sister, a child, or a person to whom you stand in the place of as a parent or a guardian. For example, the affiliated individual is in your care or your custody. Or it could be an individual, a tenant or a lawful occupant living in your household. So these are the forms that TDHCA requires that housing providers have available and distribute to

applicants and tenants. These forms are available in -- on the compliance form section of the TDHCA website. They're also available in handouts. So there's a whole packet of handouts that are available for this presentation. So the first required form is TDHCA's notice of occupancy rights under VAWA. So this is a form that TDHCA has modified based on HUD form 5380. On the TDHCA website, it is available in a downloadable, fillable form, word document, in English, Spanish and Vietnamese. The other form is called the certification of domestic violence, dating violence, sexual assault, or stalking, and alternate documentation. This is the HUD 5382. So you'll hear Nathan and I refer to these forms in the next few slides. This form is available on the TDHCA website as a downloadable word document in English and Spanish and HUD has provided this form on their website in several languages. So, again, you can download this from the handouts, and on the TDHCA forms compliance web page. It's important that these forms are available in the leasing office, or anywhere else that a housing provider would take applications. And that includes on a property's website if you accept applications electronically. So the housing provider must provide these TDHCA forms, both the form -- the TDHCA form

based on the HUD 5380, and the HUD 5382 to all applicants and tenants at all of the following times. I know that this seems like a lot of notification but this is the HUD requirement and the TDHCA requirement. So these are all of the times that you have to provide both of these forms to the applicant or the tenant. At application, regardless of the approval or the denial status. When a household signs their lease agreement. When a household receives any type of notification of eviction, termination of assistance or non-renewal, and during any annual recertification or lease renewable process. If there's no annual recertification or lease renewal within 12 months, the documents still must be provided within that 12-month timeframe. The documents must also be provided with any notice of eviction, whether it's material non-compliance or criminal activity, or any notice of termination of assistance, whether it's a failure to respond to recertification, or a failure to move into a different sized unit or an increase in income, whatever that is, you do have to provide these two forms to the applicant or the household. Let me just get my notes and I have a couple more things to say about this slide. Well, it's not optional to provide all of these forms to the tenants and

the applicants. It is optional that they complete these forms. The HUD form 5382 should be completed by the applicant if the applicant or the program participants are seeking VAWA protection. So just because you give these out does not mean that they have to be completed and returned. These are just an option for the applicants or the tenants, if they need these protections. They have the information and they have the form to complete if they need and to provide back to the housing provider. So individuals affected by domestic violence may be discouraged from applying for housing if they're unaware of their rights. So providing these VAWA forms at application and non-renewal and termination, ensures that applicants are aware of their rights. So also by normalizing handing out and receiving these forms, covered persons would be more likely to know what their rights are and what their protections are under VAWA. So this may be when the housing provider provide these forms, they might be the only time that a covered person would understand what their rights are under VAWA. So as a housing provider, you are providing a very important service for someone that might need these -- the protections under VAWA. Okay, so in the next few slides I'm going to talk about some -- some of the

specific rules as it relates to the TDHCA programs. So in our -- in the department's Texas administrative code rules for the homelessness programs, some recipients of emergency solutions funds must inform denied applicants or their program participants whose participation has been terminated of rights they may have under VAWA. And they may not deny admission to applicants based on their status as a covered person under VAWA. It's important to note that in the ESG rules that safety planning for covered persons under VAWA is an allowable case management cost if you're an ESG sub-recipient. So you can use some of your case management funds for safety planning. And we do recognize that in the emergency solutions grants program, that there may be some separate requirements for providers of domestic violence services. This presentation is only about ESG sub-recipients as a whole, so if you have specific question contact the TDHCA stat and if you don't know who to contact and you're a recipient of the ESG funds, reach out to Nathan or I and we will connect with you the correct staff member. But if you have questions reach out to us and we can help to get you an answer or find you the right person to talk to. So next I'll talk about in our single-family programs the home tenant-based rental

assistance program. So, again, VAWA forms must be provided at application and before termination. Now this is another -- a different requirement, a more specific requirement, for the home TBRA program. Home TBRA administrators must notify the department within three days when a tenant submits that form, the certification of domestic violence, dating violence, sexual assault, or stalking or any other alternate type of documentation and I'll talk about alternate documentation in a few slides. So you have to notify the department in three days if someone provides this form to you, or alternate documentation. And then the housing provider or the TBRA administrator must also submit a plan to the department for continuation or the termination of assistance to the affected household member. So, again, if you're a TBRA home administrator and you receive this form, reach out to us as soon as possible or within three days and let us know your plan about how you are going to assist this household. And just a little administrative note -- these Texas administrative code rules were recently renumbered. So the -- citation number is new but this is not a new requirement. I will talk about the section 8 rental program. If you're a section 8

property, be aware that the requirements to provide all of these VAWA forms, they appear both in the TAC rules that cover the uniform multifamily programs and they appear in your specific section of the rules, just for this section 811 program. So the rules appear in two places and that is intentional. So it applies to all multifamily programs and it also applies to section 811 program. I think that the program staff has done a good job of consolidating all of the rules for section 811 in one area. Again, if you have questions about this type of documentation, if you're a section 811 participating property, please reach out directly to the staff of that program. If you need assistance in connecting to that staff, please reach out to Nathan or myself and we will connect you right away. But I'm sure that you know who to contact here. Okay, moving right along. So we've talked about what forms you need to provide. We've talked about the acts. Now we're going to talk about when you receive this documentation, what do you do? Okay. So if a tenant or an applicant has identified themselves as a covered person who has experienced domestic violence, dating violence, sexual assault, or stalking, the housing provider may request in writing one of the following. And note that I

said "may," not "shall" here. So this is a list of or statements. You can request either the completed HUD-5382 form. You can request a signed certification by a victim service provider, an attorney, a medical or a health professional from whom the covered person sought assistance. You could request a record of a federal, state, tribal, territorial or local law enforcement agency, court or administrative agency. Or you can request a statement or other evidence provided by the applicant and tenant. And this last bullet would be at the discretion of the housing provider. The housing provider may also accept verbal requests for VAWA protection. So although you may request these things in writing, you do not -- you still have to accept verbal requests for VAWA protections. If you do request -- if you do receive a verbal request for protections, please document that, that you did receive that. And a little bit later in the slides I will talk about confidentiality and the extreme importance of confidentiality for covered persons with VAWA protections. So, again, you can accept in writing and you can accept verbal requests for VAWA protections. Per the HUD guidance the housing provider may not require more than one type of documentation. The

housing provider may request a response within 14 business days, or you can extend that time period at your discretion. But, please, at least give the person that is seeking VAWA protections at least 14 days to provide this documentation to you. I think that 14 days is a good benchmark, even though that is a HUD guidance number. I think that it gives enough of an opportunity for someone that might have a schedule where they work over the weekends or it gives enough time for them to collect this information from a doctor's office that might not be open when they have access to go to the doctor's office. So it gives them enough time to collect this information. If no documentation is presented, or if the applicant or tenant fails to present this -- the information on time, as the housing provider, you do have the right to deny the VAWA protections to the applicant or the tenant. If the housing provider is given two conflicting forms, you can, again, ask for some third-party documentation that would help to reconcile those two conflicting forms. Okay. So all of the information and all of the documentation received must be maintained with very strict confidentiality. No one should have access to this information unless it is absolutely necessary. Any VAWA-related information should not be provided to other

employers or contractors, unless it's required by law. The VAWA information should not be entered into a database, or provided to others without consent from the covered person, or unless it's required for an eviction action by law. So it's important that you secure all correspondence and personal interaction with the covered person to maintain their confidentiality. And please document that covered person's preferred method of communication within their tenant file, either if they want to be contacted by email, by phone, by text, or in-person only. And the covered person does have the right to designate an attorney or an advocate or another secure contact for communications. So, again, keep all of the documentation separate and out of their tenant file in a separate secure location, but you can note in the tenant file how this person would prefer to be contacted. Okay. Again, I'm going to say it again, I know you have all absorbed this information but it is very important to keep VAWA communication separate from a tenant file. So if someone comes to you with a verbal request, and you make a note, this tenant has requested VAWA protections, do not put that note in the tenant file, keep it in a separate, secure locked file away from the tenant files. It is very important to

protect the identity and the safety of individuals or households covered under VAWA protections. Okay. So in the case where you might get conflicting evidence where perhaps there's more than one party within a dispute that can claim covered person status from the same incident of domestic violence, dating violence, sexual assault or stalking, the housing provider may request documentation from the second party that may contradict the initial information provided by the first party. So you've got two individuals, for example, that are involved in a domestic violence incident. They both provide -- they both request covered person status but they provide conflicting information. You can request additional information from both parties, and you must allow 30 days of a response time to provide this information. This is a must. So the HUD guidance says that if you have conflicting evidence, please allow both parties 30 days to provide a response. 30 days may be if they need, you know, legal documentation, or if there's a police report, or something else. It may take an additional amount of time beyond that original 14-day timeframe. So this 30 days is really important to help cure any conflicting evidence. If it's available within your company or your organization's

resources, please seek legal guidance regarding potentially conflicting evidence and a proper course of action. I know presenting this in a couple of slides in a presentation, you know, I can just read it and often say go do this. It is very tricky in real-life situations. If you have the resources, please contact and seek legal guidance. Nathan and I are not attorneys. We have said this before, we are just trying to provide some information that would be helpful if you receive documentation for VAWA covered person. So, again, please seek the advice of an attorney. Okay. So let's talk about eviction. A tenant can be evicted or their assistance can be terminated for serious or lease violations that is not related to domestic violence, dating violence, sexual assault or stalking. And tenants who are these events, the domestic violence, dating violence, sexual assault and stalking cannot be held to a more stringent set of rules than any other tenant. So it may not apply to a tenant if you as the housing provider can demonstrate that not evicting this tenant would present a real and physical danger that both would occur within an immediate timeframe and could result in the death or serious bodily harm to other tenants or those who work on the property. If a housing provider can

demonstrate either one of those two things, then the housing provider should only terminate assistance or evict the tenants if there are no other actions that can be taken to reduce or eliminate this threat. This information is all included in that -- in TDHCA's form based on HUD's notice of occupancy rights under VAWA, that's the form 5380. All of this is in there. Again, it is in your handouts, and it is posted on the compliance form section of the TDHCA website. If you're unable to access the handouts from this presentation, we will send links out to all where you can download and access all of this information following the webinar. Okay, I have talked a lot. So I'm going to hand this over to Nathan to finish us up. And, Nathan is going to start with the lease bifurcation. Nathan.

>> *Nathan Darus*: Thank you, Cate. So what is lease bifurcation? Bifurcating a lease creates two leases for the same one. One lease is for the perpetrator and one is for the covered person. The housing provider can then evict the perpetrator without evicting the covered person. So whenever the housing provider removes a household member from a lease to evict them, they are terminating that household member's occupancy rights and/or their assistance. The housing provider should follow their standard grievance or

appeal procedures and family break-up policies. In some jurisdictions, partial or single tenant lease terminations may be disallowed by law. In those cases, HUD suggests that the housing provider attempt to nullify the original lease and then enter into a new lease with the covered person. In other circumstances, when safe, HUD recommends to attempt to reach an agreement to the mutual termination of the lease. TDHCA in these instances recommends consulting your legal counsel to make sure of the proper steps for your particular program. HUD recommends that housing providers do allow 90 calendar days after the lease bifurcation in order to establish eligibility for that same housing program or to establish eligibility in another covered housing program, or to find alternative housing. This timeframe can vary by program regulations and housing providers should consult the rules for their programs that they participate in for specific timeframes and requirements. We're going to jump over to emergency transfer plans now. The emergency transfer plan is what housing providers need to follow when conducting an emergency transfer. The plan states how a housing provider will identify tenants who are eligible for emergency

transfer that is needed to request an emergency transfer, confidentiality, and how an emergency transfer may occur and guidance to tenants on safety and security. The HUD form 5381 is the model emergency transfer plan. This form is available in the handouts for today's webinar and it is also available on the TDHCA website, along with all of the other compliance forms that we've discussed so far. The HUD form 5383 is the emergency transfer request form that a housing provider must give to tenants who would like to complete a request. Both forms indicate that they expired in 2017, but please note these are the most recent forms available and they are acceptable for use. HUD guidance additionally requires housing providers to have an emergency transfer plan. HUD supplies the form 5381, as a model transfer plan. TDHCA additionally provides a version of the HUD 5381. The TDHCA version is available in the handouts and on the compliance forms page that we previously listed. If a housing provider is a participant in TDHCA's section 811 program, the housing provider must adopt the department specifically required emergency transfer plan for that program. Upon request from a covered person, the housing provider may permit the covered person to move to

another unit. Subject to availability and to still keep their assistance. In order to approve a request, the housing provider may ask the covered person to provide documentation that the covered person is requesting to move because of an incident of domestic violence, dating violence, sexual assault, or stalking. If the request is for emergency transfer, the housing provider may ask covered persons to submit a written request or fill out a form where they certify they meet the criteria for an emergency transfer under VAWA. These criteria are -- the covered person is a victim of domestic violence, dating violence, sexual assault, or stalking. If the housing provider does not already have documentation of this, they may ask the covered person to provide this documentation. And the covered person expressly requests the transfer. And the housing provider may require a submitted form or a written or oral request for this. And, third, a covered person reasonably believes that they are threatened with imminent harm from further violence if they remain in their current unit. All of this has an extra -- there's an extra criteria here. If the covered person has been subjected to sexual assault, then in addition to qualifying for an

emergency transfer because they reasonably believe they are threatened with imminent harm from further if they remain in the unit, the covered person may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which they are seeking their transfer and that assault happened within 90 calendar days before the transfer was requested. The emergency transfer plan must describe policies for assisting a tenant in making an emergency transfer when a unit is not immediately available and must describe reasonable efforts that the housing provider will take to assist the tenant who wishes to make an external emergency transfer when a unit that meets the victim's safety standard says not available. Remember, the victim is the only person who determines whether a unit is safe. In developing the emergency transfer plans, housing providers should examine their wait list policies and tenant selection criteria to determine if any changes need to be made to these emergency transfers. Some things to consider here might be the availability and location of units at your property, the demand by applicants for assistance, how long is the wait list, for example. The frequency of internal transfer requests. And the ability of alternative

housing opportunities. For more detail on this, see section 12 of the HUD notice h2017-05. Which is in the handouts for today's webinar. HUD requires that all requests and their outcomes for emergency transfers must be reported to HUD annually. As a recipient of HUD funds TDHCA has a responsibility to report data to HUD in a consolidated annual report. TDHCA collects this information from the compliance department. This includes, one, the number of emergency transfer requests received. Two, the number of requests resolved. Three, the number of requests that are still pending. Four, the outcomes of requests. And those outcomes include the following data points. The number of internal unit transfers within the same project. The number of requesters relocated to other HUD-funded housing sites. The number of other move outs. And, finally, the number of requesters who choose to remain in the unit. This information needs to be provided to compliance each time that a transfer request has been made. You can send these data points to VAWA.transfer@TDHCA.state.tx.us. Note that this reporting requirement only applies to properties with HUD funds. It is not applicable to housing providers that are solely funded using low-income

housing tax credits. Additionally, do not send any personally identifiable information to TDHCA when reporting the number of transfer requests and outcomes of the requests. No names or any personal information are required or desired. VAWA protections are necessary and important to ensuring the safety and the well-being of victims of domestic violence, dating violence, sexual assault, and stalking. However, a victim might need additional resources outside of VAWA protections to assist them. It is also important to connect with local or specialized resources, including supportive services. Housing providers may want to consider outreach to these types of organizations in the development and the review of their emergency plans. These are some of those available resources. If you have any specific fair housing training needs you can reach out to us at any of the following numbers, we are going to move into questions at this point I think, Cate? Is that -- do we have questions ready?

>> *Cate Tracz*: Sorry, I was just getting my mic un-muted. So we do have some questions. Nathan, when I was talking earlier, you had answered some questions directly. I think that it might be useful to review those questions so that the general audience can get

those answers as well.

>> *Nathan Darus*: Yes, I know which questions you're referring to.

>> *Cate Tracz*: Great, great.

>> *Nathan Darus*: I wanted to come back to them as well. So the first question was if a property is not funded by TDHCA or HUD, can they not support VAWA protections? And the answer to that is, no, you absolutely can incorporate similar protections in your rules and your policies. You can put them in your lease or your lease addendum. And VAWA is only required of HUD funded or TDHCA funded housing programs or properties. But other properties are certainly able to follow these guidelines to extend these protections, even if they don't participate in any of those programs.

>> *Cate Tracz*: Could you please address the question about the housing authority. So I'll read it out if you want to give the answer. Does the housing authority have to provide both of the forms, the 5380, and the 5382, or just the 5380 to the housing choice voucher clients?

>> *Nathan Darus*: Right. If you are a housing authority, and you receive HUD funding, which I think that almost all housing authorities would, you need to provide the 5382 and the 5380 to your clients, to your tenants. And that would be at any of those four contact points that were mentioned earlier. So at

lease signing, or application, and any notice -- go ahead, Cate.

>> *Cate Tracz*: This is on slide 24, if you want to bring that slide back up again. We had another question to repeat when -- when is the required notification time. So if we can bring that up for the audience. Okay. Sorry for the interruption. You want to continue with those times?

>> *Nathan Darus*: No, that is actually great because I couldn't get them off the top of my head. So, yes, as a recipient of HUD funds, including the housing authority, you need to get the 5380 and the 5382 to all applicants and program participants at the time of application acceptance or denial, prior to the execution of any rental assistance agreement, with any notification of eviction or notification of termination of assistance, or during any annual recertification or lease renewal process, whichever of those that you have. And that is required of all multifamily properties. You may want to check HUD-specific recommendations and requirements for housing authorities as to when those need to be given out. The TDHCA does not oversee the housing authorities, and so they will likely have some different requirements. But I imagine that they might be

fairly similar.

>> *Cate Tracz*: Great, thank you, Nathan. We had another question about documentation. So one of the -- one of the folks submitted a question saying, you know, if we need to keep someone's information secure and separate, you know, we're putting them into our database. Nathan, could you speak to the difference between your normal tenant files and your separate confidential files?

>> *Nathan Darus*: Right. So really what you want to do is if you have a system where you have information about all of your tenants, and you're keeping information in there that you would keep about any tenant, that's all fine, even if the person is covered by VAWA. But as soon as a piece of information is related to VAWA protections, so that could be any of the forms that you require them to fill out, any of the documentation that they would need to prove that they are a covered person, that all needs to be completely separate. And I don't even -- I can't say for certain, I'm not an attorney, but I don't think that it's a great idea to have, say, a VAWA database. I would want to create each VAWA protection or each incident of VAWA protections separate from any other information about your tenant, any other tenants that you have.

>> *Cate Tracz*: Okay, thanks, Nathan. I think that was explained really well. We did receive a request that is pretty specific to the HOME program. One of our attendees is a HOME TBRA administrator and asked about something specific in the rules that says that compliance with the VAWA regulatory requirements under this section, this is citing some of the CFR code, are required for any tenant-based rental assistance or any housing project which the date of the HOME funding commitment is on or after December 26, 2016. And so there's a piece of the regulations that says this does not apply to HOME commitments before December 16, 2016. And my request back to this individual was, well, you know, do you even have, you know, do you even have households or clients that, you know, that still exist having these commitments on or after December 16, 2016. And this is a program-specific question that I am not able to answer. I will have to get with the HOME single family staff. So if you in the audience are also a HOME TBRA administrator and had that question, we're going to connect with the HOME staff and get some clarification on this and see if it can get sent out to the HOME administrators that may find that useful. Did you have anything to add on that, Nathan?

>> *Nathan Darus*: Yeah, actually,

I was going to say that I did not expect that would be a concern. I actually removed the reference to December 16, 2016, from the slides at one point because I did not think that -- I didn't really think that there would be agreements dated before then. But I was wrong. So we'll look into that for you.

>> *Cate Tracz*: Yeah, yeah, thank you for that question. Let's see, Nathan, do you want to look through these questions and see if there's anything else that we could answer right away? Maybe while looking you could put up the slide for our next trainings.

>> *Nathan Darus*: Yeah, let's throw that one up real quick.

>> *Cate Tracz*: Okay. So as Nathan is pulling up this slide, we do have as part of fair housing month in Texas, in the month of April, we have done some in April and the next two are next week on Tuesday and Thursday. Affirmative marketing and then limited English proficiency and language access plans. So I hope that you have really enjoyed all of our presentations so far and you will be able to join us for those next two. So, Nathan, did I buy you enough time to pick out a question that you'd like to answer?

>> *Nathan Darus*: Yeah, absolutely.

>> *Cate Tracz*: Okay, fantastic.

>> *Nathan Darus*: So the question

here is, how do you handle a situation where a tenant is protected under VAWA and the perpetrator was removed from the lease, but the protected -- the covered person invites the same abuser and the same perpetrator back into the apartment, what do you do in this situation? The good thing is that you have removed them from the lease, which means they are not covered by the lease, they're not a tenant in the unit. So the same rules that would apply to any other unit that has an individual in it that is not a tenant, those are the rules that would apply to them. Unfortunately, you know, we're not in the business of giving relationship advice. And if this is -- this is a person they want in their life and the person is disruptive to the rest of the property, as in presents a danger, then you need -- that would trigger a situation where you might -- there would -- the covered person could still be evicted for anything that happened because they invited that person back into the apartment complex. So I know that is not really a cut-and-dry answer, but it is -- it is going to depend upon, you know, what your on-site written policies and procedures are, and if the -- the household is breaking those rules. Also, this is a situation where I would say consult your attorney

and your compliance staff, because there is that situation where now we're talking about a situation -- I don't have all of the context, we don't have all of the details. So that would -- that would be an excellent situation for your attorney.

>> *Cate Tracz*: Great, thank you, Nathan.

I'll take one of the next questions. Can VAWA help tenants who would normally be evicted due to having money stolen from an abusive partner? I think that Nathan went over this in one of the slides.

Abuse can come in the form of financial as well. It can be, you know, it can be someone controlling funding. So, certainly, VAWA could cover this person who would be evicted because money is being stolen from an abusive partner. So this question was related to a specific tenant, you know, definitely like Nathan said, contact an attorney to see what the appropriate avenues would be. But, you know, make sure that that tenant is -- you know, has received the documentation and understands their rights under VAWA. So, yes, without knowing the specifics VAWA would cover that person because financial control can also be an abusive situation.

>> *Nathan Darus*: To piggyback on that for just a second, you know, something that is important to remember is that

we talk about emergency transfers and evictions and bifurcation of leases, but at the very core of it, VAWA allows you to make changes or alterations to your already existing policies and procedures. So in a situation where someone might be evicted because of non-payment of rent, that would be a situation where you can determine or try to decide whether or not you would make an accommodation to, say, what you determine is late payment, establishing a payment plan, or not assessing any late fees for a certain period while the person recovers from having that money stolen or that financially abusive relationship. So just remember that it is at its core An accommodation to your existing policies and procedures and that can include parts of the lease as well.

>> *Cate Tracz*: Great, thank you for that follow-up, Nathan. Let's see, were there any questions that you wanted to answer? We've just got a few more on this list here. Some of them might need a more specific follow-up directly with the asker and we will reach out to you and get a little bit more information. Did you see anything else, Nathan, in this list that we could answer publicly?

>> *Nathan Darus*: Yeah. So one of those specific ones and it has a more general answer, so when an applicant applies for

housing, is there a timeframe on how recent the domestic violence or the covered event has to have been in order to be considered? So, for example, if they state they are a covered person but the incident happened, say, six months ago, the question is -- what is the -- you know, what is the -- what is the issue that makes them not qualify? And so let's say that it is your criminal screening or let's say that it's a credit screening. And that poor credit or that particular criminal history that is the problem is directly related to something that happened, that happened six months ago is covered by that incident, then, no, that's the timeframe. The timeframe is only determined by what the incident -- when the incident was and how it's connected to whatever it would otherwise cause this person to be not -- to not be qualified for the program.

>> *Cate Tracz*: Great, thanks, Nathan. I did just want to clarify -- we had talked about within the emergency transfer plan eligibility another timeframe of if something happens at a certain point, is there a timeframe that covers that person as a covered person under VAWA. So if -- if there was a sexual assault that occurred on the premises of the property from which the person is seeking a transfer, and this is just specifically to

transfers, not for applications, then if that assault happened within 90 calendar days before the transfer was requested, then that is allowable. And I don't know where the HUD regulations say that if something happened beyond that 90 calendar days, that would be something, you know, that we would point you to the HUD regulations for and I'm not specifically familiar with that. But there is that 90-calendar day period before the request of an emergency transfer if there was a sexual assault on the property. So just a little bit of tangent for that question.

>> *Nathan Darus*: There was another 90-day as well.

>> *Cate Tracz*: Okay.

>> *Nathan Darus*: Which is -- it is related to the emergency transfers. And I think that it may also technically apply to lease bifurcation, which is that in the process of transferring, or in the process of bifurcating the lease, the protected person is no longer qualified, whether it be an income qualification or some other qualification, but the act of that bifurcation or the act of that transfer is what causes it, then that would be a situation where they have -- HUD recommends a minimum of 90 days too for that, for that person to establish either qualification or to qualify for a different housing program, or to find alternative

housing. So, you know, just because they're not qualified, as soon as that lease gets bifurcated, then you don't initiate the eviction proceedings right then because they're not qualified, you would have to wait 90 days before you start that eviction procedure. And that's a forward-looking 90 days and not a backward looking timeframe.

>> *Cate Tracz*: Thank you for that. I do see that we have a couple more questions that are coming in that are falling a little bit outside of the scope of what we have discussed here in this presentation. They're really excellent questions. We can help you to find the answers to them. I'm just not sure that we're prepared, you know, because we've never presented this topic before. But we did want to make sure that we got this information out during -- during fair housing month. So if you have submitted your questions in the questions box and we have not answered it either in a general way or in a specific way, we will get in touch with you directly. And, again, if you have other questions, please feel free to contact us, you know, directly. Nathan, could you put up our contact information page while we're wrapping up here?

>> *Nathan Darus*: Absolutely.

>> *Cate Tracz*: Thank you.

>> *Nathan Darus*: I do want to circle back because one of

those questions does touch on something that we did answer earlier and it may have just been buried because it was right it's the end of the presentation, and the beginning of the questions. If you are not -- not a recipient of HUD funding, or USDA funding or participate in any of these covered programs and you're just a private landlord, market rate apartments, does VAWA apply? Technically, no, VAWA is not required of you, but if you are a landlord who wants to support these protections and grant these protections to a covered person, absolutely, you will want to consider how you do that in your written policies and procedures. Possibly in your lease. Or possibly by creating a lease addendum. If you want to go above and beyond, that is awesome. And that is great. We're not going to necessarily be able to help you with what the rules may be. That is something that you would want to consult your attorneys on when you go through this process. But you are not -- you're not barred from granting these protections if you're a private landlord.

>> *Cate Tracz*: Great, Nathan, thank you for that clarification. So I think that I'm going to -- for today with these questions, again, we'll get back with you. I see some questions that are coming

in that we have covered a couple of times as well and I don't want to repeat multiple times. So, again, thank you all so much for joining our presentation today. This was a new topic for us, so it was interesting to see the types of questions that came in. We got some real specific ones and some pretty broad ones. So, you know, the next time that we do this presentation, it's very helpful to have your questions to wrap them in to get -- you know, to be presented upfront so we really know what things need to be touched on again and again. So, again, thank you so much for your participation. Send us all of your questions and we will reach back out to you. Join us next week for our other two fair housing month training webinars on affirmative marketing and limited English proficiency. Again, this presentation, the slides, the handouts, and the transcript will all be posted on TDHCA's website and if you attended today and you signed up, even if you have registered and didn't attend, if there's someone else in your agency that wasn't able to make this presentation, if you have registered you will receive an email with a link to all of this information. So, again, thank you so much for joining us. And I am going to close the webinar. Have a wonderful afternoon.