# 2022 PHA Section 3 Final Rule Training Series - All PHAs Day 1

Felicia Gaither: Greetings everyone. My name is Felicia Gaither, and I am the deputy Assistant Secretary for the Office of Field Operations in Public and Indian housing here at HUD. It is my great pleasure to welcome all of you to the Public Housing Authority, Section 3 Final Rule Training series.

I would like to extend a special thank you to the Assistant Deputy Secretary of the Office of Field Policy and Management, Michelle Perez, who is a great partner with our team, and her team for coordinating this new rule training.

Every year, thousands of employment opportunities arise across the country as a result of HUD funding through competitive grants, and annual funding allocations also known as our Formula grants.

The purpose of Section 3 of the Housing Act of 1968, also known as Section 3 is to direct these opportunities, including jobs, training, and contracting to low, and very low income persons in the businesses that substantially employ them.

We are delighted that so many of our public housing agencies are participating in the Section 3 final rule training series. And I really hope that you have made time, made space on your calendars to attend both days. Great information here for you today and tomorrow.

From May, 2022 through August, 2022, through our partnerships with Office of Field Policy and Management, we have had over 1200 public housing staff register and attend this training. You're a key partner, and your commitment to promote engagement and successfully implement the Section 3 program at your PHAs will ensure more employment opportunities for those who need them the most, so thank you from me.

These opportunities will undoubtedly enhance and improve the quality of life of these individuals, and their communities. Starting August 25th through January 11th, 2023, so that's August 25th 2022 through January, 11th 2023, HUD will offer monthly Section 3 final rule office hours.

You should receive the registration information from your local field office. We encourage you all to please take advantage of this valuable technical assistance and resource opportunity. Again, if you have not received that information, reach out to your local field office to get the information so that you know when the office hours are being offered.

And lastly, we welcome your expertise, and encourage you to share your valuable knowledge in Section 3 best practices throughout this training series. The local field offices are available to interact with you after this training. Please reach out to them with any questions you have.

Again, my staff stand ready to serve and help answer all of your questions, and will help you to continue to build this partnership, this relationship on behalf of the individuals we serve. So again, thank you, enjoy the training, and I now, will turn it back over to Les.

Les Warner: Thanks, Felicia. So, welcome everybody. We've got kind of a full two days of training on this, on the Section 3 final rule. We'll be trying to make sure that you have not only learned the basics of the rule itself, but have been able -- we're just going to try to help you think through those sort of implementation questions, so you feel ready to be able to implement that, and make sure that you're going to be in compliance on that.

It's really important that you attend both of the sessions because the information sort of builds on itself as we go along. So I'd really encourage you to make that a priority for your schedule. So let's start out with a little bit of introduction, and talk a little bit about the course itself.

So our goal here, our objective is to make sure that you have an understanding of the regulations themselves, being able to define the requirements that are going to apply to the types of programs, and funding that you're working with.

But we also want to make sure that you're ready to implement the rules, so thinking about how does this impact my systems, my process, things like contracts, reporting requirements. And so we're going to try to make sure that you feel pretty comfortable with that.

So we're going to provide an introduction to the purpose of Section 3 itself, walk through the changes with this new Section 3 final rule, and then begin to work through those implementation requirements.

In our second day, we're going to be going through not only implementation, but also through those reporting requirements, and to have you ready to be able to apply this in real world situations in which you're working in.

So to try to keep this not as deadly boring as it might be, we're going to have -- we have two speakers that are going to be working with you throughout these sections -- sessions, but we're also going to be doing knowledge checks along the way, just to test, to see if you're picking up on some of those key concepts which are going to be really important for you.

As John mentioned, we do have the question function, and we really encourage you as you go along, when you have a question on something that you've heard us say or you're thinking about, well, how's that going to work?

Go ahead and put that question in. If you are wondering about it, probably other folks are also, and that helps us to kind of fine tune that information, and make sure you get what you need out of these sections.

So the trainer who is not actively training will be answering questions in the Q&A box as we go along, but we also will pause from time to time, and call out some of those. So for some of you that are brand new. It may be really -- you may find it challenging to monitor that question, and answer box, and listen to the presentation.

If you find that's the case, just leave the Q&A alone, and just follow along with the session, and that might serve you better. We also will be doing exercises. We're going to be doing these breakout sessions, and those really give us a chance to test, and apply some of these concepts which I think will help you to be sure that you understand how this is going to work.

And we're going to be introducing a whole number of tools as we go through this presentation. So first, let's start with some introductions. I am joined today by Andelyn Nesbitt Rodriguez. Excuse me. Andelyn, if you want to do an introduction.

Andelyn Nesbitt Rodriguez: Sure. Thank you so much. Hi, everybody, I'm Andelyn Nesbitt Rodriguez, and I hail from the great State of South Carolina. I've been in the community development field for about 15 years, a little over 15 years, and I've worked with nonprofits, and been with entitlement jurisdictions, so not on the public housing side, but on the housing community development side, specializing in environmental review, CDBG Home, and now, Section 3. Glad to be here.

Les Warner: Great. Thanks, Andelyn. And I'm Les Warner. I've been with ICF for 15 years providing training and technical assistance. Prior to that, I headed up the State of Ohio's Housing Community Development Programs.

And I am now, located on the very hot and steamy Georgia coast, right at the Florida border where we have, I think a heat index, today, of 106 degrees. Lovely. We are joined by a whole group of facilitators who volunteered for this. I think they volunteered, and you'll get to meet them in the breakout sessions, but we are really appreciative of their participation in this.

So let's talk a little bit about the series, and the different modules, and how we're going to proceed. So we're going to start out with module one, and that'll be really all of today talking through the basics of the requirements, going through the -- each aspect of the rule to make sure those basics, you have those under the -- your belt.

Then tomorrow we will be spending our time then thinking about how do we plan, and prepare for this? How do we need to implement this based on the regulations, and the changes on that? We'll also in module three, then be talking about, what's your role in the oversight of this, and working with the partners on this?

And then we'll close by talking about the reporting, and evaluation process, this part of Section 3. So one of the things I really want to point out, John introduced this section, and said that today's session is focusing on public housing financial assistance.

So you'll hear us talk as we go through this training that in the Section 3 final rule, there are several subparts. So Subpart B is specific for public housing financial assistance. And so this training is focused on those requirements under Subpart B.

If you happen to also be receiving funding that falls under the housing and community development side of HUD funding, that -- those funds are going to follow Subpart C, and there are differences in those rules.

We'll point out a little bit on that, but for the most part, our focus is going to be on Subpart C. If you happen to be someone who is also working with funds that would fall under Subpart C, there are additional trainings on the HUD Exchange that would give you more information for that.

So you'll see this icon for Subpart B public housing financial assistance in a number of our slides. And you'll know that that information is specific to Subpart B. So in advance of today's training, you should have gotten an email with a link to a handout version of the slides which we encourage you to follow along with, take notes on that.

I think it'll help you later to be able to check back on things, make some pertinent notes on that. Also included in that was our first tool that I'm going to be introducing. And that's just really a summary chart that shows differences between the old rule and the new rule.

And then included in that was our exercises, so we're going to be doing our first breakout session today, and we will be going through that first exercise together as part of our session. All right. So a lot of material that we're going to be covering, this is not sort of a one hour quick and easy training, so I'd really encourage you to try to do what you can to minimize distractions.

So, things like maybe putting your phone on vibrate, or something, trying to block out those other distractions on this. We will ask that you have a little bit of patience. So you saw, as we talked about, we're going to be talking about the basics of the regulations first, and then moving into that planning and implementation.

And I think for most of us who have worked as implementers, we go immediate immediately to, okay. How's that going to work? How do I implement that? So we may, from time to time with questions, be saying, hold on.

We're actually going to be dealing with answering your question in that next module coming along. And as always, we encourage you to come to all the sessions, and come on time so that you don't miss any important aspects of this.

So since we're not in a room together and able to kind of go around, and do some introductions, we're going to do a quick poll here, a couple of polls, just to get a feel for folks that are in the room.

So John's going to put up our first poll question, and what we want to know is your level of knowledge on the old Section 3 rule, the part 135, and so you'll see you've got a number of options here, if you'll click on one of those and then hit the submit button. All right. Polls ended.

So we've got a mix here which is kind of what we would expect, and a lot of that has to do with your role and function in the organization. But we have a lot of folks who had not a lot of knowledge, or some exposure to the old rule.

Then our second question is on your knowledge of the new Section 3 rule, the part 75 and same options here, if you'll mark one of those and hit the submit button. All right. So the same mix on this.

So it's not bad thing that you're not knowledgeable, or just somewhat knowledgeable. We're going to work to try to make sure that you are comfortable with all the pertinent aspects of the new rule.

And for those of you that were familiar with the old rule, we're going to be pointing out here and there, there's some significant changes between the old rule and the new rule, so you may have to kind of remind yourself, okay.

I have to unlearn a couple of things from how the old rule worked on that. All right. So let's jump right into module one, and we're going to be talking through the basics as part of this. So we're going to be introducing what is Section 3, trying to figure out when Section 3 is going to be triggered.

And so, a lot of you, I think, are going to be thinking through your portfolio, and determining how much of this is going to impact the programs that I'm operating. And then, we'll be talking about the terminology, introducing quite a bit of bit of terminology, and some definitions are going to be key to understanding the regulations, and how some of this will work for you.

So the purpose of Section 3 is it's a provision of the Housing Urban Development Act of 1968. And it's really to try to make sure that where there are opportunities that are coming from our federal financial investment for housing community development programs, that to the greatest extent feasible, and we'll talk more about why we've used that term, to the greatest extent feasible, we want to try to make sure that those benefits, those opportunities, are going to be directed towards low and very low income communities.

And you'll see, particularly with public housing financial assistance, we're trying to focus on those recipients of government assistance for housing. So we're trying to keep those benefits local, and to benefit the occupants of those communities.

So, as Felicia mentioned, each year there are billions of federal dollars that are being invested in distress communities. That's happening through the construction and rehabilitation of housing, but also, infrastructure dollars.

And so we want to make sure that we're helping families to achieve stability and some advancement. And so trying to figure out how do we keep those -- how do we have those investments then, have some spinoff benefits to the local community, and try to keep those dollars local, and foster some local economic development, some neighborhood economic improvement, and really work towards helping folks gain self-sufficiency?

So the goals of the final rule are to try to improve the effectiveness of this a bit. So you'll see, if this is -- for those of you that have dealt with the old rule, the biggest thing that you're going to be unlearning is that the new rule really focuses on sustained employment.

So we're not just looking at new jobs that are created, but we're going to be talking about being able to track, and show that income eligible individuals have not only gotten jobs, but also have been able to maintain them, and we'll give credit to those vendors essentially for that sustainability, and that's a big change in the rule.

Also the way that this is being counted, the outcome metrics that are going to be tracked, and reported are quite different under the new rule, and we'll talk through that in quite a bit of detail. And you'll see, as we go into more depth on that, that the way we're going to track that -- those metrics kind of aligns more with standard business practices.

I think there's a hope that this will make it easier for you, and you'll particularly folks who are familiar with the old Section 3 rule. Hopefully, you'll look at that and reach the same conclusion that there are some things that help kind of streamline how this could be done.

So the rule also provides a little bit more detail on program oversight, and what those expectations are, and really clarifies the obligations that you, and other partners that are part of these projects, the expectations that are there for you.

So let's talk a little bit about the timeline on this. For a lot of you, you've seen new rules or updates to rules happen over time. So this was first introduced in 2019, and then we went through a comment period that closed in June of 2019.

And then the final rule was then published in 2020 after going through all of the reviews as part of that. The effective date, and this will be important, and we'll be talking about this quite a bit more, the effective date for that new rule then went into effect on November 30th, 2020.

So you'll hear us talking about, okay. If this is something that you signed a contract where you committed funding for a project on or after November 30th, 2020, then the new rule is in effect. So there will be, I think, a process for folks in looking at your portfolio, and thinking, okay. Some of my projects are going to fall into the old rule, some are under the new rule, and we're going to talk through that in some detail.

And then there's sort of a second tier on this, that full compliance on the new regulation goes into effect or went into effect on July 1st, 2021. So if you're just hearing about the new Section 3 rule today, the key takeaway is it's been in effect since November 30th to 2020, and we need to make sure that all of your systems, and tracking, and metrics are going to be in line with what those new requirements are.

All right. So let's talk about when the new rule versus the old rule applies because this is important for folks. So in our category of legacy projects, so these are where we executed a contract, or we committed funds for a specific project, and we did that prior to November 30th, 2020 which we said is the effective date for the new rule.

So those actions were taken prior to the new rule being in place, and so you're going to follow the old rule for those project, so that's going to be part 135 as opposed to part 75 which is the new rule.

So you're going to maintain appropriate records to be able to demonstrate that you followed part 135 for those projects, but you're not required to report to HUD on that. So in the past you were reporting compliance into the SPEARS system. That is no longer required, so just hold onto the files to be able to demonstrate compliance with that old rule.

So that was prior to November 30th, 2020 which is our effective date. So for our projects that we committed funds, or we executed contracts on November 30th, 2020 or later, and this goes through July 1st, 2021, you're going to be following the new final rule, so the part 75 that we're going to be walking through in today's section.

You will need to then have records that line up with those requirements under part 75, but you still will not be required to do any reporting. The SPEARS system has gone away. There will be a new reporting system, but for these projects that fall within that November 30th, 2020 to July 1st time period, we're considering those to be transition period projects.

You simply maintain appropriate records, but there is no reporting that's going to be required. And so, we will be talking later in this section then about, okay. The projects that then are after -- on or after that July 1st, 2021 date about the reporting, we'll talk about that later on in our training.

So for right now, we -- you need to be thinking about what are -- what do I need to be doing now? What are the expectations for public housing agencies? So PIH issued a notice 2022-10 which we've included a link here.

But really, we're at the stage, if you haven't already done it, is thinking about planning. How do I make sure that I've transitioned my programs, all of my processes, systems, some of the standard documents we're using, to then reflect what those requirements are for the part 75 rule on that?

And that would include updating your policies and procedures for how you're going to be tracking the labor hours. And that's part of what we're going to be talking about tomorrow as part of our implementation, and we're going to be introducing some sample tools which would be a starting point for you to adapt those, to use for that.

So we're going to also be talking about with new and existing contracts what needs to be included in those to make sure that they reflect part 75, and the modifications about reporting those labor hours.

So I think for most folks, there's quite a bit of looking at all of your systems, processes, and procedures, and making sure that you've made appropriate updates on those. That also means thinking about your documentation system, your file system, to make sure that you now, have adapted your systems to collect and maintain the appropriate documents that you're going to need to be able to show compliance with part 75.

As part of that, and we'll talk quite a bit about this, the challenge on making sure that all of those parties that you're working with, that need to know about those changes, that we -- not only have you needed to get up to speed and your staff, but then communicating that effectively to others.

And that might include tenants, but it also certainly would include contractors, others that you're working with. So thinking about what will those training and technical assistance needs be? What's the best methodology to do that? We'll be talking about some best practices in that area that I think will be helpful in kind of planning for that aspect of things. All right. With that, I'm going to turn things over Andelyn.

Andelyn Nesbitt Rodriguez: All right. Thank you so much, Les. All right. Now, we're going to dive into applicability and thresholds of the final rule. We're going to cover definitions, safe Harbor provisions, and benchmarks, and we're going to review how to handle projects that involve multiple sources of funding.

So now, let's start with some information on the applicability and thresholds. So a key starting question here is, what programs are covered under the Section 3 final rule? I know we have a great question in the Q&A box already about defining a project, and we're going to get into that, but a huge part of it is, what is covered under the public housing -- under the rule, what's applicable?

So public housing programs, that's what we're here to discuss, and we're going to go more in depth in a minute, but to take a moment, there are various housing community development funded programs, that based on additional thresholds and type of work undertaken, may need to implement Section 3 requirements.

So this is important for the public housing authorities to understand especially for large PHAs that may have a jurisdiction in your area, that may provide some CDBG, Home, or other HUD funded dollars to a project.

It may require some coordination between you, and that funding entity. So for housing community development funds, you don't need to understand all the ins and outputs important that you know a few things.

There's going to be different applicability and threshold standards for the housing and community development funds. So for a quick understanding, Section 3 applies to housing rehab, housing construction, and other public construction projects.

When you're talking about housing and community development funds, those thresholds -- the applicability applies to housing rehab, housing construction, and other public construction projects.

And for housing community development assistance, Section 3 requirements apply if a project C exceeds $200,000 of housing and community development financial assistance from one or more HUD funded programs, so that could be some from CDBG, some from Home.

If it equals more than $200,000 then, on the housing community development side, Section 3 might be triggered. And again, if there's some entity in your jurisdiction where or your area that is going to perhaps partner with you and put some HCD, some Housing Community Development funds into a project, then you may need to know that, and know when it's triggered for them because there may be some coordination there, okay?

That's all I'm going to say now, about the housing community development, part of it. Let's move into public housing programs, and applicability of Section 3 to public housing. So first, for public housing financial assistance, there are no thresholds under Section 3.

That means that all funding is covered regardless of the amount of the expenditure or the size of the contract. So $1 in and Section 3 is triggered with public housing funding. For public housing financial assistance, Section 3 applies to these particular types of funds.

So Section 3 applies to capital funds, operating funds. It applies to RAD, the Rental Assistance Demonstration program for construction and rehab, but not for the Section 8, rental assistance, and we're going to talk about that more in the next couple of slides.

So public housing financial assistance, Section 3 applies to mixed finance development. And for right now, I'm going to skip the two last boxes on the left here. I'm going to come back to those in just a second. So let's talk about programs or funds that are not applicable under Section 3.

So housing choice vouchers doesn't trigger Section 3. Project based vouchers, and project based rental assistance payments, not applicable under Section 3. The RAD program, the rental -- Section 8 rental assistance portion of RAD, not applicable under Section 3. Material supply contracts, so these are your contracts that don't require any labor.

So, for example, a contract for office or janitorial supplies would not be covered under Section 3. Section 3 would be encouraged, but not required. However, a contract to replace windows that maybe includes the removal of the existing windows, and the installation of the new windows would be covered under Section 3, due to the involvement of labor.

Another thing that is not applicable under Section 3 is Indian and Tribal Preferences projects. That's not applicable under Section 3, and we're not going to get two in depth into it. But the short answer is that certain contracts, subcontracts, grants and sub grants must provide preferences in employment, training, and business opportunities to native American and native American organizations, and therefore are not subject to Section 3 requirements, okay?

So, now, let's get back to the last two applicable items, those last two boxes on the left that I skipped a moment ago, choice neighborhoods, and certain instances of Section 8. These two are connected with housing and financial development financial assistance projects.

So they would be triggered if the housing and community development funds, are included and are applicable. So meaning if the work being conducted is in housing rehab, housing, or public construction, and if it meets the threshold of $200,000 into a project.

For choice neighborhoods, all choice, neighborhood projects, phases, or activities that receive HUD housing and community development financial assistance exceeding that threshold of $200,000, including, but not limited two choice neighborhoods and CDBG are subject to Section 3 requirements.

Phases and activities unfunded by HUD financial assistance that are part of the choice neighborhood's transformation plan are not subject to Section 3 requirements. Okay. Section 8. Section 8 assisted properties are those properties or projects that receive Section 8 project-based or tenant-based monthly rental assistance payments. Section 3 is not covered for those.

However, those properties may also receive other funding such as CDBG or home for rehab or construction activities. If a property receives over that $200,000 threshold for CDBG, or home funding, or other housing, community development financial assistance then Subpart C of Section 3 which is the HCD Subpart, requirements would apply.

Okay. So that's lots of information. This slide here is going to be extremely useful to you, I suspect, as you go through, and always refer back to the applicability of what's accounted, what's applicable, and not applicable under public housing for Section 3.

All right. I just mentioned RAD a bit, the Rental Assistance Demonstration program. So the transfer of housing stock from public to private ownership under the RAD program often incorporates upfront capital improvements. This one-time activity is covered by Section 3, and this was documented in the RAD notice revision four, so that's H2019-23.

That was published on September 5th, of 2019. So that notice will specify that though RAD is not applicable under Section 3, the upfront capital improvements that are made as a part of that RAD application is subject to Section 3.

There's also RAD guidance published on the RAD resource net. So properties converted through RAD are covered by the same rules applicable to Section 8. However, the RAD governing notice does apply Section 3 requirements to those activities occurring after the date of the RAD conversion which are contractually obligated as part of the rack conversion.

So I kind of said the same thing two times there, those activities, those capital improvements that are obligated contractually through the RAD conversion project, those are applicable to Section 3. If Housing and Community Development funds are used to carry out those capital improvements necessary as part of the rack conversion, then you would use Subpart C of part 75 which again, Subpart C is Housing and Community Development rules under part 75, Section 3.

Any work (HUD-funded and/or non-HUD funded) required by the conversion after the RAD closing that involves housing rehabilitation or housing construction that exceeds $200,000 is subject to the Section 3 requirements and follow subpart C. There is one exception: In the case that there is no HCDFA (for example, CDBG & HOME) included in this phase of the project, then RAD participants must follow Subpart C for all requirements, except when undertaking prioritization efforts. For this instance, recipients shall direct employment, training, and contracting opportunities arising as part of the conversion to residents of public housing or Section 8 assisted housing rather than residents living in the service area or neighborhood of the project. All right. So let's talk about lead a little bit.

For lead, the threshold is met the Office of Lead Hazard Control and Healthy Homes Assistance exceeds $100,000. Now, HUD Housing and Community Development financial assistance is not included when calculating whether that lead assistance exceeds $100,000.

So it's just if the $100,000 from the Office of Lead Hazard Control and Healthy Homes, if that assistance exceeds $100,000, then Section 3 is triggered. All right. So now, let's cover some key definitions for Section 3.

One of the key changes in the final rule is the introduction of the term Section 3 worker. There are three types of criteria in which someone could qualify as a Section 3 worker. So a Section 3 worker is any worker who currently fits or when hired within the past five years fit at least one of the categories on this slide.

So a Section 3 worker could be a low, or very low income person which means that the worker's income for the previous or annualized calendar years below the income limit established by HUD, and that's 80 percent AMI.

A Section 3 worker could be employed by a Section 3 business concern, and we're going to talk a little bit more about business concerns as well. And a Section 3 worker could be a YouthBuild participant.

YouthBuild is an academic, and occupational skills training program serving the youth ages 16 to 24 who have dropped out of high school, or have previously dropped out, and re-enrolled. There's some additional criteria that you can check out Department of Labor's website for more information there.

So let's talk a little bit about those low and very low income limits that I talked about a moment ago. You see the first bullet here, a Section 3 worker could be someone who currently fits or within the last five years was low, or very low income.

So those limits are defined at Section 3b2 of the Housing Act of 1937, and are used to determine eligibility for the purposes of Section 3. These are established by HUD on an annual basis. So the limits are established at 80 and 50 percent of the area median individual income. So this isn't the family or household income.

I know that I was much more used to working with household income, or family income, but this is the area median individual income, so just the income for the worker. That's all that we're looking at here. It doesn't take into account household income.

The Section 8 income limits typically have an effective date of April 3rd, 2021. Well, April 1st, around April 1st of each year. The residential address of the worker is used to determine Section 3 worker limits, so that doesn't have to be within any distance of the project, or anything like that.

It's the residential address of the worker that you're going to use, and again, their individual income. That's what you're going to pull to determine their eligibility based on income. You can find your locality's income guides by Google searching, and they're also at SAM.gov.

All right. Now, let's talk about a targeted Section 3 worker. There are certain workers who receive priority under Section 3. So we have our Section 3 workers, and now, we have this more targeted group of Section 3 workers.

For a project that includes public housing financial assistance, a targeted Section 3 worker, and I mentioned that because it's a little different if we're talking about housing and community development financial assistance.

So know that they're different if you're talking about that part of funding versus public housing funding, but we're -- there's public housing agencies that we're talking to right now, so, for public housing financial assistance.

A targeted Section 3 worker is a worker who is employed by a Section 3 business concern, or a worker who -- that fits or when hired fit, at least one of the three categories listed here. A targeted Section 3 worker could be a resident of public housing, or Section 8 assisted housing.

A targeted Section 3worker could be a resident of other public housing projects or Section 8 assisted housing managed by the PHA that's providing the assistance, or a targeted Section 3 worker could be a YouthBuild participant.

So if you note there, a Section 3 worker, and a targeted Section 3 worker could both be eligible based on being employed by a Section 3 business concern, or being a YouthBuild participant. So that's an interesting thing to note, and we'll get into that little more as we're talking about how you use these targeted in Section 3 -- targeted Section 3 worker definitions.

All right. So to illustrate here, this graphic shows three concentric circles. So the largest external circle represents all workers. This is your total universe of workers, and some of those workers are going to qualify as Section 3 workers, and that's the middle circle.

That gray circle qualify -- is Section 3 workers. Of those Section 3 workers, some of them are also going to qualify as targeted Section 3 workers, and that is the smaller -- smallest innermost circle that we're talking about there.

So what this graphic depicts is that some workers that are totally universal workers, then some of those are going to qualify as Section 3 workers. Some of them are going to be targeted Section 3 workers, but targeted Section 3 workers are also considered Section 3 workers.

So that's important to keep in mind because after a while, when we're going to put this into practice, you'll have to note that some of your target -- well, that your targeted Section 3 workers can be counted as targeted Section 3 workers, and they can also be counted as Section 3 workers.

They are both, and you're going to count them both for both times. All right. So I've mentioned a couple of times, Section 3 business concerns here, and so, this is another key change in the rule. A Section 3 business concern is a business that meets at least one of the following criteria, at least one of these criteria, and it has to have been documented within a six-month period, okay?

So a Section 3 business concern is at least 51 percent owned and controlled by low, or very low income persons. A Section 3 business concern is at least 51 percent owned, or controlled by current public housing residents, or residents who currently live in Section 8 assisted housing.

Or over 75 percent of the labor hours performed for the business over the prior three-month period could have been performed by Section 3 workers. That would also qualify a business as a Section 3 business concern.

And remember, if someone works for a Section 3 business concern, then they're automatically considered a Section 3 worker, and a targeted Section 3 worker. You could qualify them automatically, and so that's a big deal. All right. Now, it is time for a knowledge check.

All right. All right. Our first poll question is up. Do Section 8 housing choice vouchers or project based vouchers, project based rental assistance, do those contracts trigger Section 3? Yes, or no? All right. And great job. Great job. Yes. The answer is no.

Section 8 assisted properties are those properties or projects that receive Section 8 project based or tenant based monthly rental assistance payments, and those are not covered by Section 3. You should remember though, that such properties may also include other funding like CDBG, or Home for rehab or construction activities.

If the property receives over $200,000 in CDBG, or Home funding, or other Housing and Community Development funding, then Subpart C may be triggered, and that entity may need to report on Section 3 activities, and there may be some coordination that you'll have to do with them.

All right. Let's pull our next poll question. A Section 3 worker is any worker who currently fits, or been hired in the past five years fit, at least one of the following categories as documented. Section 3 worker could be a low income -- low or, very low income worker, a worker who's employed by a Section 3 business concern, or a worker who's a YouthBuild participant. Is that true or false?

All right. Yes. Excellent job, everybody. Excellent job. That is true. Wonderful. So that is a Section 3 worker. Just a little bit of bonus information that we haven't gone over, but bonus information.

What if somebody was hired before November 30th, 2020, on November 30th, 2020 is when the Section 3 final rule went into place, so we can only count things that happened after that time, but what if they were hired before that time?

If they were hired prior to November 30th, 2020, then you could determine their eligibility based on their current status, not what they've been when they were hired, or any time after that. You'd have to use their current status if they were hired after -- before November 30th, 2020.

If they were hired after November 30th, 2020, you could evaluate that individual status based on their status at the time of hire. So if that person was hired, and they may have fit the low income thresholds, and then, now, they've received promotions and pay increases, and that's a wonderful thing, then you could still count them if at the time of hire, they did fit that low income threshold.

So that's a little bit of bonus information there. All right. Third poll question. All right. Low, and very low income limits are determined annually by HUD, and for the purposes of Section 3 are established at 80 percent and 50 percent of the area median household income. Is that true or false? It's a little bit of a tricky question here.

All right. Yeah. Good job. This was a tricky one. I know. So the answer is false. And I don't like to trip people up like that's. I apologize, but limits are established at 80 and 50 percent of the area median individual income, so not household income, but individual income. So for the folks that saw that, and recognized that, kudos to you because that was a little bit of a tricky question. All right. At this time, I'm going to turn it back over to Les.

Les Warner: All right. Thanks, Andelyn. So, I just wanted to go ahead. We had a question in the Q&A box about targeting which we had just discussed, and I think it might be helpful to go ahead, and call that one out.

So we had a person saying I thought that part of the targeting part was if that worker lived in the same area where the project was happening, and that -- thinking like the same zip code on this. Our definition for our targeted worker is different under Subpart B for public housing financial assistance than it is under the HCD funding, Subpart C.

So Subpart C is really looking just at that area, but our targeted worker under Subpart B is more specific, and it's looking for essentially recipients of public housing. So a resident of that project or other Public Housing Assistance, but also then looking to the Section 3 business concern with also YouthBuild participant.

All right. So, let's move into our next section where we're really going to be talking about, okay. So we've learned the definitions. How are we applying those? What are we counting, and what are the goals that you're needing to hit to be considered to be in compliance with this?

So we're going to be talking about Safe Harbor. We're going to use the term Safe Harbor. And this is really where you are presumed to be in compliance with the rule if you meet our criteria for Safe Harbor which it's the presumption that you have hit the threshold that we're going to be talking about now.

I will say, on each one of these that there will -- you will hear us be giving a little cautionary that it's -- you've provided evidence, or you've been able to report that you met that Safe Harbor unless evidence is provided to the contrary.

So, for instance, if I have reported that I have met the criteria for Section 3, and targeted Section 3 workers, and I have a HUD monitoring that occurs, and when they look at the details on that, they determine that how you tracked that was incorrect, well, that's absence -- that's evidence that's showing that you were not really in Safe Harbor.

So Safe Harbor, we're going to be basing on what you've reported, unless there's additional evidence that would essentially show that that's not correct, and does not apply to you. So when we talk about being in Safe Harbor, it means that we will have met, or exceeded the Section 3 benchmarks which we're just about to dive into.

But you also would need to be certifying that you follow the prioritization of effort, and we'll get into that also in just a minute. So just keep in mind that that Safe Harbor compliance check is two part. It's meeting and exceeding -- meeting or exceeding the benchmarks, and those are a quantitative metric, and then also being able to certify that you followed this prioritization of effort, we'll be covering.

So, in the absence of meeting that Safe Harbor, where the numbers meet those thresholds for the benchmarks, the quantitative benchmarks, the question then becomes, am I just out of compliance?

You still have the ability to be considered in compliance if you were able to show that you met the qualitative effort. So for those of you that worked under the old Section 3 rule, you may recall that there -- you had particular thresholds that you were trying to meet, but in the absence of that, and we might have had a project where we can create very many jobs, we also could still be in compliance by showing that we made all appropriate outreach efforts to make sure that where possible, we were going to further the goals of Section 3.

So we have that same sort of in the absence of meeting the quantitative, the numbers on this, you still have the ability to be considered to be in Safe Harbor, if you have done those qualitative efforts to try to assist low, and very low income persons with employment and training opportunities.

So we'll be talking about that, but I think the key takeaway here is, I, as a public housing organization that's implementing this, are probably always going to not only have a system to try to collect, and meet those quantitative benchmarks, but I also want this backup plan where I have everybody undertaking, as a standard protocol, undertaking those qualitative efforts.

So, if when I get to the end of this project, I put the numbers together and determine, oh, I slightly missed Safe Harbor on one of these benchmarks, you could still be okay if you've had that system in place to do the qualitative efforts that would be needed.

So it's that belt and suspenders we want to make sure that at the end of the day, we're going to be in compliance for this. All right. So we need a few more definitions before we can go into the nitty gritty on how we make these calculations.

So we're going to be counting labor hours as part of this, and so we need to be able to define what is a labor hour. This is specific for public housing agencies. So this is specific to Subpart B. We have a different definition under Subpart C.

So when we're calculating, and looking at labor hours, we're going to look at the total hours worked by all workers during that PHA's fiscal year. So, if we have a project that spans several fiscal years, we're going to be making that calculation on a fiscal year basis, for as many fiscal years are as involved in this.

So our calculation is based on fiscal year under Subpart B. All right. So here are our benchmarks, and we'll kind of talk through these.

So, Andelyn showed you this graphic earlier with the total workers for the project, and then our Section 3 workers, and our targeted Section 3 workers. So what we are doing here doing here on our tracking and meeting those benchmarks, is we are going to track what are the total labor hours worked for this overall project?

And then from that number our goal is that 25 percent of those labor hours were completed by workers that actually qualify as a Section 3 worker. So we're going to have to always track those total labor hours, track our Section 3 workers' hours, and we're going to be dividing those to determine if we've hit that 25 percent benchmark.

We want to hit 25 percent or exceed that for our projects. That's on a fiscal year basis. Our second benchmark, and we're trying -- we need to hit both of these, is for our targeted Section 3 workers.

So they are a subset of our Section 3 workers that also fit these more restrictive criteria that Andelyn just went through. So our goal here is that five percent of our workers qualify as targeted Section 3 workers.

And then we would be calculating the number of labor hours that they completed, and determining that it's at least five percent, or more of those total labor hours for the project to meet that benchmark.

So we have two separate benchmarks that we are tracking information, and going to be reporting to be able to demonstrate that we made those quantitative benchmarks. The math is at the bottom here, and we're going to go through some examples on this.

So one thing I think people oftentimes find a little bit confusing, because we're kind of trained not to do anything that's a duplication, let's say that I am -- I've qualified as a Section 3 worker, and I worked 200 hours on that project.

So my 200 hours are going to be counted in that calculation as a Section 3 worker, and they're going to -- those hours will help to get us towards that goal of 25 percent. If I, as a Section 3 worker, also qualify as a targeted Section 3 worker, my hours are also going to be counted in that calculation of the five percent, because I qualify not only as a Section 3 worker, but also as a targeted Section 3 worker.

So it's not a duplication that my hours would be counted in both categories. We are looking for all workers' labor hours in each of those categories to make that calculation. Hope that helps a little bit for folks. All right. So let's look at an example here.

So in this case, we've got a project. We've got a PHA that has PH -- PIH capital funds that they're going to use to modernize some public housing development in their portfolio. They're using $56,000 for that purpose, so a really modest modernization.

And so in this case, they've contracted with the local construction company, Carlos Construction, and we're told about Carlos Construction, that their team over the last three months 58 percent of their labor hours qualified as -- those workers qualified as low, or very low income workers.

And we're also told that the business is not owned by folks that either qualify as low, or very low income, or qualify, or are a resident of PHA or receiving Section 8 assistance. And so, based on our definition of a Section 3 business, we know that Carlos Construction doesn't qualify as a Section 3 business concern.

The reason that's our first question here is, Andelyn noted that a Section 3 worker would be any worker that worked for a Section 3 business concern, same thing. All of those workers also qualify as a targeted Section 3 worker, so it would make our life really easy if Carlos Construction actually qualified as a Section 3 business concern.

We would be able to automatically count all labor hours from their workers as qualifying for both of these categories, so we would instantly have qualification, and have met, and far exceeded our benchmarks on this project.

So in this case, we know that Carlos Construction does not qualify as a Section 3 business concern, so we have to do the math. So in this case, we've got a total of 4,000 labor hours that were completed as part of this upgrade to our housing development.

And of that, we've looked at the workers for Carlos Construction, and we have workers that qualify as Section 3 workers, and we've tabulated that their hours were 1200 hours. And so that gives us the data that we need to be able to make the calculation for our first benchmark, our Section 3 workers, and then our second benchmark which is on targeted workers.

We are told that we have got 80 hours of worker labor that we're YouthBuild qualifying. We've got 360 hours of folks getting a voucher, and then we've got 560 hours with project based Section 8.

And so those are our labor hours that qualify as targeted Section 3 workers. So let's look -- we don't have to calculate the math on our own. We can simply look at the results here. So when we plug those hours in, we know we had 1200 hours of qualifying workers for Section 3, a total of 4,000 of labor hours.

So we're at 30 percent of our Section 3 hours were met on that. So our benchmark was 25 percent. We're at 30 percent. We are good to go on this. Our second benchmark that we are also needing to meet, to be in that Safe Harbor based on the quantitative benchmarks would be that cumulative number for that fiscal year of our targeted Section 3 workers.

So when we added up our YouthBuild, our HCV, and our project based workers that qualified, we've got a thousand labor hours out of our 4,000 total. So we've got 25 percent of our hours were completed by qualifying targeted Section 3 workers, so we're way above that five percent benchmark for this project.

So in this case, we would be able to document that we met, and we actually exceeded both of our benchmarks on that. We would also indicate that we followed that prioritization of effort that I mentioned we also have to certify, as part of being in Safe Harbor.

And this project would now be considered in compliance with the Section 3 rules, unless as we mentioned before, that there was evidence to the contrary, such as a later monitoring issue that disqualified part of what we had been reporting. All right. So I hope that you follow that, and we'll be revisiting that a little bit further as we go along.

So let's talk about an exception to this which sort of gives you a bonus possibility. So when we're counting all those total labor hours for the project, we're going to exclude what we would call professional service labor hours.

So these are professional services, or non-construction services that require an advanced degree, or professional licensing, and so they are excluded from that count. So, if we had a hundred hours of -- that met this definition of professional services when we calculated that 4,000 total hours for the project we just looked at, we would back out those hundred hours that were professional service labor hours.

And so, we would only be reporting 3,900 labor hours as opposed to the 4,000. So, that's how we handle as part of reporting total labor hours for that project, these get excluded, but here's the bonus opportunity.

So if we have workers that fit in this category, so their hours are not being counted in that total, who they as workers actually qualify as a Section 3, or targeted Section 3 workers, we can include their labor hours in that calculation towards compliance on that.

So we wouldn't include them in the bottom number, the total labor hours, but we could include them in that top number towards meeting our goal here. So I'll use the example. Let's say you have an accounting firm, and the -- of course that's going to require advanced degrees, and certification, or licensing, but you may have some workers that are part of that, that actually qualify as a Section 3, or targeted Section 3 worker.

So if you documented those individual workers as being eligible, and you could track their labor hours in that project, we wouldn't include them in the denominator, but we would include them in enumerator.

I will say it's been a long time since I've had to think about numerator, and denominator on that, but we would include them in our top number in calculating Section 3, or targeted Section 3 labor hours that have been completed.

We would not include their hours in that cumulative total for that particular project. All right. So that's just sort of a bonus situation, and also important to think about when you're calculating, what are the total labor hours for this project, that we will have some labor hours that would be excluded.

So here's another bit of what I think is really good news. For many of you who are working with some of the other federal requirements where a particular rule has been set in place that had maybe a dollar amount, and there's no mechanism in those regulations to update that.

So, for instance, anybody who's worked with Davis Bank and federal wage rates knows that our trigger on this is $2,000. It's been $2,000 for pretty much forever. And so, one of the good things about this new Section 3 final rule is that they built in a way to be able to evaluate, and update what these benchmarks requirements are going to be.

So the way this is laid is laid out is that HUD will establish the Section 3 benchmarks for Section 3 workers, and targeted Section 3 workers through a document published in the federal register, and that will be then updated through that same process.

So it'll be updated not less than once every three years, so not less than. It could be more frequent than that, and so we will be watching for that to be done. So HUD has some options, the way these regulations were laid out.

They could which is what that we currently have, establish a single nationwide benchmark for both Section 3 workers, and targeted workers, and so that's our 25 and five percent that we've just been going through.

But they also have the ability, they have the option within the regulations to establish multiple benchmarks, so they could choose to do this based on geography. They could be doing it based on types of Section 3 projects, or other variables.

So trying to kind of tweak what those benchmarks were to make them reasonable to be able to attain over time on that. So the way that that evaluation would be done is that they're going to be aggregating the data that's reported through that system, looking to make those evaluations, and then that -- any revisions that they would be making on this three-year, or more frequently basis, would be based on crunching, aggregating that data on that, to determine whether these are still appropriate benchmarks, or whether perhaps they needed to make some changes on that.

So that should be kind of good news, and we'll watch that over time to see how that might change. We had an earlier question on this. I was thinking we wouldn't answer it officially till tomorrow, but luckily, we moved this up. So there is some flexibility for small PHAs, and that is defined as PHAs that have 250 units or fewer on that.

Les Warner: And so for those qualifying agencies, they have the ability to elect, to not report labor hours. So not doing the quantitative benchmarks at 25 and 5 percent, but to only report on the qualitative efforts, so doing those outreach efforts to try to help match low, and income individuals with those economic opportunities that might come along.

So if you were a PHA that fit that criteria, then you would need to be working with your HUD program office to lay out what your method, what your protocol was going to be for your qualitative reporting on that, so that is something that you would need to work out in advance.

I believe that they would be then verifying that, yes. You qualify for this labor hour opt out, and then you would have an agreed upon plan on your qualitative efforts for that, so that is good news for small PHAS. All right. So that gets us to our exercise.

So John's going to shortly put up our breakout session. There'll be a popup that will say, join me. You'll click on that button that'll whisk you away into our small breakout sessions, and we encourage you in those sessions, turn on your camera, unmute. This is like we're in a small group being able to work together. So John, if you want to go ahead and route us into our breakout sessions, go.

Andelyn Nesbitt Rodriguez: All right. Hello, everybody. Welcome back. I think we're all back now. I hope everybody had a great breakout session. I am going to go ahead and discuss -- go ahead, and share the answers so that we can get to the bottom of this.

All right. So if everyone can see my screen here, Understanding the Basics, module one, Sumter Housing Authority committed funds to a multi-family housing project in August of 2021, therefore, it is subject to the new final rule. It was after November 30th of 2020.

They're not contracting with a Section 3 business concern, so we can't go ahead and qualify everyone as Section 3, and targeted Section 3 workers, so we're going to have to do our formulas here.

It's now the end of Sumter Housing Authority's fiscal year. That's when PHA is reported, at the end of your fiscal year, and the following information has been collected. So 15,000 hours were worked on the redevelopment project, total.

Of those, 5,000 total hours were performed by certified Section 3 workers. Of those Section 3 workers, 575 hours were performed by Section 3 workers who were public housing residents, so that does qualify as a targeted Section 3 worker.

Of those Section 3 workers, 25 at labor hours were performed by certified YouthBuild participants. That also qualifies them as targeted Section 3 workers. So we have 15,000 total labor hours, 5,000 Section 3 labor hours, and a total of 600, that 575 plus 25, total of 600 targeted labor hours.

So in determining here if the PHA has met its benchmarks, when we take the oh, let me go down. When we take the 5,000 Section 3 labor hours, and divide that by the 15,000 total labor hours, we get 33 percent which is above the 25 percent threshold, so this PHA has met their Section 3 worker benchmark.

Now moving on to the targeted Section 3 worker benchmark, when we take the 600 total targeted labor hours, and divide that by the 15,000 total over hours, we get four percent, so that's under five percent.

This PHA did not meet that targeted Section 3 worker benchmark, so that PHA is not in compliance with Safe Harbor benchmarks on this project, because you have to meet both the Section 3 worker benchmark, and the targeted Section 3 worker benchmark, in order to be in compliance with Safe Harbor benchmarks.

So that is the first exercise, and I hope that everybody -- that helped folks seeing it written, certainly helps me sometimes, and yeah. So with that, we're going to move forward. I'm going to hand it back over to Les.

Les Warner: All right. I was trying to answer a couple of questions there, and I think we'll probably just hold the rest of the questions as they come in, because we've got a Q&A session at the end, and we'll just answer them verbally. All right.

So we're going to now dive into that certification process for Section 3 workers, and targeted workers, and I think this will help begin to think on some of those things about, okay. How is this going to work? Who's going to do what on this? So let's start with Section 3 workers.

So we have some options here, and I think this will help to begin to realize how some of how some of these slightly different rules might streamline things for folks. So I know that probably most of us are really used to, when we're going to certify someone as being eligible, that we go through a full income documentation, and we would expect to have a whole file of income information for not only the individual applicant, but for their entire household.

So this is simpler, and it was purposely made simpler. So a worker to qualify as a Section 3 worker, and have appropriate documentation, we could use a self-certification form, and we will have an example to provide tomorrow where that worker, for just their income, would verify that their income was below our limit.

So you could use the self-certification form, plug in the appropriate income limit for a qualifying worker. They could sign that self-certification, and that would serve as qualifying them as a Section 3 worker.

And so, that would be something the employer presumably, would be giving to those workers to fill out, and collecting those back. We also could have a worker certified that they're a participant in a means-tested program, and that would include public housing, and Section 8 assisted housing.

And when we get to the targeted Section 3 worker, when you realize, oh, wait a minute. If I'm a resident of public housing or Section 8 assisted housing, I also qualify as a targeted Section 3 worker.

So there might be some benefit if we have a worker that could both qualify based on their income, and also based on where they reside, get the self-certification on where they reside, and that'll cover you for both Section 3, and also for their targeted Section 3 worker documentation.

So those are the two forms that we'd be using directly with workers themselves, but we have the option to not actually be dealing with individual workers. We also could have a certification from the PHA, or from the owner property manager for project based Section 8 assisted housing, or tenant based assisted housing that they could provide a certification for these workers that are participating in one of the programs.

And so we wouldn't have to go to that individual worker, and ask them to fill out a form a form. So it could be that with a contractor that we're working with, they have a list of their workforce. You, as the PHA, could review that document, and determine that, oh, they've got 25 workers.

We've got four of them that qualify based on being project based, or tenant based assisted households. And so, you would simply be able to certify that these workers qualify, and then that contractor would be able to say, okay.

So each of these workers, their cumulative hours worked on this project are a certain amount, and you'd have the documentation that you would need. We also, and this is where Andelyn was stressing, and we had a trick question on our knowledge checks, about the fact that we're looking at worker income, the individual income, rather than that household income.

So we also have the option, under this certification, for the employer themselves based strictly on the workers' income, to be able to look at their workforce for this project, look at the wage rate that's being paid, and determine that these employees are going to qualify, and that's based on taking that wage rate, and annualizing it.

And so that might be a pretty streamlined way for -- particularly between the two options here of the PHA looking at that workforce, and the employee certifying -- employer, I'm sorry, certifying based on workers' income to handle that documentation.

And so I know we've had in the trainings we've been doing a lot of PHA saying, okay. So I'm going to have to do this certification for each one of these workers. Not necessarily. I think this would be one of those conversations, that in kind of rolling out the implementation of this, I would think particularly on larger contracts, that you could work with that contractor, and establish a process that we're going to determine what workers are in their workforce.

They can provide you a certification based on those wage rates, and be able to provide that certification. And you may be also able to then review based on where they reside, and be able to qualify them in that way.

We also have the ability to, if we have an employer that qualifies as a Section 3 business concern, this is sort of the magic bullet here, that if our contractor qualifies as a Section 3 business concern, we're able to able to essentially make the presumption that all of the workers qualify both as Section 3 workers, and targeted Section 3 workers.

So when we went through the criteria to be a Section 3 business concern it was based on ownership of that business concern, whether they were low income, whether they were a resident of public housing, or if their workforce over the last three months, was at least 75 percent of their workforce was -- were low income workers.

And so, in the case where we've got a Section 3 business concern that we've handled that documentation, then we could simply have that employer certify that each of these workers are employed by that Section 3 business concern, here are the hours that they have worked, and we'd be able to count all of those hours towards our benchmark for both Section 3 workers, and targeted Section 3 workers.

So, we are going to spend some time tomorrow, I think, talking about -- trying to determine do we have Section 3 business concerns in our area, doing some outreach to try to get them to participate in programs, and obviously it would make your tracking on this a little bit easier.

So just key point here is, we can use a self-certification form for that worker to certify about their individual income. They also could certify based on -- qualifying based on a means-tested program, and we'll have sample forms for you that you can modify for your use on that.

But then, we also have this opportunity for the employer, or the PHA to be able to make that qualification. And I'll mention that one of the most frequent questions we have on this is, okay. If the employer is going to certify them based on their wage rate, what if that person has another job?

This criteria, as laid out in the regulation, does not ask -- you the employer does not have information about any other employment. The employer does not have information about household income.

And so it was written very tightly to be that the employer can certify that worker based strictly on the income that they are receiving from their wage rate, so it kind of streamlines that process. I think there's a tendency for a lot of us to think, but what about -- but that's not how this was written, and it was done purposely to help streamline this process.

So that was Section 3 workers, and we need one of these ways of being able to document that. It could be done by the PHA, but it could be done by the employer on that. All right. So let's switch gears then, and talk a little bit about our targeted Section 3 workers.

So again, we could have, because our criteria for that targeted Section 3 worker includes both being a resident of public housing, or receiving Section 8 assistance, or being a YouthBuild participant, so we could use a self-certification from that worker certifying that they fit that criteria.

That would be completely acceptable. But we also then have the option of that certification could be coming from the PHA, or a property manager about the fact that that worker is a participant in one of their programs.

But we also could qualify based on that Section 3 business concern, so again, if that employer is a Section 3 business concern, then we're going to be able to make the presumption that their entire workforce is going to qualify as a targeted Section 3 worker, as well as a Section 3 worker, and be able to document in that way.

And the reason I go to this level of talking on this, I think first off, a lot of you are kind of trying to think about the administrative burden, and how you're going to handle this. Probably a lot of you are not thinking I've got loads of extra time, and I will happily take on something more.

So I think it's important to realize that there are ways for this to be done in the employer leading this, and that might be by them passing out these self-certification forms, and explaining to the workers how that is.

Or, I would think in a lot of cases, it's going to be much easier to simply help the employer understand what the requirements are, and their ability to be able to do these certifications, and have that process in place.

So I mentioned earlier about this communication thing, and how do we get the word out? How do we educate some of those partners? And I think this is going to be important for folks to help all of those other parties understand what the actual requirements are, and probably on the front end layout, what's our process going to be on working through this, and making sure that we have documentation that's done in a timely manner, that's been collected, and captured for that?

All right. So that gets us through our last slide, and I know we've had some questions that questions that have come up. So, I don't know. Andelyn, do you want to just toss questions out or?

Andelyn Nesbitt Rodriguez: Absolutely. All right. How do you calculate a salaried worker for hours worked?

Les Warner: All right. So our assumption is that a full-time worker would -- in most places, a full-time worker is going to be working 2080 hours, but I guess the other part of that would be, is that person -- are they -- if I'm a salaried worker, I mean, Andelyn and I are working on probably, I don't know, 15, 16 different things well, throughout the year, probably a lot more than that.

So being able to then designate what portion of that full-time salaried person is attributable to this particular project? And I will -- I think this kind of blends into -- we had a question that I saw before I started this up where, and this is somewhat uncharted territory, but the question was, I've got the same contractor that is being paid under both capital funds, and also out of operating.

And not really having a methodology to be able to divide up on what portion of this is going to be attributable to each of those funding sources when we're calculating those total labor hours.

So I think in any of these things, if you are paying, if you are reimbursing this vendor for this full-time staff person's time, there must be a methodology on how you're determining what portion of their salary is actually attributable to the work you're paying for.

So if they're not reporting labor hours, is it laid out that 50 percent of their time is going to be related to this project versus other projects? And we think you're going to have to have some kind of methodology in their invoicing to determine how much are they eligible for reimbursement on that?

Andelyn and I both are reporting in half hour increments, and to codes for individual projects. So I would think, look to that methodology in trying to -- how you break that out. In the example where you're -- the same project is partly being paid from capital funds, and also from operating, I would think you must have had some methodology when you budgeted this, that you were going to pay a certain portion out of one funding sources versus another.

So I would expect if, for this to have an adequate audit trail, that you're going to have to have something similar where you are showing how you justify what's billable to operating versus capital funds versus something else.

So I think go back to that methodology as your justification. And I these examples where we don't have additional guidance at this point, I might want to run those by my program office, and say, okay. Here's our scenario. Here's what we think is appropriate, and get their blessing on that.

And if they don't have an answer, they will have a desk officer. They will have a headquarters person that can be elevated up to get you a final answer on that.

Andelyn Nesbitt Rodriguez: Yeah. I'll just add that, yeah. I agree. There must have been some sort of methodology in the beginning. We used to write that into our contracts -- write that into our agreements, not contracts, our agreements in the beginning, who would be working on the project, whether that was full time or part-time, the estimated hours per week that they would be working.

So I just want to add that, always make sure that your files read like a book. I'm an old compliance person, and so when you do that, I actually see the question there that Les was just referring to, when you do that and you find, okay. Yeah.

It was in our policies and procedures, or that we were going to do it this way, or it was in the agreement that they were going to work this particular, then make sure that you make a copy of that, and put it into this file, so that everything can always read like a book, and it's easy to see why you attributed these hours to the operating fund versus capital fund.

Les Warner: And I noticed that, I think this is the same person had responded back that, yeah. The vendor is simply reporting total hours. I would assume you were using some methodology of how you're dividing that invoice already, and so you would stay consistent to that.

We do have some guidance where you have a -- I noticed a PHA specific term for this, but essentially an indirect cost plan. And so the guidance on that is that you would use the labor hours that were attributable, or billable to that particular capital funds, operating funds based on your indirect cost plan assignment on that, so I think that's consistent with that methodology.

Andelyn Nesbitt Rodriguez: Very good. All right. And we're going to talk -- I'm going to say one more thing about this, and then move on another question. We're going to talk a little bit more tomorrow about creating a Section 3 plan.

You had mentioned here that this is a vendor, so I'm not quite sure if you could do this, but with contractors, a part of Section 3 plan is laying out roles and responsibilities for everybody up front at the beginning of the project, so they know.

And really, it's a contractor's responsibility and obligation to give you the information that you need to report ultimately, so your Section 3 plan could certainly provide some teeth to be able to get that contractor to pay a little bit more attention to that if you needed it. So that's the last thing I will say about that, and that's fine. Les, have you -- do you have a question queued up, or you [inaudible]?

Les Warner: Sure. There was a -- although it just moved, so there was a question about the professional labor exclusion for advanced degree, and asking if that counts for PHAs, as well as just for service labor.

The question has come -- it's going to apply where this advanced degree, or some kind of licensing certification is required. And so I do think that that would apply for service labor hours also, but the criteria, and we've kind of had this question run around on this, where you may be looking back at your RFP that you put out when you were procuring those services because the language here is about when this is required, when this advanced degree or licensing is required.

And in some cases, you may be procuring for something. You're not requiring that, but they are presenting they have that. And so we -- in some earlier FAQs I was saying you may need to look at your procurement documents, and determine whether that actually was a requirement or not, but yeah. It would apply in any case where you're needing that advanced degree, or some kind of licensing or certification.

Andelyn Nesbitt Rodriguez: All right. I've got a really great question here. Two questions, when PHA reports for a fiscal year, do we report labor hours overall, or by each project? If by overall, are we required to track each separately? That's the first question.

Les Warner: So there's a messiness for this. So we know that the reporting for PHAs is on a fiscal year basis. We have not had the opportunity to see the actual PHA reporting new platform that you're going to be using.

And so we've kind of asked the same question of, so will you be reporting -- if you have a capital fund, and you have three projects that are set up, what we don't know is, when you use the reporting platform, will it be asking you individually about each of those three projects, and will you report on a project basis, or will it be asking you to report for your capital fund -- cumulative hours for your capital fund versus qualifying worker hours?

So I think you need to be collecting the data on a project basis. But it could be that when you are reporting it, that you'll be asked to group those aggregate those in. We just don't have that information yet.

Andelyn Nesbitt Rodriguez: Absolutely. Second question, the PHA staff, that would be one project?

Les Warner: So we oftentimes have questions about when we're looking at labor, does this include the PHA staff? It does, if they are being charged to the operating funds, the capital funds, and so we would be including them.

And so, if you have qualifying workers, we want to track, and be able to document those, so you could report those hours towards meeting your benchmarks on that. That also might mean that you've got hours that are being billed to those applicable sources where that individual actually, this is going to be considered a professional labor hour.

They're non-construction, and they're doing something that requires an advanced degree of certification. You might be charging off your legal counsel, or others to one of these applicable funds, and so, you would've to apply these rules that would be been talking about to that.

Andelyn Nesbitt Rodriguez: Thank you, Les. And I put this slide back up because as I mentioned earlier, it's just kind of the go-to slide when you're looking at what it is. Yeah. So hopefully that is helpful in addition to your response. Next question. How long should we keep Section 3 records? Is there a record retention schedule? And I'll take this if that's okay.

We are going to go into this a little bit more tomorrow, but the short answer is that you would keep the records for whatever the time the record retention time is for the project that you work for the funding, source that you're working on.

So, I'm more familiar with the Housing Community Development part of the house, so I'll say for CDBG, for example, record retention time is five years, so we're going to keep our Section 3 records for five years.

For the Home Investment Partnership program, it varies based on the amount of funding, but if you have a 20-year affordability period for that project, then you're going to keep your Section 3 records for the 20-year affordability period.

If a program that you're getting your funding under, doesn't have a record retention schedule or policy, then you'll revert to the record retention policy in 2CFR part 200, the super circular. All right. That is the quick, not so quick answer to that question, and we'll go over that again tomorrow as well.

If the employee's employed by a Section 3 business concern, the employee can be both a Section 3 worker, and a targeted Section 3 worker. How would the hours be reported by the employer? And that's a really good question. So the employer can work with you. You can create a form for them to fill out to report hours.

They can use an Excel sheet that -- just whatever works best for them. We'll talk a little bit tomorrow about even possibly using some data spoken forms to help with that reporting. But as you see, you're going to have to do two separate calculations for labor hours.

So they still need to report the Section 3 hours, labor hours, and targeted. So if they're provide [inaudible], I don't think that you can just assume 100 percent. I think you still have to show the math there. Les, let me throw that to you and see what you think.

Les Warner: Well, I -- I think this lines up with what we'll talk a little bit about tomorrow, and what I was introducing when I was talking about documentation. I would think that what a lot of folks are going to do at the point you're executing a contract, is that you're going to be identifying workforce, and on the front end, identifying qualifying Section 3, and targeted Section 3 workers.

And so, you would be then asking that employer on some probably regular basis to then report. So if Andelyn qualifies as a Section 3, and I qualify as a targeted Section 3, they would be reporting, okay.

Les now has work a certain number of hours, our cumulative running total for Andelyn. And so I think that responsibility would probably be handled in that way. And I think Andelyn's right that coming up with some kind of a reporting form to capture that in an easy way for not only for them to report, but for you to be able to get that information when you need it, is going to be important.

Andelyn Nesbitt Rodriguez: Yeah. Exactly. And because I didn't think that HUD would like to take that information, and they'll report too. So I don't think it's as easy as saying I -- we're all employed by Section 3 business concerns, so we're just good to go. I think there's still going to have to do some reporting there.

Les Warner: Well, you'd have the -- I'm certified as a Section 3 business concern, and then there would be a certification of these are the workers for this project. These are the labor hours, so yeah. There was going to be some documents there.

Andelyn Nesbitt Rodriguez: For tracking the labor hours.

Les Warner:  Yep.

Andelyn Nesbitt Rodriguez: Perfect. All right. If an entity has laborers from work release, do their hours count towards total labor hours? Do they qualify as Section 3 workers?

Les Warner: Are they being paid, would be my question. If we've got labor hours that are being paid to workers, then we would look at the qualifications on this, and then determine whether they met one of those criteria.

Andelyn Nesbitt Rodriguez: Right. If they're not being paid, then they would not qualify. If they are, then it's about whether or not they qualify as one of the other criteria. Thank you.

Les Warner: And I saw that there was a question for small PHAs where we talked about this exception, and only being required to do the qualitative, and then they were asking, well, so am I reporting that into the system?

Again, we haven't seen the system yet. My presumption would be that you would be. And I guess I would -- if I were designing the system which luckily, I'm not, I would assume that there be something where you're going to be marking of, do I qualify for this exemption?

And then you would get that same qualitative reporting page that others would get, but we have not yet seen how that will work. So make sure you have a protocol on what qualitative actions, and you have documentation in place, so you're then ready with whatever they -- the final version of that is.

Andelyn Nesbitt Rodriguez: And if you're a small PHA, that -- there's a formal process that you have to go through to be designated as a small PHA. You can't just say, well, I have fewer than 250 units, so I'm going to not report on my labor hours, so please know that there's an actual process.

All right. Looks like we did get an answer to one question. The work release workers are paid, so great, just about whether or not they qualify being work release doesn't in and itself qualify. All right. I'm going to hurry up a little bit here because we got a number of questions that we haven't gotten to yet.

For the PHA, the capital fund project takes place during two fiscal years, do you calculate hours in one year, and then the next year? The example shows hours on a project, not a timeframe. Yeah.

That's a great question. Great point. And then yes. You would calculate the hours per fiscal year. Do the qualitative efforts for small PHAs get -- oh, I apologize. That's the one we were just talking about.

I am presuming that we would include the driver that picks up our garbage. It takes them 10 to 15 minutes at our facility. They're not paid per site, and as they -- they're not paid per site that they pick up, but for the day. How do we count those hours?

Les Warner: So, I'll take a stab at that one, and then Andelyn if you want to try to clean it up. So my understanding of this is that we're only able to do this when there are labor hours that are reported.

So you have a -- in this case, I'm going to assume you have a contract for garbage services, and you are being charged a monthly fee, or quarterly fee or something on that. So you would -- to be able to do this, you would have to get -- be able to identify -- the contractor would've to be able to identify workers, and show how they qualified.

And then, they would have to be able to report hours that were essentially attributable to your service. So obviously, they're making stops at a lot of places. Those labor hours are not going to be the whole day.

So whether that's going to be workable to be able to collect that information, and be able to report individual workers or not, but that would be what you would need to be able to report on that.

Andelyn Nesbitt Rodriguez: Yeah. This sounds like a really great question for your field office as well, when we get into very individual situations, and I just encourage you to reach out to your field -- local field office as well to make sure.

Les Warner: It's going to be a common question, and we have routed some of those forward hoping that there'll be some FAQs that will take some of those scenarios, and give you sort of a better information.

Andelyn Nesbitt Rodriguez: All right. Does Section 3 apply to an MTW PHA? It does. Yes. It does. All right. Moving to Work. It's a great program, one I'm familiar with, so, okay. Is there a verification or auditing process for ensuring compliance?

Les Warner: Well, and I'm not sure how that question is. I mean much like with all of our things we do, HUD will be overseeing you. You as the administrator who are collecting this information, need to have some oversight to try to verify that I actually have correct total labor hours, qualifying workers.

So I think part of that task is having all of those partners understand what you need from them, what you -- when you need it, and kind of reviewing those to make sure that they appear to be appropriate.

Andelyn Nesbitt Rodriguez: Okay. If we have to use the income limits of where the worker resides, how do we know what income limits to provide the contractor, when we don't know where the workers live?

Les Warner: I'll just jump in on that one. That's where, referring back to, I'm thinking that the process will be, at the point that you execute a contract, you're going to be asking about to identify workforce.

And at that point, then you could be able to then identify what income limits are needed based on where their workforce lives, and be able to equip them to be able to use the right income limits for those workers.

Andelyn Nesbitt Rodriguez: Okay. And we have about one minute left. There are a number of few questions left. If we don't get to them today, we will get to them tomorrow, but can a PHA be an employer?

Les Warner: Absolutely. This slide that Andelyn provided again, our test here is, are they being paid from one of these applicable -- are these labor hours being paid from one of these applicable funding sources? And if so, then they're included in that calculation of total labor hours, whether they are an external employee or whether they're a PHA employee.

Andelyn Nesbitt Rodriguez: And last question for today, for PHA staff, is HR backup acceptable?

Les Warner: Well, I mean, we've said when we looked at the -- what can be used for documentation, that the employer could provide the documentation, and the PHA would be the employer at that point, so I don't see any problem with that.

Andelyn Nesbitt Rodriguez: I agree.

Les Warner: And that's probably more efficient than going around trying to distribute self-certification forms, and asking workers to -- helping them understand what they're certifying to.

Andelyn Nesbitt Rodriguez: Absolutely. All right, Les. You want to wrap up?

Les Warner: Sure. So this concludes today's session. It's important that you participate tomorrow because we're really going to go more into the details of, okay. How do we get this done? We also will be doing the next exercise, so it'll be really helpful if you get a chance just to take a look at that exercise, next exercise that was included in today's packet.

And we also will tomorrow, have a bunch more tools that will be providing us, I think, will be helpful for folks. So thank you. I know that -- a lot of information today, and we will look forward to having you join us back again tomorrow. Thanks everybody.

(END)