



Implementing HUD's Equal Access and Gender Identity Rules

Abby Miller, PhD
SNAPS Office, HUD

David Canavan
SNAPS TA Provider

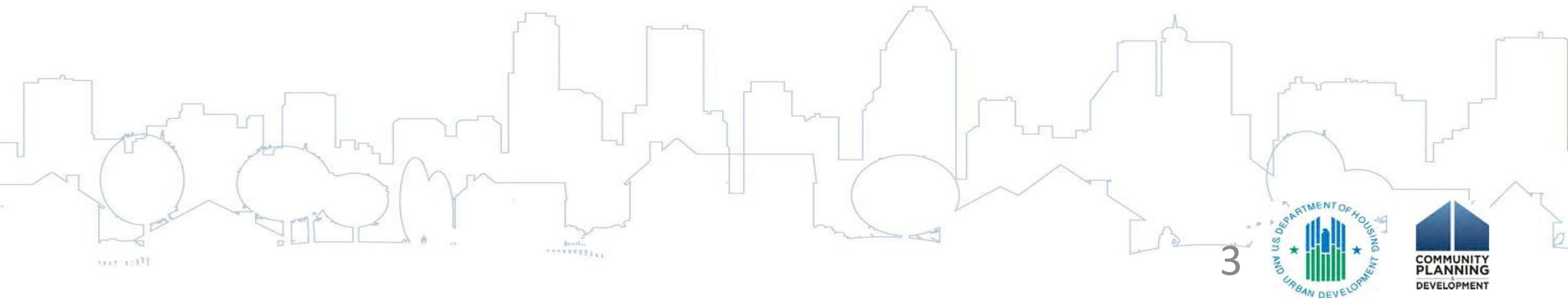


Discussion Today

1. Please turn cell phones off if not on-call, and put them away.
2. Close email and other programs.
3. This presentation will last about 90 minutes with question breaks.
4. All callers are muted due to the number of participants.
5. To submit questions use the chat box at the bottom of the GoToWebinar window.
6. The PPT and recording will be posted on the HUD Exchange once all webinars are completed.

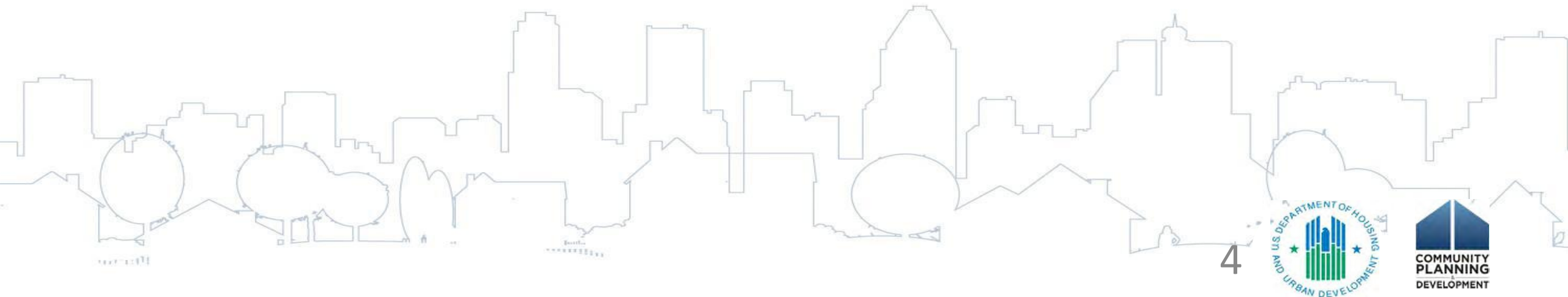
Agenda

1. Discuss Equal Access Rule
2. Review Gender Identity, Gender Expression, Sexual Orientation
3. Discuss Specific Scenarios at Projects
4. Review Resources to Help Going Forward




Meet George

For more stories, visit <http://transgenderlawcenter.org/programs/truth/truth-videos>





George Dunkelberger, 12
Minneapolis, MN



Alison Yocom
Parent









Our family
stands for
INCLUSIVE
sports.

I STAND WITH
ONE BEAM

WE DESERVE
THE SAME
RIGHTS AS
OTHER STUDENTS

Our family
stands for
INCLUSIVE
sports.

transforming
families

YES
for trans justice

YES
for trans justice

YES
for trans justice



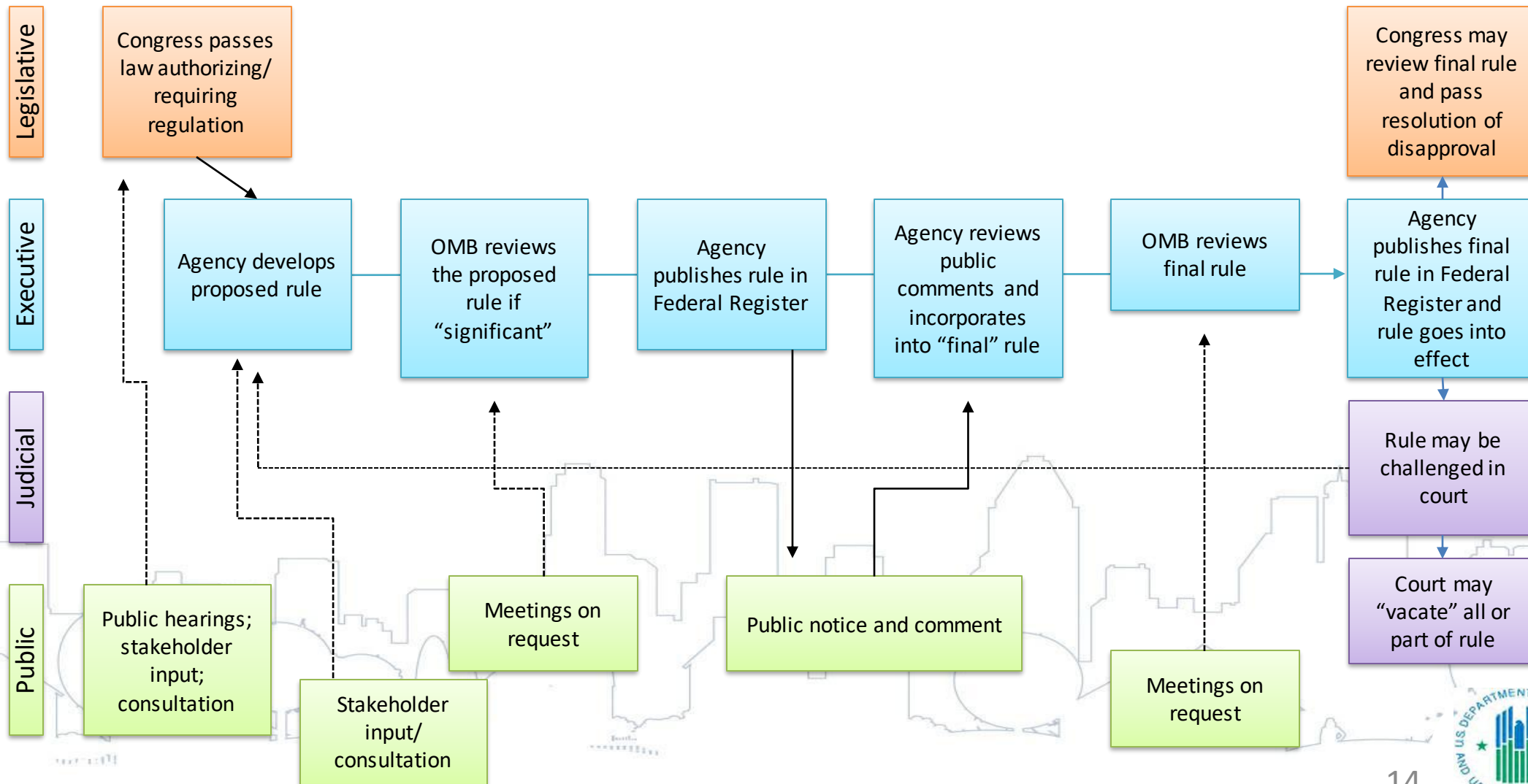
Why do we need these rules?



HUD's Equal Access and Gender Identity Rules

- In effect October 21, 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

Federal Rulemaking Process

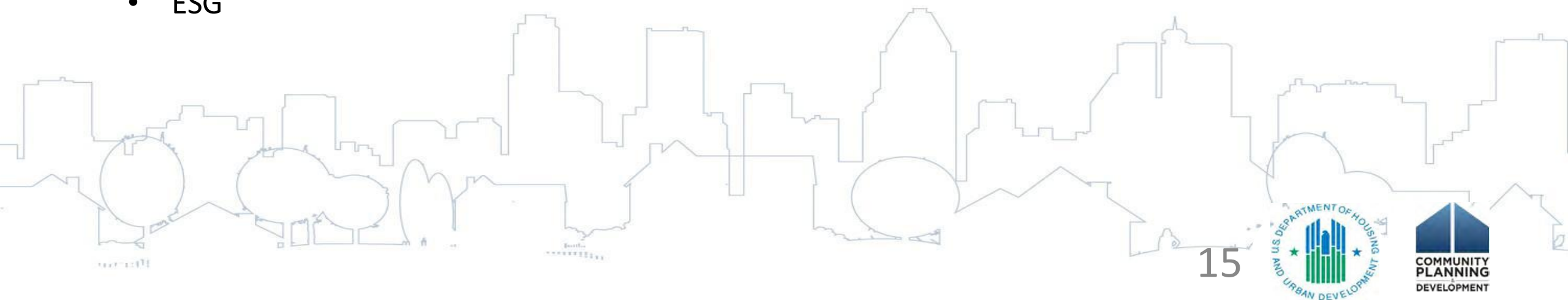


Is my project required to comply with the Equal Access Rule?

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



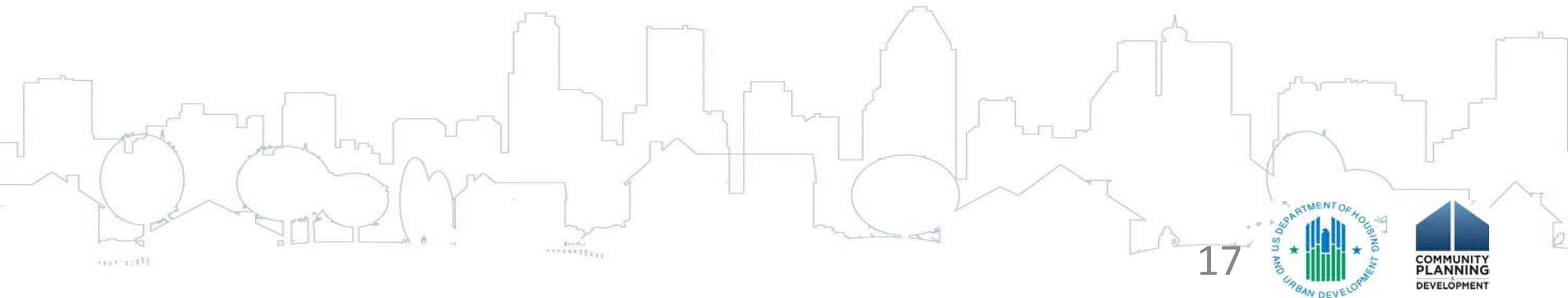
Scenario #1: Sleeping Arrangements

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 that are eligible, in this case anyone identifying as male, with the same services, staff, questions, and setting that all other clients receive.

Pause for Questions:

What questions have come in from participants?



Language: Using Appropriate Terms

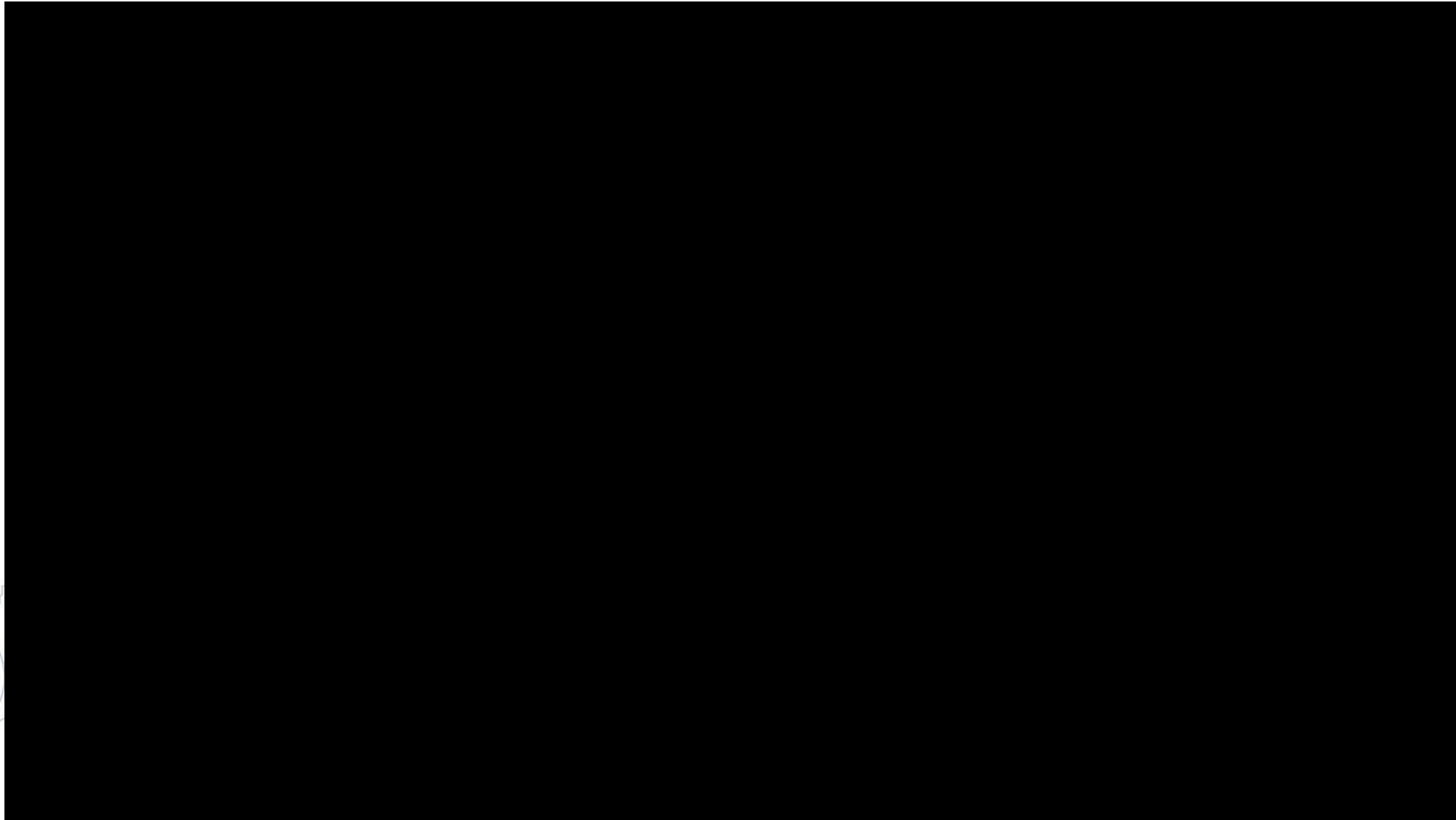
Transgender:

- 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.

Video: Understanding Terms



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

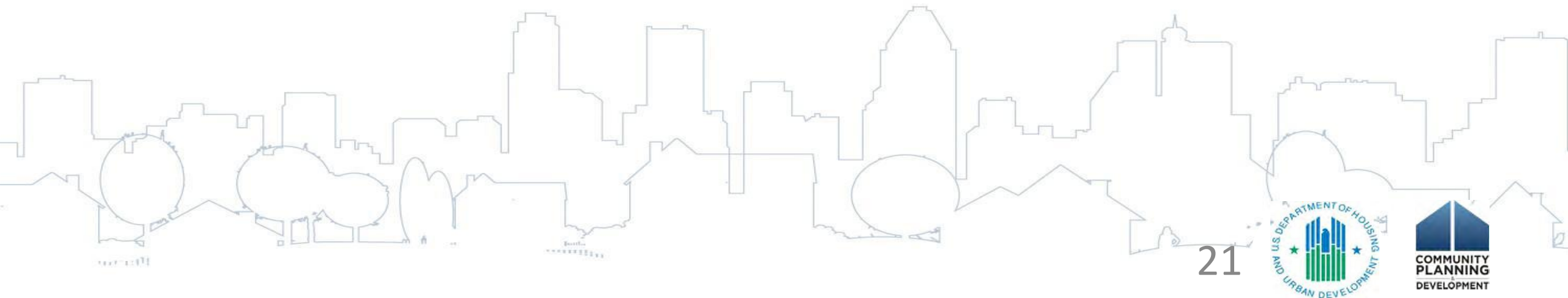
Sexual Orientation:

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

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.



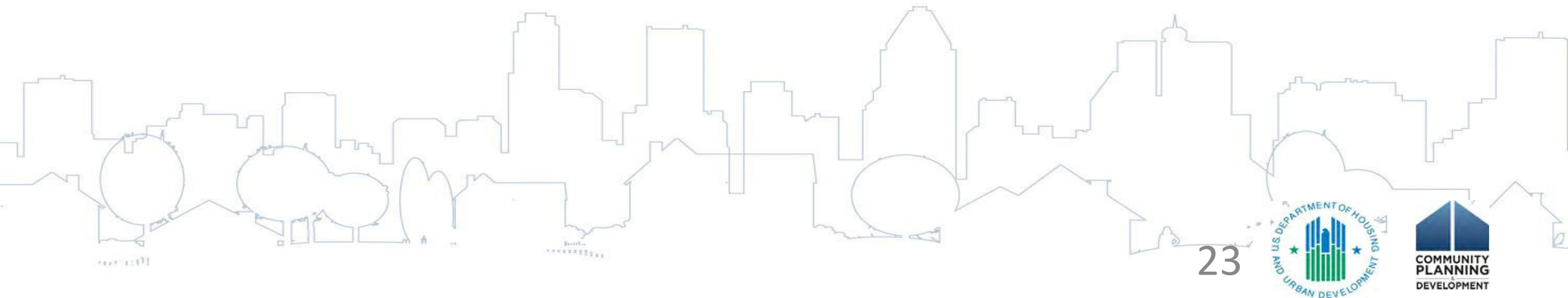
Scenario #2: Domestic Violence Shelter

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 transwomen in one building and women 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 transwomen be served in a different building or project?

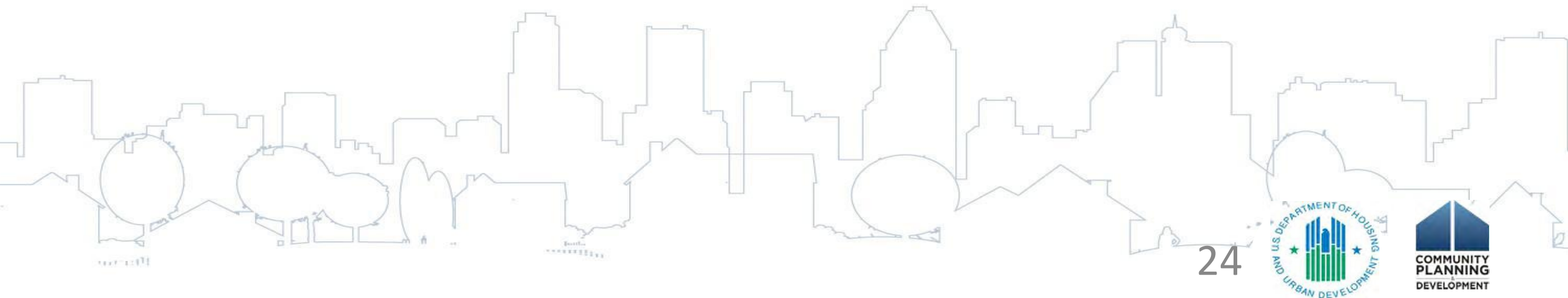
Why are LGBT Protections Necessary?

- Among homeless LGBT youth (up to age 24), the average age of being homeless the first time is 15 years old.
- Nearly two thirds of homeless shelters in a recent study 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.



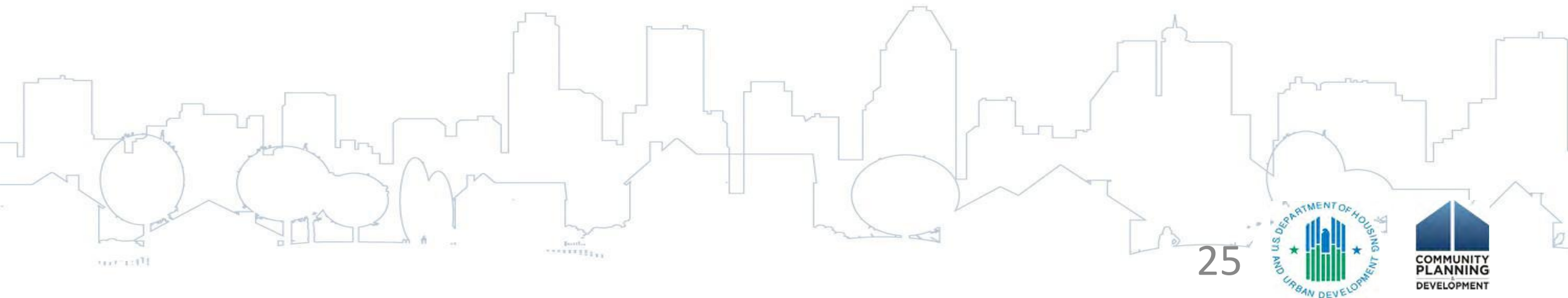
Pause for Questions:

What questions have come in from participants?



What Discrimination Looks Like: Emergency Shelters

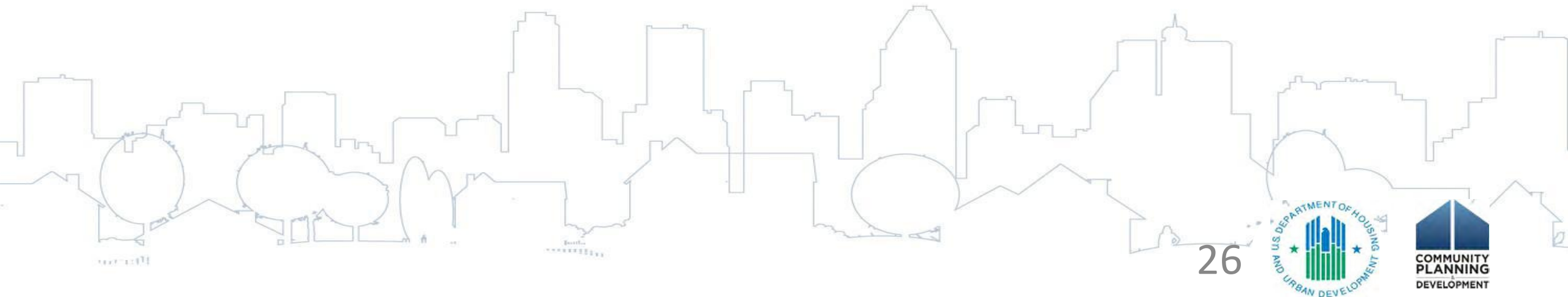
- A shelter employee hanging up immediately after caller reveals she is transgender.
- A shelter employee making references to genitalia or to surgery as requirements for appropriate housing.
- A shelter employee refusing to enroll a participant “because they would make other participants uncomfortable or feel unsafe.”



Experience Poll

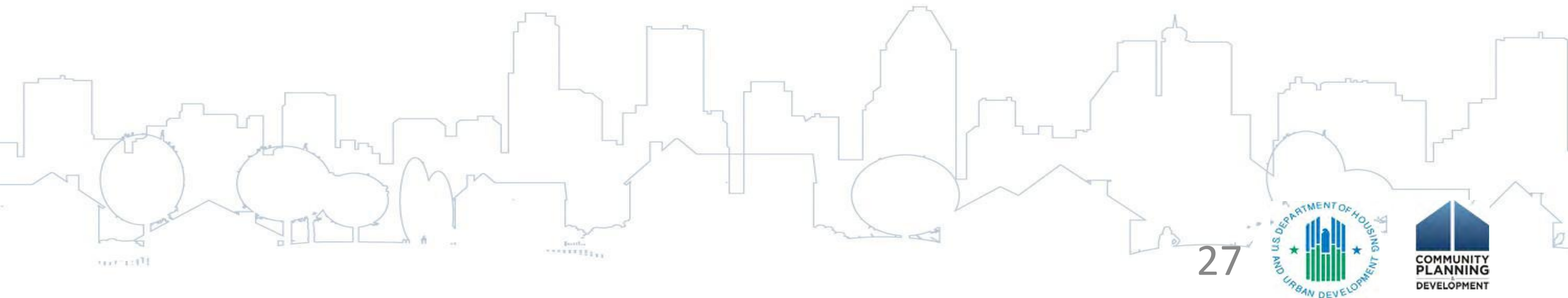
What have you seen in your project?

- ☐ 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.



What Discrimination Looks Like: TH, PSH, Other Housing

- 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.

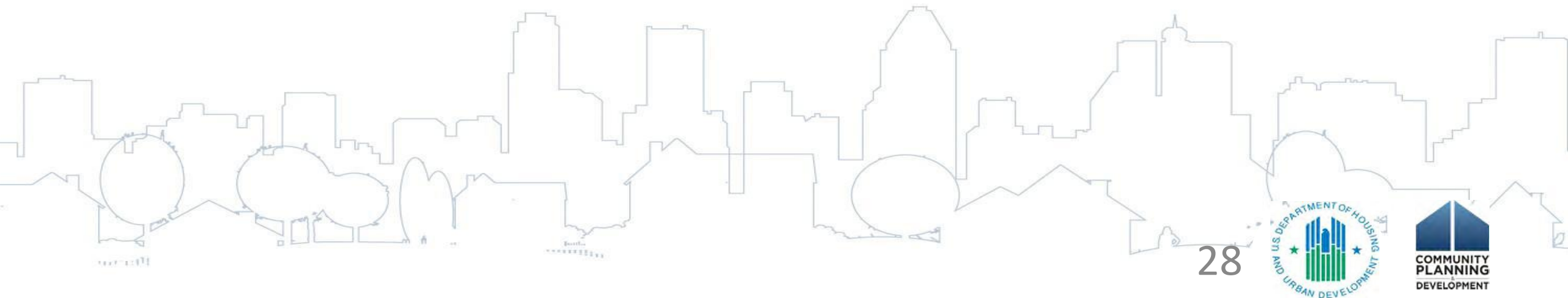


Knowledge Check

If I serve women and children, do I need to serve men with children?

☐ Yes

☐ No



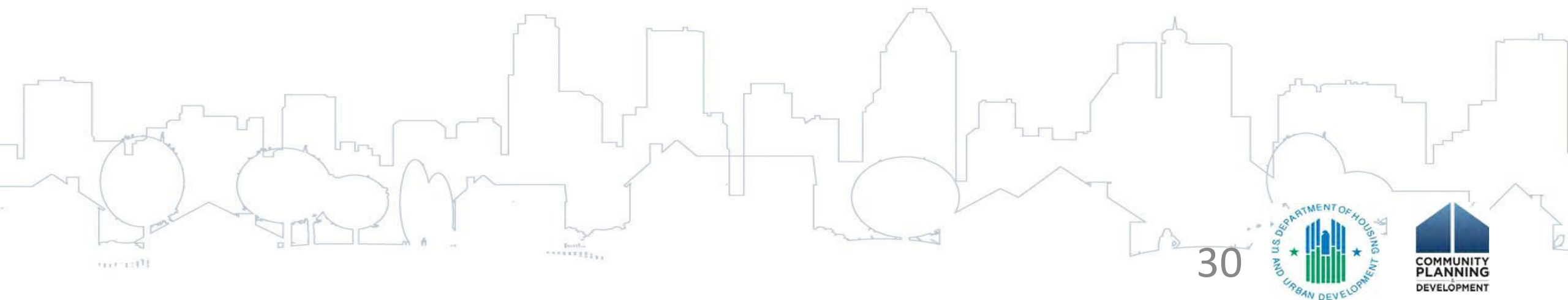
Scenario #3: Non Binary Identity

At my women's shelter, where everyone sleeps in a room with 3 roommates, a person is referred to the project by an outreach worker. We don't have any extra space to house trans clients. When they arrive, the individual refuses to pick male or female and says they don't identify with either. What should I do?

1. Ask the client, "We serve women at this project, do you feel your gender identity more closely aligns with the housing and services we offer?" If so, enroll the client.
2. HUD does not require project participants to select male or female. In fact, the HMIS Data Element 3.6 (Gender) allows for multiple gender categories, including transgender and "doesn't identify as male, female, or transgender."
3. "Extra" space isn't necessary to serve transgender or non-binary clients seeking services. Serving these clients is part of what HUD funded services do as part of their usual work, not as an added bonus.

Pause for Questions:

What questions have come in from participants?



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:

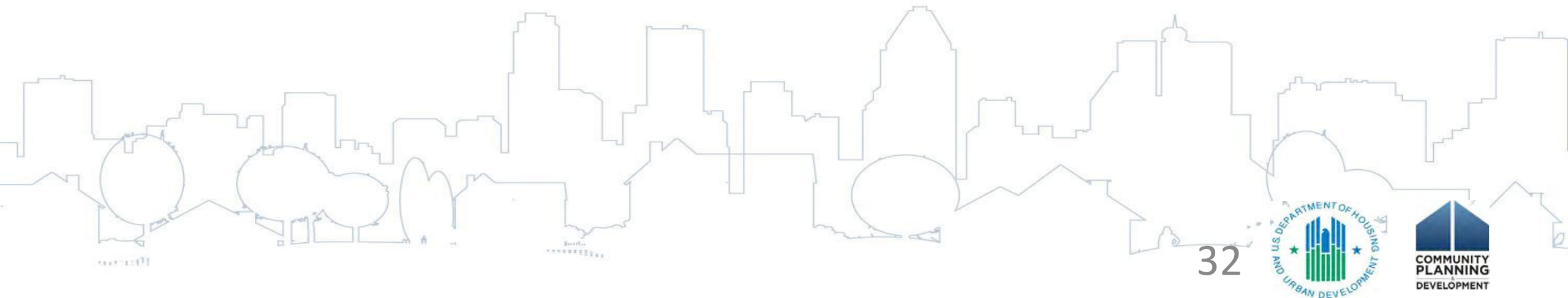
- Do we have an anti-discrimination policy?
- Do we regularly train staff and volunteers on the policy and how to implement? (Hint: use the [staff training scenarios](#) to get started!)

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?
- 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?

- Take a look at the Equal Access Self Assessment tool on the HUD Exchange:
<https://www.hudexchange.info/homelessness-assistance/resources-for-lgbt-homelessness/#self-assessment-for-shelters-and-projects>
- 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:
<http://www.civilrights.org/fairhousing/laws/state-agencies.html?referrer=https://www.google.com/>

Next Steps: Who Can I Ask for Help?

Visit HUD Exchange LGBT Homelessness Resource Page:

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

Materials available on the page include:

- [Resources for people in crisis](#)
- [Guidebook for developing inclusive, anti-discriminatory policies and procedures](#)
- [Project self assessment tool](#)
- [Staff training scenarios](#)
- [Decision tree for Coordinated Entry staff and project staff](#)
- [Web link and phone number to report violations](#)

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.

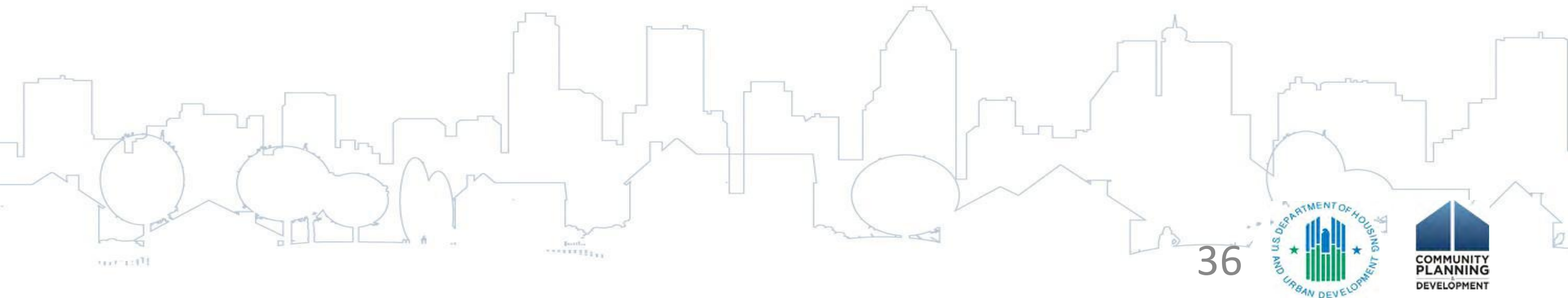
File complaints at:

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

Or call (800) 669-9777



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

☐ Does not identify as Male, Female or Transgender

☐ Additional category (please specify): _____

☐ Decline to answer

4. What pronouns do you use? _____

Use Training Scenario 2 and 3 to model affirming intake practices

Creating 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?

[Use Training Scenario 6 to model the development of safe space](#)

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
 - Single-use facilities are gender neutral, meaning anyone can use them
 - Increase privacy through staggered shower times for those who request more privacy

[Use Training Scenario 4 to model properly addressing privacy concerns](#)

Safe Spaces: Conflict Resolution

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

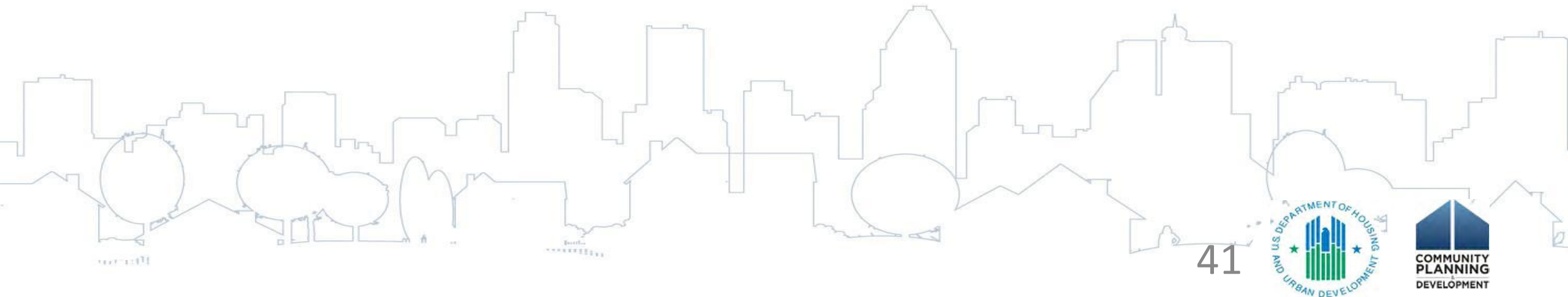
Staff training should incorporate multiple ways to address and resolve impermissible conduct among residents

Conflict resolution should not involve expulsion of the victim of harassment.

[Use Training Scenario 1 and 5 to model appropriate conflict resolution](#)

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/>



Safe Spaces: Non-Binary Clients in Single-sex Facilities

Some clients may not identify themselves as either male or female

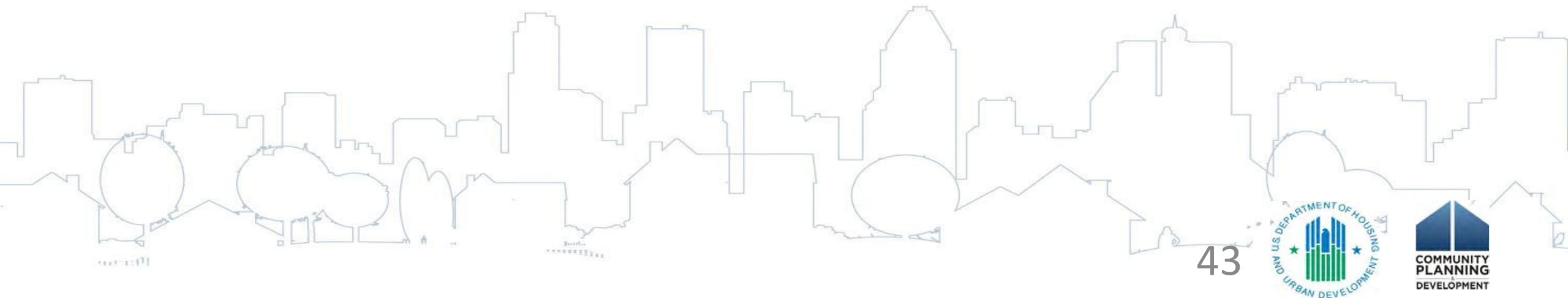
BUT

Most shelters assign housing and programming based on two genders only:
male and female

How should project staff resolve?

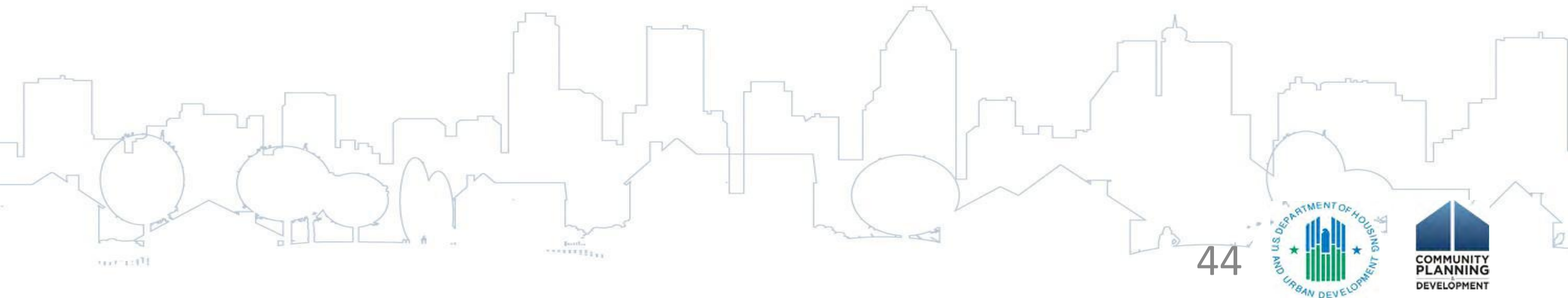
- **Explain** that the shelter's decisions are based on two genders only
- **Ask** the client to choose the gender with which they most closely identify
- **Make decisions** for placement that are appropriate to the gender selected by the individual.

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 one's gender identity; and
 - Individuals are not subjected to intrusive questioning or asked to provide anatomical information or documentary, physical, or medical evidence of the individual's 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.

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