

2022 PHA Section 3 Final Rule Training Series - All PHAs Day 2

Les Warner: Great. Thanks, John. Welcome back everybody. We've, again, got kind of a full house and a lot of material to cover, and I'm hoping that some of what we cover today will then complete the circle on some of the material we talked about yesterday, and okay, how do we actually put that into place? What are the implications of some of the definitions and the rules that we were covering yesterday?

So just as we did yesterday, we are going to have a mix of interactions to try to keep this a little more lively for folks. We will be doing knowledge checks as we go along. And for those of you that have questions as we go along, I really encourage you to use that question box while I'm talking. Andelyn will be trying to field questions; I'll do the same.

We also will be pausing for questions through -- in a couple of places throughout this training, so you'll have an opportunity to also hear the answers to questions on that. We, again, will be going into a break-out session and working on extra stuff.

So trying to kind of use real life scenarios and plug these things in, talk about how we're going to implement the regulations. And today, you're going to see -- you probably saw in the link that was provided today, that we're going to be providing a lot of samples that we'll be talking through and introducing as we go through this session.

And keep in mind, those are things that you can alter, and tweak, and update to best suit the needs of you and your agency. So we have the same team assembled today. Andelyn's going to be my co-train and we've got our great group of HUD and ICF staff that are going to be helping as facilitators in the breakout sessions.

And we really appreciate their involvement and assistance on this. So also just as a reminder, we were -- are going to be showing this icon throughout the training and some individual spots keeping in mind that the focus for this training session is for Subpart B which applies to public housing financial assistance.

There'll be some times where we will point out that there's some differences between Subpart B, which most of you are going to be predominantly working with, but we recognize that some of you might also have funding that falls under housing community development, or be working in projects that include both HCD and public housing financial assistance.

So you may see those icons and hear us talking about Subpart B versus Subpart C as we go along today. So just like yesterday, you should have received an email that provided a link that would have -- include the slides for today in a handout form, so that you'd be able to take notes on those. We encourage you to use those.

And then you'll see there's a whole list of sample forms that we're going to be talking about as we go through. And then, again, we're going to be using the Section 3 exercises when we get to our breakout session later in today's session.

So just sort of an overview of where we are in our series, so yesterday we worked our way through module one, covering all those sort of basic requirements, definitions, kind of laying the groundwork for now, moving into module two, beginning to talk about the planning and implementation, what it's going to take to put these new regulations into place.

We'll then be talking about program oversight and some of your responsibilities, and then ending by talking about the reporting, the evaluation process on that. So quite a bit to cover in today's session, but we should do just fine.

So I want to do a quick recap. If you missed yesterday's session, I do suggest these are being recorded. They will be posted, and I would recommend that you listen to the full recording for yesterday because you're going to need that level of detail.

But our recap from yesterday, you know, the focus of the new Section 3 rule is, we're really looking more at sustainable employment and career development, as opposed to only tracking new hires which we were doing in the past.

So it really expands the ability for an employer to meet the Section 3 benchmarks by being able to not only count those new hires for a particular project, but also those workers that they've hired that were qualifying at the point that they were hired. And we talked yesterday a little bit about this up to five-year look-back period.

So through that, we're supporting sustainable employment for individuals. We also talked about the fact that with public housing financial assistance, you have no threshold. So any public housing financial assistance in one of our applicable programs that we talked about so much yesterday, it's going to trigger Section 3 requirement if it's one of our applicable uses of funding.

We also mentioned that there's a separate threshold that applies for lead hazard control funding. And that's only when those grant amounts exceed \$100,000. So that's a separate calculation from the public housing financial assistance on that.

And then we spent quite a bit of time talking about the Safe Harbor provisions that we have our benchmarks of 25 percent and 5 percent. So we're looking for 25 percent of that labor for the project or program to be completed by workers that qualify as Section 3 workers.

And then we have a second separate benchmark which is with a benchmark of 5 percent of that same labor force of also qualifying as a targeted Section 3 worker and counting those workers, hours to make sure that we're going to meet or exceed that 5 percent benchmark.

All right. So and then sort of a reminder that we talked about, to be considered to be in the Safe Harbor for our compliance tech, you would need to have -- be able to demonstrate and report that you have met or exceeded those two benchmarks, the 25 percent and 5 percent.

But we also kept mentioning yesterday, you also would be needing to certify that you followed the required prioritization of effort. And we're going to go into the details of that in this section.

And again, we have this little note at the bottom, you're considered to be in Safe Harbor, absent evidence of the contrary.

So I've been using the example of, if there was a monitoring and they determined that maybe you don't have adequate documents to be able to demonstrate. Maybe you have no paperwork to be able to demonstrate what you have reported in the system that might lead to being considered to be not in Safe Harbor on that.

All right. And then we mentioned that, even in the case, we're going to make our best efforts to always meet our quantitative benchmarks at 25 and 5 percent following that prioritization of effort. But in the case where we fail to meet those benchmarks, we still can be considered to be in Safe Harbor by being able to provide evidence that we follow the -- our qualitative efforts.

And so we're trying to make sure that we make appropriate efforts to assist low and very low income persons, where there are employment and training opportunities. And we'll talk in more detail about that in today's session.

All right. So we keep talking about this certification of prioritization of effort. So we need to talk through what those are. And these are specific, these, that we're going to be talking about here, are specific to public housing financial assistance.

So if you happen to be an agency that also is dealing with housing community development funding, just know that those regulations under Subpart C are different on this. So for public housing financial assistance, we have two sets of prioritization of effort. First, we're going to be talking about employment and training.

And so we're kind of, these are our top tier down to our lowest tier on this. So our first priority on this is for residents of public housing projects where that financial assistance is being invested. So that's our top priority to focus our efforts, to make sure that those residents of public -- that particular public housing site are aware of any employment or training opportunities that might be available for them.

So we're going to be talking about examples, like maybe there's a job fair that occurs right on that property so residents don't need to go somewhere else to be able to file an application to be interviewed. We could make this pretty simple and do some appropriate outreach with that, that we're going to hold a job fair on site.

So, I mean, we'll talk through more examples, but I think that's a good one to start with on that. Our secondary, our sort of second tier on this prioritization of effort is then sort of broadening that a little bit and looking at residents of other public housing projects.

And that would also include then residents of Section 8 assisted housing. And so when we certify our prioritization of effort, we will be collecting some documentation to show these are the things that we have completed, and we have followed this prioritization of effort. And we'll be looking at later when we get into the reporting section how we're going to report that as part of that.

Then our third tier is trying to do outreach to participants in a YouthBuild program. So, first off, identifying, is there -- are there YouthBuild programs in your area? And so that you're ready to be able to make those appropriate outreach efforts to those YouthBuild programs.

And then lastly, and sort of our most broad prioritization would be for low and very low income persons that are living within that metropolitan area or a non-metropolitan county where that assistance is actually being invested.

Now, you'll note that on the bottom of this slide, we have this consistent with existing federal state local laws and regulations. So the Section 3 rules don't usurp or overrule any of those other federal state and local laws and regulations.

So you might be restricted on what you can do on some outreach based on that overlay of other regulations in place. And so, you know, be cognizant of those other requirements and make sure that you are continuing to follow that.

And so when we're talking about best efforts on this, we're emphasizing that, we're looking for results as an outcome of the efforts that you're making. And so HUD staff would be evaluating that effort that has been made, trying to make sure that in the absence of meeting those statutory benchmarks.

But then we're able to show that, yes, we had a plan, we followed that plan for our qualitative outreach efforts on that. So we talked about onsite job fairs. We might be using some of the linking resources that we're going to be talking about a little later in this session to be able to let employers know about qualifying employees that are seeking jobs.

Similarly, where we have a contractor that's going to be subcontracting, letting Section 3 participating business entities know about that. So we'll be talking through some of those linkages, and those would be also an example as part of that appropriate qualitative efforts.

So that was employment and training. We have a separate set of prioritization of effort specifically for contracting. And again, these are specific to the public housing financial assistance falling under Subpart B of the rule. So our first, our top priority here are, getting Section 3 business concerns involved.

And these are, providing economic opportunities for residents of that public housing project, where our investment of public funds is happening. And then following that same approach as we talked about under our jobs and training, secondarily, then looking for where we can provide that Section 3 business concern would be providing opportunities for other public housing projects, and then for recipients of Section 8 assistance.

Again, then looking to YouthBuild programs and lastly looking for Section 3 business concerns that can demonstrate that they're providing an economic opportunity within that area where the assistance is provided.

And again, we're seeing this reminder at the bottom of the slide that, there is an overlay of federal state and local laws and regulations that will apply. And those are different based on the area you're in, and so just keep those in mind as part of laying out what's my process going to be to make sure that you are consistent with those rules and regulations also. All right, with that, I'm going to turn things over to Andelyn.

Andelyn Nesbitt Rodriguez: All right. Thank you so much. Now we're going to move right into module two which is plan and implement. We're going to discuss planning and implementation of Section 3 in this module.

So we're going to cover the purpose and components of a Section 3 plan. I know that I mentioned the Section 3 plan a little bit yesterday, very good thing to have, so we'll go through that.

We're going to discuss considerations for hiring eligible and qualified Section 3 and targeted Section 3 workers. We're going to discuss contracting with eligible Section 3 business concerns as well as considerations for contracting with Section 3 business concerns.

We'll also go into how to recruit Section 3 workers and Section 3 business concerns and lastly, we're going to cover the certification process for Section 3 workers and Section 3 business concerns.

So diving right into the Section 3 plan. While the final rule does not require recipients to have Section 3 plans or policies, HUD does view it -- view them as of being best practice that's going to aid recipients in complying with Section 3 requirements and achieving those Section 3 goals.

The purpose of the Section 3 plan is to help grantees and sub-recipients, contractors, and subcontractors in complying with the Section 3 requirements. It's going to bring everybody in and help everyone along the way.

The Section 3 plan is intended to serve as a guide for grantees through the implementation of the Section 3 requirements. And some key components may include, public housing authority funding applicability, Safe Harbor benchmarks, recipient and contractor responsibilities. That's one of the parts that I support the most.

Certification procedures for workers and for businesses, and Section 3 plan can also include reporting deadlines and complaint procedures. When developing the plan, recipient should also consider local, state, and federal procurement requirements. So in action, this can involve collaborating with your organization's procurement officer to develop the plan and procurement policies.

Last, we strongly recommend for larger entities to consider deputizing a Section 3 coordinator. So this is someone who understands the program requirements, and will be able to communicate those requirements to all stakeholders.

And we've provided here, that should have gone out in the email that last mentioned earlier, a tool, a sample Section 3 plan. This is just like screenshot snippet of what it looks like. This tool

is intended to be a sample plan to guide grantees through the implementation of Section 3 requirements.

So, again, the final rule does not require recipients to have a Section 3 plan, it does view them as being a best practice. And it's really going to [inaudible] with Section 3 requirements and achieving your Section 3 goals.

All right. Now, let's talk about recruitment. Recruiting, training, and employment of those Section 3 and targeted Section 3 workers. So you'll want to develop an effective recruitment process.

Advertising, employment, and training opportunities is a key to recruiting eligible Section 3 workers. A recipient should consider innovative ways to reach intended beneficiaries. For example, while newspaper ads may have worked in the past, they may not be as effective as social media for your community at this time.

A few examples of advertising maybe, advertising employment opportunities on HUD Section 3 opportunity portal. It'll go into that a little later as well. Building relationships with resident organizations could be really helpful.

Residents as recipients could ask them to share information through their peer networks. You can also leverage your organization or agency's website. Example would be creating a Section 3 page on the public housing authorities website to promote opportunities.

You could also [inaudible] earlier advertise on social media. So Facebook, Instagram, Twitter, all those are really good resources for advertisement. Networking and building partnerships with key community stakeholders is also a really effective strategy towards recruiting those Section 3 and targeted Section 3 workers.

You could host an annual Section 3 training event or job fair. This offers an opportunity to network with intended beneficiaries and potential Section 3 business concerns. You can also contact organizations and agencies that are tapped to the local economic development network in your community.

Section 3 regulations list the type of evidence workers may submit for eligibility to be certified as a Section 3 worker or targeted Section 3 worker. Effective Section 3 program implementation requires a process to identify eligible Section 3 and targeted Section 3 workers.

A Section 3 worker certification form that is the vehicle that you can use to determine and document eligibility. So a Section 3 worker certification form is what you'll need there. And remember, I just went over the priority, the pyramid image, and you'll want to keep that in mind.

Consider the order of priority as listed in part 75.9. As a recipient, you're going to need to certify that you and your contractors and subcontractors follow the order of priority were feasible when providing training and employment opportunities.

All right. So we just talked about recruiting and a little bit about certification of Section 3 workers and targeted Section 3 workers. Now let's talk about recruiting -- contracting and recruiting Section 3 business concerns.

So note that for contracting, the requirement in the final rule is to make best efforts to award contracts and subcontracts to Section 3 business concerns. Safe Harbor benchmarks according to the percentage of contracts awarded no longer exists.

For recruitment, ideas include advertising opportunities by promoting them on your website or the opportunity portal or social media, same thing that we kind of just went over. As far as capacity building, recipients may consider implementing a resident business development initiative or a business incubator to support resident entrepreneurship.

This will help towards helping those folks to create and sustain eligible Section 3 businesses. Holding hiring fairs, as we talked about on the last slide, also a really good practice for recruiting Section 3 business concerns, as well as the targeted and Section 3 workers.

Partnering with local business startup groups and partnering with business incubators rather than starting your own is also a very good strategy, referring Section 3 businesses to local, state, or federal resources that may assist with challenges such as the inability to obtain bonding, lines of credit, financing, or insurance.

Those are always really good ways to support those entrepreneurs and to nurture Section 3 business concerns. Educating local unions on Section 3 and creating an apprenticeship program with those local unions is an amazing idea and a great way to build that pipeline and recruit Section 3 business concerns.

Okay. Let's talk about certifying those Section 3 business concerns. Remember that to qualify as a Section 3 business concern, the business must be 51 percent or more owned or controlled by low or very low income persons.

That Section 3 business concern could be 51 percent or more owned and controlled by current residents of public housing or Section 8 assisted housing, or over 75 percent of the labor hours performed for the business over the prior three month period could be performed by Section 3 workers, and that could qualify a business as being a Section 3 business concern.

So then going into actually certifying that, business concerns may self-certify to claim that they meet the requirements as defined in the regulations. For businesses bidding on a Section 3 activity or project, recipients should require a self-certified Section 3 business concern to submit some type of certification form during the bidding and contracting process.

So just like with Section 3 workers, you're going to need a certification form. The determination of certification of Section 3 business is going to be made at the initiation stage of developing a contract or subcontract, and definitely prior to its execution. This is very important.

Information submitted by the businesses must be verified for Section 3 compliance before awarding contracts or subcontracts to those businesses who're self-certified. So if they get self-certified, they would need to use a self-certification form. This needs to be done early in the process.

And then as a recipient, you should verify that information for Section 3 compliance before actually awarding the contract to those businesses. Once the business is certified as a Section 3 business concern, that business is going to retain that status for as long as it continues to meet the definition as outlined in 24 CFR part 75.5.

Okay. And a couple more tools for you. This may help you in implementing the Section 3 rule. The Section 3 and targeted Section 3 worker certification form. So I just discussed those; those are tools that should be in the email that you received either yesterday or this morning.

A Section 3 business concern certification form, these are all sample forms. Take them back to your locality and then alter them, you know, make them your own. But we have a Section 3 business concern certification for contracting form.

You can find these forms in the link that was sent to you yesterday. HUD has also developed a web-based database. I know you've heard me talk about this in the last couple of slides and here it is the HUD opportunity portal to assist organizations in meeting Section 3 benchmarks and providing an avenue for potential workers to seek employment.

HUD has created a web-based database called the Section 3 Opportunity Portal. The information -- this is going to support information exchange between potential workers, businesses, and the Section 3 recipients and you guys.

It supports work by allowing workers to post their resumes and create individual profiles. They can also search for jobs and training opportunities that employers post on the portal. Similarly, users can search for businesses interested in Section 3 projects or for contracting opportunities. So the businesses can search for opportunities as well.

The opportunity portal uses login.gov, a shared service from the GSA which allows users to create one login to simply and securely log into federal websites. Creating a login does not screen users for Section 3 resident eligibility. Anyone can create a login.

I must also say that information that's found on the portal is not verified through the portal. So it's still -- the onus is still on you. This is a great tool to help you find businesses and workers, but then you would need to still vet them the way that you usually normally would. All right. And at this time I'm going to turn it back over to Les.

Les Warner: Great. Thanks, Andelyn. So I'm actually going to tie in a couple of things as I -- before I move forward, just because I've been kind of looking at the questions that have been coming in.

So Andelyn mentioned -- talked about Section 3 plans and that it was optional, but I think as you, as an administrator know, to be in compliance at the end of a project, you really do have to have some kind of a plan on, who's going to do what, how these things get incorporated into your day-to-day function.

And so really the idea of that Section 3 plan is to lay out, okay, these are our requirements, and these are the steps that people are going to take and that would include things like this is the form that we're going to adopt to collect that information.

So that function might be internally to help make sure that all of your staff understood those requirements and had a reference tool to use on this. But I know that a lot of folks are using their Section 3 plan or maybe some portion of that Section 3 plan as something that they can hand to other partners that they're going to be working with.

So maybe you have a capital fund, construction project that's happening and you're working with that contractor that you need to help get them up to speed on what is this new rule, what are the requirements, what are their roles and responsibilities, but also then clarifying, okay, I want you to use one of these particular forms, and I'm going to provide you that sample all in this kind of handy packet that lays out the basics of the Section 3 rule.

Maybe includes identifying who your go-to person is when they have questions as part of that. And so we'll be talking a little bit later on how to incorporate that into the process. So I will just mention, there was a question about, well, is there a sample of this?

Well, we've provided a framework sample that's included in the tools that were provided in your link today with this session. But the follow up question from that same person was, well, they were really looking for, what are other PHAs using and are there some best practices, are there some things that we can borrow from which, borrowing things that work for other folks and tweaking them for your organization makes complete sense.

I don't have a great list of resources outside of what's being provided in this section but I know that a lot of you are probably members of like statewide public housing organizations that may be able to work within the context of that organization to share with other folks.

I would -- if you've got some colleagues you know of in other agencies, check in with them and see what they may have put in place. I will also mention that and we'll be mentioning about resources. They just added a lot of resources to the Section 3 landing page and so I would also keep an eye on those.

I think you'll see that those are going to grow over time, but a great question on, how do we borrow from this and find some best practices on that. Let's see. Is there anything else? Okay. So I'm going to move forward because I think the rest of these, we can kind of cover as we go along. Although, I'll just mention, so there's a question here about, can we post housing authority job vacancies on this website?

I don't see why you couldn't. I mean the opportunity portal is a way for you to communicate, for workers to communicate but also to search for employment opportunities. And so, seems like that might be inappropriate use for this portal also.

All right. So I want to talk a little bit about kind of incorporating the Section 3 requirements into your standard process. And particularly to me, this is a kind of a critical transition that we have. We've had a Section 3 rule in the past, but the requirements, the metrics that we are tracking are different than they were in the past.

And so we need to make sure that both internally, but all those external partners understand what the new rule requires, what their role is, and sort of your protocol on how you expect that to be addressed.

And I will say from my experience in my career, a lot of times when there's a new rule, particularly with contractors, they just think, oh gosh, it's getting more complicated. And there's a tendency to overreact and want to run the other way.

It's really important for us to keep a competitive environment, keep those potential bidders involved in our projects. And so I think it may be critical to do some education with those potential bidders to make sure they understand not only what the requirements are, but that they understand that this is not going to be such an onerous task that they would want to say, I guess maybe I don't want to pursue this business.

And so one of the places that that can start is at the pre-bid stage. So some of you probably in the past have used a mandatory pre-bid conference where you had a project that was pretty complicated, and you wanted to make sure that all of the bidders got some specific detailed information about this particular project and the scope of work. You wanted to have everyone hear the same message on this.

So it might make sense to include required pre-bid conferences or meetings where you introduce, okay, we have a new Section 3 rule and some of the information, we want to make sure you all as potential bidders, understand what we are asking for on this and how that impacts not only your bid response, but also as a -- if you were successful in being awarded this contract, what those expectations would be.

And I think that will help allay some of those fears and start that process of bringing all of those external partners up to speed on that. So that could be a good use for doing a pre-bid conference on that. Also you could think about within your bid packets, your proposals, what you're requiring as part of that submission.

So obviously, we're going to want to put -- identify this as a Section 3 triggering project and identify some of those requirements. But we could, as part of this bid proposal, also begin to ask for some of the information that we're going to need to be able to evaluate how this potential bidder is going to help you in meeting those Section 3 benchmarks, completing the qualitative efforts on that.

So that could include things like asking for as part of the bid response that they provide an estimate of the total number of labor hours for that project. And if they can identify of their existing workforce, qualifying Section 3 and targeted worker hours that they expect to be part of that project to be generated from that work.

Also identifying where they believe there will be either new hiring that's going to be completed on that or subcontracting needs. So you begin to collect some of that information as part of your bid and proposal process.

So obviously to do that, they're going to need to understand what it is you're asking for. It needs to be user friendly but trying to provide some basic education to those potential bidders, either in that bid packet, or maybe as part of a pre-bid conference would be a way to be able to do that.

And then as part of your contracting award process prior to the execution of that contract, being able to go through that process of, Andelyn mentioned, that we would want to actually qualify and get the documentation to show that we had a Section 3 business concern, would be part of that final packet and the information we'd want to collect.

But we also could, at that point be asking for our list of labor force that is expected on that for that particular job. So there was a question that came in about, how do we identify Section 3 and targeted Section 3 workers.

So that could begin at this phase where we have an applicant who we believe is the -- going to be our vendor that's going to be awarded the contract. We could then begin to ask them for, what's your projected labor force for this particular project and help work with them on that.

How many of your current workforce actually qualify now as Section 3 or targeted workers. When we talked yesterday, as we went through the types of documentation, they could begin to collect that as part of self-certifications that workers would be filling out.

But it also could be as simple as the employer looks at their expected labor force, looks at the current wage rate for that worker, verify how many of those qualify as a Section 3 worker specifically based on their current annualized salary.

We also talked about this five-year, up to five-year look-back period. We can't go any further back than November 30th, 2020, which is when this new rule went into effect. But so working with them, helping them understand how they would qualify those workers, we can begin to collect that information.

So once we've then identified workers that actually qualify as other, either Section 8 or targeted workers, then as that project progresses, then we're having them track and report. So if I qualify as a Section 3 worker and that's been identified upfront, we'll be then continuing to track how many hours on each one of these payrolls during that fiscal year, and we'll begin to see those hours build over time.

So that's -- can be a place where that begins. Now, we keep mentioning that you need to follow your federal state local regulations which would also include your procurement requirements. And so you have to follow whatever your procurement protocol would be. But if you have incorporated into your procurement process, that we will be able to evaluate bidders based on responsiveness to the Section 3 requirements.

And so when we standardly are getting -- we're following federal procurement requirements, we're doing, let's say for construction, we're doing a seal bid process, we would open those bids, identify what is our lowest bidder, but we also then will be evaluating to make sure they are responsive bidders, so they've responded to the scope of our submission.

And that may include asking their -- our request to them to provide this projected information about Section 3 compliance. So we may be able to evaluate bidders based not only on cost, but also as responsive and responsible bidders if our procurement protocols and requirements policies follow that.

So that might allow you then to select a bidder who was not the lowest bidder, but was deemed to be responsive where maybe our lowest bidder was not. So if you've incorporated some of this information into your proposals and it's part of your procurement criteria, that could be part of your evaluation in determining, who am I going to award this contract to.

So beginning to collect that information, collecting the documentation to show that they are a Section 3 business concern. And then I think last lastly on this is, at that preconstruction conference, and I would assume a lot of you have a standard where you always do a preconstruction conference.

A lot of folks would make that mandatory for any kind of construction process, but it might make sense, particularly in this transition period to do a contract signing conference where you work with that vendor, and making sure that they're up to speed on these changes with the new Section 3 rule and any roles and responsibilities that you're requesting from them.

Them understanding, what it is that we want them to collect, maybe what form they're going to be using as part of that, when you want that reported to you. And that would be a good time to cover those details if you have a Section 3, a staff person that has been designated as your Section 3 coordinator, sort of the go-to person, when there are questions, be great to have them participate in that conference so that everybody knows, okay, this is the person when I have questions that go along with this.

We mentioned earlier the PIH notice 2022 that was issued somewhat recently April 18th of this year. It has a lot of good information, but specifically it also calls out that, collecting fees for Section 3 is something that is clearly prohibited.

And so you might want to -- if you're not familiar with that, you might want to take a look at that notice if you have not read through that. And you'll see that that notice goes through a lot of the information that we are mentioning yesterday and today, and the -- a couple of forms that we're - and resources that we're going to be talking about a little bit shortly in this.

So one of the things that we need to make sure that is incorporated is, of course, we need to, within the contracts that are issued, we need to make sure that then we have Section 3 language that's incorporated into that.

So a lot of you are going to be using the 5370 forms for whatever level is appropriate for that particular project. And they do include some Section 3 language, but they're essentially are four additional provisions that need to be incorporated, added to your contracts and agreements.

So luckily, in this PIH notice 22, 2022-10, in the appendices for that, it does provide you with that sample language that needs to then be added to those documents. We need to make sure that that gets incorporated.

So one of our to-do lists, if you haven't already done that is going back, making sure that all of those contracts have been updated as part of that. And because Section 3 is then passed along to subcontracts and sub-agreements that are in place, we need to make sure that we have language within your contract provisions that say, to the contractor, you need to also incorporate this language into any subcontracts that you are issuing as part of that.

And with that, then, because we've talked about this prioritization of effort and that's part of our qualitative efforts that in the absence of meeting the benchmarks, we need to make sure that's about -- that's been completed and can be documented.

That means that language about them being held to implementing that prioritization of effort requirements also would need to be included in the contracts. And I think that's one of the things that I often see in a Section 3 plan where they kind of lay out, here are our expectations for those qualitative efforts that we expect contractors, subcontractors to be completing.

In a lot of cases, I see where folks have given pretty clear examples of what would be an acceptable effort and maybe what the documentation is that you would ask that they retain on that.

So I think these are good opportunities to think through that process and how you're prepared for that. So as I mentioned, the 5370 series do include some of the Section 3 language, but they specifically need four additional specific clauses and those are identified within the appendices for the PIH notice that's been issued as part of that.

All right. So we're going to switch gears for a moment here and do a knowledge check. So John's going to pull up our first knowledge check. He's fast. Very good. So this is a true or false question.

A Section 3 worker can self-certify that they participate in a means tested program such as public housing or Section 8 assisted housing. So if you'll mark true or false on this and hit the submit button. Great. So everybody that responded got this right. It is true, that they can self-certify.

And the key that I'll kind of point out on this, and we mentioned it yesterday, you have two options on that self-certification. They could be self-certifying to income eligibility, but because they're also able to self-certify based on public housing residency or Section 8 assisted housing, that not only qualifies them as a recipient of a means tested assistance, it qualifies them as a Section 3 worker.

It also qualifies them as a targeted worker. So we can handle both benchmarks in one certification. So there might be some [inaudible] about which form we used on those. All right. Our next poll question, and this again is true/false. In order to certify eligibility as a targeted Section 3 worker, an employer can certify that the worker is employed by a Section 3 business concern? True or false, then hit the submit button.

So this is true. And the reason this is particularly important, if we have, we're going to do the documentation to determine that we have a qualifying Section 8 business concern. Once we have qualified that firm as meeting that criteria, then all of their workforce is going to qualify as both Section 3, meeting the Section 3 and the targeted Section 3 eligibility.

So all the labor hours by their entire workforce will count. So that could be a contractor, could be a subcontractor on a project. So at the point that they -- we have certified that the employer themselves qualify as a Section 3 business concern, then they could certify these are my employees.

These are the individuals that are working on this particular project and their hours and we would be able to use that certification to be able to count those hours towards meeting our benchmark. So obviously having a Section 3 business concern involved in the project helps you get to that goal and kind of streamlines part of that process.

All right. So that's our knowledge check. We'll have another knowledge check in a little bit here. All right. So I wanted to talk a little bit about, this wrap up this section a little bit before we go into the question and answer section on this.

So we've been talking about best practices on how to work towards contracting with eligible businesses. So you as the recipient of the funds are held accountable for meeting those Section 3 requirements, you're going to need to be able to demonstrate that you have a process in place that you've made appropriate efforts to implement and meet those goals which is one of the reasons we've been talking about, laying out a Section 3 plan, having a process, making sure that you've captured this information in your agreements and your procurement process that we've educated those other partners as part of this.

So as part of the process and the policies, kind of thinking through what's my process going to be for determining eligibility. And I think part of that is thinking about when am I going to do it, who's going to be responsible for that. And that might include things like providing the Section 3 plan or maybe some user friendly part of that.

I think some of the Section 3 we plans are -- at least part of it is written for internal to your organization but I also see folks that then will have a handout version that will include something

user friendly for contractors that maybe is a little shorter and less some of the -- the intricacies of what's happening in your organization.

But then would also have attachments of these are the forms, we want you to use, here's our go-to person thinking about what they specifically need to know. And we mentioned about prior to award of a contract going through some steps and that's always going to include making sure that they are not on the debarred list of contractors, keeping that documentation as part of the file.

You also might be implementing things like having a utilization plan or schedule. So if they have as part of either their proposal packet or at the point you're awarding or contracting, you're collecting additional information, they might be providing some projections of where in the life of that project, what trades, what workers are going to be generating our Section 3 benchmark labor hours.

And so we could be -- they could be providing a utilization plan or schedule which you would be able over time then to gauge, do we appear to be on schedule? Does it appear that what we expected was going to generate hours that are going to help with our benchmarks? Is that actually happening? That might be useful on your oversight on that project.

And then, you do have the option of establishing penalties and remedies for non-compliance. So if that was something that you were going to do, obviously, you're going to need to think that through, lay those out very clearly, be transparent about that.

Also we've talked quite a bit about coordination and communication. So that might include things like if you have a separate procurement staff, working with them on making sure that all the standard bid proposal material that you might be using, having incorporated these changes, thought about what's going to be effective on that.

We've talked about the need to update language in not only our procurement documents, but also in contracts written agreements. And so that might be coordinating with your attorney, legal counsel on that to make sure that those updates have been completed, that they've been reviewed and approved on that.

And then we talked about things like using the -- a pre-bid meeting, a pre-conference, a pre-construction conference as ways to kind of work towards getting better communication about the new Section 3 requirements, maybe doing some problem solving early on. And as I was mentioning, trying to make sure that folks are not sort of over anxious or alarmed about these changes and rules that they understand that there are actually some things here that help streamline that process.

And I think it will make it easier not only for the agency but also, for instance, for a contractor or an employer, to be able to collect and report on these. So as Andelyn mentioned, and we have a number of agencies we've been talking with throughout our training series that are saying, they're already starting to hold some workshops or meetings with their contractors just to try to get the word out, to get -- provide basic information, answer questions out there as part of that.

And then we've been -- we showed you the opportunity portal, and that might be something that you refer your contractors to. It might be something that you require contractors. So we mentioned about prior to executing that contract, you might be asking them to identify any employment and training opportunities that they were projecting or subcontracting opportunities on that.

We might either be recommending, but we might be requiring that they post any of those opportunities using the opportunity portal and that it would be then one of our qualitative efforts to try to make sure that those linkages were provided.

So that could be part of your standard protocol that you have adopted as part of that. All right. So I think we've talked enough about that. So we're going to take a pause here and go through some of the questions that have been submitted. I don't know if, Andelyn, you want to point us in direction on this one.

Andelyn Nesbitt Rodriguez: Yeah. Absolutely. We received a couple of questions back to back, and I said I'm going to hold all of these questions so we can answer verbally. And this is about clarifying the verification methods that we can use when verifying a Section 3 business concern certification form.

And I understand why this question was asked, and so my answer and I'll let Les come in afterwards, but my answer is, I don't think that -- we don't have any guidance on that at this point. I think that that is something, whatever verifications you're going to do to really review that certification form, make sure that it's complete and to verify the information and make sure it's accurate.

That level of detail, as well as the best practices, that things that you're actually going to do to make that happen are things that you would work out as you're developing your Section 3 plan and your Section 3 policies and procedures. That's something that you as an agency will figure out the best way to do in your area. Les, anything to add there?

Les Warner: I would just add to that. I mean, obviously HUD has provided a sample form that you can adopt as part of that, but I think this is going to that sort of, what's the level of backup documentation that folks want to attach with that.

I will say that on numerous places here, we're talking about things have been made a bit more streamlined for you where the regulations have clearly said, we'll accept a certification from the employer on these elements.

And so I think you may want to take that opportunity when you have the ability to do that. But I guess I would encourage you as part of your process, and planning, and implementing as Andelyn was saying, work out, what is your expectation going to be? What's your standard of documentation that you expect on each one of these that gets captured if you're doing a Section 3 plan?

That helps all of your internal staff know, what should I be? If I'm getting stuff submitted to me, how do I determine whether that's adequate or not? What's my agency policy going to be on that. And then I think, clearly, if I'm sending a form out to that bidder on a project to certify that they're a Section 3 business concern, be pretty clear on what additional documentation, is it just for certification? Am I looking for some specific backup documentation on that?

Andelyn Nesbitt Rodriguez: Absolutely. Thank you. I hope that answers your questions there. We have just a couple more we can get to [inaudible].

Les Warner: I think sometimes people get uncomfortable when HUD has not told them exactly what they must do. I'm always an advocate of, this is great. They've given you some flexibility. You can think about what's going to be workable for you on this.

Andelyn Nesbitt Rodriguez: Exactly. And I did mention that, you, as the recipient have to verify the information on the Section 3 business certification form and that can be as high level or [inaudible] deeply as you want it to be. I always say, do what a prudent person would do. That's what we're looking for here.

Les Warner: And I will just mention that we mentioned about the opportunity portal where you would have a business identifying themselves as a Section 3 business concern, that is not the appropriate level. HUD's not really vetting those businesses.

So you still would -- you wouldn't just print out, they're listed on the opportunity portal as a Section 3 business concern, you would have a certification process that you would use for each one of those.

Andelyn Nesbitt Rodriguez: Absolutely. Good point. All right. So when using self-certification, and I hope that -- questioning the language, what does currently means or when hired [inaudible] at least on the following categories for the past five years.

What does it mean that we're only looking at new hires in the past five years? This is a -- well, I mean, for targeted workers, example an employee who was hired 10 years ago and lived in Section 8 housing, they don't count, but if they were hired four years ago and lived in Section 8 housing, then they do, this is a really good question and the very next one is actually asking for more information on a look-back period so let's talk about that.

Les Warner: So this is this sustainable employment thing. And so, under the old rule, we were only looking at new hires. So, and we had a lot of projects of large size that we would have a contractor, they were using existing staff. So we -- in the past couldn't count any of those that qualified. They weren't necessarily hiring. They were bringing on a subcontractor.

And so with this new rule, we're saying, we -- it's not only about new hires and looking at what their current salary would be, but they're allowing this look-back period. So because this new rule went into effect on November 30th, 2020, that's as far back as we are able to look because that's when this rule came into effect.

So right now, don't have a five-year look-back period because it hasn't been five years since November 31st, 2020 as time goes on and I won't try to do that math in my head of what that day would be, but we will in the future then have a full five-year period.

So if I am an employer, and let's say I have a workforce of 20 workers, I have two options on how I could qualify that worker. I could look at their current salary, the wage that they are being paid and annualize that, and if that qualifies then great, they now qualify as a Section 3 worker.

But I also could then look to see, when were they hired? And so if they were hired on November 30th, 2020, or more recently, I could use the wage rate that they started with, with that company. So I might have been hired at a lower rate and I'll use, for example, we have questions and people saying, I'm in an area where all of our positions are union positions, everybody's being paid Davis-Bacon wage rates, so it's difficult to be able to find qualifying workers.

But if I was hired as an apprentice, I may be at a qualifying wage when I was hired, and if that happened November 30th, 2020, or more recently, even though I'm now paid a salary that's higher, I can use my original salary that I was hired from, and the employer can verify it at that point.

We also have the option for the worker themselves to fill out that certification form and do an annualized at the point that they were hired. And so that's not just what today being a new employee, what my wage is, but they're looking at the last 12 months. And so that would be -- could be potentially allowing them to qualify. And there is an FAQ on this, and I would recommend you take a look at that.

I'm not sure I have the number exactly on my desk, but there is an FAQ about that. So probably the quickest, the first step is, do they qualify now with their current salary and then looking to see who was hired within this effective period of the new rule up to five years back and be able to then question what was their starting salary.

And so it allows us, and it allows that employer to hire in folks, hold onto them, maintain them in their workforce, have them advance and make a higher income which we really want for workers, but still be able to take credit for them as a qualifying worker which is a great change to the regulations.

Andelyn Nesbitt Rodriguez: Absolutely. Thank you, Les. We have one more question and then we'll dive right back into the material. On the topic of small PHAs who elect not to do the quantitative benchmarks, can the contractors still do the quantitative benchmarks of the 25/5 rule or is there only option to participate in the qualitative efforts?

Les Warner: Well, my understanding of this would be that you would be exempt from the requirement of collecting and reporting on those quantitative benchmarks. So I would presume that to make things simpler for yourself and for your contractors, that you would simply have a plan in place that HUD would've approved in saying, we're only going to do the qualitative efforts on this and have standards on what those efforts would be, how those are going to be documented and collect those from the contractors.

If you're not required to report on the quantitative benchmarks on this, I would think that you would just streamline your process. I don't know that there's anything that would stop you from being able to try and see if you could meet those anyway. But it seems like it would add an additional administrative burden for you.

Andelyn Nesbitt Rodriguez: Absolutely.

Les Warner: All right. So, Andelyn, shall we hand things over to you?

Andelyn Nesbitt Rodriguez: Absolutely.

Les Warner: All right.

Andelyn Nesbitt Rodriguez: All right. Now we are going to keep going. We'll go onto model number three, program oversight. And as it says, this model is all about program oversight. So we're going to review in this module program oversight, responsibilities, and best practices.

We're going to talk about the review basis by which HUD may conduct a compliance review and we'll also provide examples of types of information that could be used to prepare for a HUD compliance review. We're going to review record keeping requirements, and also the process for filing a Section 3 complaint.

The program oversight; very important part of the compliance puzzle where recipients must be -- will be responsible for demonstrating overall Section 3 compliance to HUD, and therefore should make sure that they're binding all subrecipients, contractors, and subcontractors to the requirements and that the subrecipients contractors and contractors are including Section 3 language in their contracts.

Recipients should also ensure that they're closely monitoring their subrecipients, contractors, and subcontractors for Section 3 compliance throughout the life of the project. Recipient should take action to resolve any issues of non-compliance as soon as they're detected. Recipient should also make sure that they're communicating record keeping requirements with the contractors and ensure that appropriate documentation is maintained.

Occasionally, HUD may conduct a compliance review of a recipient agency to determine compliance, and those can result from several sources. Those can result from a complaint implying systemic issues, evidence of potential non-compliance that's noted during a routine program office monitoring, or indications of non-compliance found in regular reports submitted to HUD.

Compliance reviews can also be random. They can be initiated prior to an award of funding, just considering the nature of the project or activity, and they can be geographically dispersed also. HUD could be looking to obtain a representative perspective to the -- of the extent to which various program participants are complying with regulatory guidance. So it could just be location.

Note that one of the changes to the rule is that the final rule provides for program specific oversight. So this means that program officers will be including Section 3 compliance in their regular monitoring processes. So that includes an annual risk assessment that could also result in a monitoring review.

So remedies for non-compliance include contract amendment, procurement review threshold to ensure Section 3 requirements are adequately applied. It could include corrective action, a plan that would lead the PHA to comply with Section 3 requirements, and HUD may also impose sanctions.

So going more into monitoring and oversight, recipient should develop a process to determine how often they will monitor contractors and subcontractors and in what manner, whether that's onsite, offsite monitoring or both.

Examples of criteria may include the number of complaints that the recipient has received, evidence or indication of potential non-compliance based on reported information, the contractors need for technical assistance and projects that include a large amount of funding may need a little bit more oversight from you as the recipient.

Tracking compliance to make it easier on the recipient as best practices -- the best practice. You should develop policies and procedures to implement a process for tracking contractor and subcontractor compliance.

So tracking is not required, however, it allows you to quickly resolve any issues of non-compliance when they occur. It also allows you to evaluate program performance and make changes as needed along the way.

One procedure that could be implemented to assist with tracking is requiring contractors and subcontractors to submit reports during an established timeframe. So you could include in your Section 3 plan that reports will need to be submitted on a weekly, monthly or quarterly basis.

Not sure weekly seems like a lot of heavy lifting, but one other thing that I suggest here is also to tie a reporting to drawdowns. So before a contractor can drawdown funds assuming that there's drawdown schedule and it's not all at one lump sum at the end, then every time they submit for a draw, just like you have to go check the progress of the project, then you -- you need to submit those -- that Section 3 paperwork as well, and have that QC-ed before funds can be released.

An example of tracking labor hours includes utilizing time and attendance records, payroll records, even Excel Spreadsheet is just fine for reports. You can develop a reporting form that you then provide to the contractors which might help compare apples to apples when you're looking at different contractors and aggregating that information for your HUD reporting. You can also use Davis-Bacon certified payroll to track labor hours.

So there are opportunities to streamline Davis-Bacon in Section 3 tracking on HUD funded projects with the threshold and criteria for Davis-Bacon related Act in Section 3 both apply.

Recipients can use certified payroll submissions to track total labor hours, Section 3 labor hours and targeted Section 3 labor hours.

The wage determination that will apply to a particular project should be determined by the grantee prior to contracting. These are things that you already know if you've worked with Davis-Bacon. Davis-Bacon wage rates will be the minimum prevailing wages in that locality as determined by the U.S. Department of Labor.

To find a general wage decision to include in the big documents, the grantee may pull one for their locality @sam.gov or information regarding Davis-Bacon Act applicability, you may contact the regional Davis-Bacon and labor standards office in your recent region by visiting hud.gov program website.

If the Davis-Bacon wage determination requirements are making it difficult to find Section 3 business concerns or workers, you would want to make sure that you're collecting all of the labor hours for the contract, collecting all of those Section 3 and targeted Section 3 worker labor hours, still doing your due diligence on collecting all of the information that you need.

But if the workers do not qualify as Section 3 or targeted Section 3 workers, then you're going to want to ensure that you document all of your efforts as a recipient to comply with the Section 3 outreach, those qualitative efforts are going to really come into play there.

So to make sure that you're collecting all of the data, including the labor hours and targeted labor hours, Section 3 labor hours but if you know that in your area it's very difficult to find those targeted or Section 3 -- Section 3 or targeted Section 3 workers, make sure that you do that much more on the qualitative efforts.

As we've discussed before, a small public housing agency, this is a public housing agency that has fewer than 250 units, and that has been designated through the formal process as a small PHA, may elect not to report on labor hours.

If the agency does not elect -- does elect to not report on labor hours, then it's required to report solely on permitted qualitative efforts. All right. Going into record keeping. I know we talked about this a little bit earlier.

The final rule requires that HUD shall have access to all records, reports, and other documents and items of the recipient that are maintained to demonstrate compliance with Section 3 requirements, or that are maintained in accordance with the regulations governing a specific HUD program by which the Section 3 project is governed.

Recipients must maintain documentation or ensure that the sub recipient contractor or subcontractor that employs the worker maintains documentation to ensure that the workers meet the Section 3 worker or targeted Section 3 worker definitions at the time of hire or the first reporting period.

This documentation must be maintained for the time period required for records retention in accordance with the applicable program regulations. I know I went over this a little bit yesterday. So if it is a CBG program and I know this is public housing, but the CBG program is five years, then you're going to keep the records for five years.

HOME, if there's a 20-year affordability period, you're going to keep the records for the 20 years. In the absence of applicable program regulations, then you would defer to 2 CFR part 200 or the super circular.

PHA or other public housing financial assistance recipient may report on Section 3 workers and targeted Section 3 workers for up to five years from when their certification as a Section 3 or targeted Section 3 worker is established.

And this is one of just my favorite things about the new rule. It's all about helping people move up and you're not -- the contractor is not penalized if folks make more money and are not low income, wouldn't qualify on that basis anymore. You can still qualify folks for up to five years.

This five year period runs as long as the worker is employed with the same employer, then it doesn't, even if they make more at this time, you can still qualify then that's that look at that period. I know we've talked about that a little bit here.

All right. So another tool here that we've provided you, you should have received this in your email is the HUD compliance review checklist. This again is intended to be sampled and you should take it back to your locality and make it yours.

PIH notice 2022-10, also calls out a number of these items as well. A few included includes Section 3 and targeted Section 3 workers are connected to training and employment opportunities. These are items that are on that checklist.

Our developers and contractors linked with capable Section 3 business concerns and when necessary, directed to capacity building training. Our procedure's designed to ensure that all parties, including residents, businesses, contractors, and subcontractors are complying with Section 3 requirements and maintaining those records that document the compliance.

Our contractors and subcontractors aware of and in compliance with Section 3 requirements and are the hiring and subcontracting needs of contractors assessed. So all of those are items that hopefully this checklist will help as you are thinking through preparing for a HUD compliance review.

All right, finally last in this module, we're going to talk about the complaint process. Complaints alleging failure of compliance may be reported to the applicable HUD program office or to the local head field office.

If the office of field policy and management receives a complaint, then they're going to refer that complaint to the appropriate HUD program office. So if the HUD program office finds that the complaint has merit, there will be a formal process.

So complaints can be filed with the local HUD field office or the program office, but if the field office gets those complaints, they're going to go ahead and send that over to the program office and the program office is going to make that final determination there. All right. Looks like we are ready for another knowledge check. I'm going to pass it back to Les here.

Les Warner: All right. So John's going to pull up our first question which is a true or false question. Let's give him a moment to get that up. There we are. So true or false? PHS and other recipients must include language in any agreement or contract to apply Section 3, 2 contractors, true or false?

All right. And almost everybody got this right. This is true. So we are passing on those Section 3 requirements to the contractors because it's going to apply to them. We're going to be depending on them as essentially a partner to implement these requirements, and they also would be passing on those requirements to subcontractors.

And so that language is, we talked about the standard forms. We need four additional clauses and those have been included in the PIH notice 2022-10 in the appendices. So there are four additional clauses that need to be incorporated modifying your probably existing contracts.

All right. So we've got another true false question. Section 3 provides a preference for women or minority owned business concerns, true or false? And then if you'll indicate, hit the submit button. So this one's actually false, and I know this may feel like a trick question, but we're so used to thinking about that there are prioritizations for women or minority owned businesses, but the Section 3 regulations themselves are completely silent on that.

They are neutral on race or gender. And so this is regulations are based on income levels on location. We don't have any preferential treatment for minority or women-owned businesses. All right. And then our one final knowledge check and this again, true or false?

A PHA may report on Section 3 workers and targeted Section 3 workers for up to five years from when their certification as a Section 3 worker, targeted Section 3 worker is established. This five year period runs as long as they are low or very low income, true or false? And then please hit the submit.

So this one caught a few of you. So this is false. And the reason it's false is that last clause which is saying that that worker has to remain low or very low income to be able to qualify. So that's the beauty of this look-back period that at the point that they have qualified, we can continue to count them for up to five years.

But they don't have to stay low income, and really our hope, I guess, would be that workers are going to get a job, be able to sustain it and also see increases of -- in their income over time. And so they're not disqualified when their salary goes up over time. And so that's the kind of the helping workers get towards sustainability that we're not excluding them when that salary goes up.

So kind of an important clarification on that counting that this is a good reminder on. All right. So I think I'm taking over. All right. So we've done the knowledge check. So now we're going to talk through our last module and talking about reporting and evaluation so all the fun stuff.

So we're going to be talking about the systems, about timelines being used to do this and then specifically kind of talking about what is it that I need to be collecting and reporting. So one of the key changes with Section 3 is under the new rule is it really was incorporated into each of the programs.

And so for the most part, our reporting then has been melded into the reporting as Andelyn mentioned on the complaint process. Complaints are going to end up being routed to that particular program office to deal with compliance will be incorporated into that program oversight.

So we're using existing where we have them existing system. So if you had a RAD project that was triggering Section 3, they have the RAD resource desk, is there a reporting system? And so screens will be added to that RAD resource desk and that's where you would then be inputting this information about how you met those benchmarks, the quantitative, and then the qualitative efforts on that.

For lead funding, we mentioned it has a separate threshold of exceeding \$100,000 for those projects that you are needing to report on, they have their own system, the Healthy Homes Grant Management System and that's where this reporting would occur for those systems.

Now for public housing financial assistance, you used to use the sphere system that is no longer the reporting on this and there is a new system in development. The Section 3 reporting platform being called the S3R system.

And so that system is not yet in place but that is where the reporting will be for public housing financial assistance. Now we'll note here, you could be a public housing agency that also had a project that included some HCD funding.

So for instance, I think, Andelyn, yesterday talked about, you could have a housing development that received some HOME funds or maybe choice neighborhood funding to be able to make some updates to that property.

And so those funds would be reported into their reporting system. So it might be [inaudible] HOME funds, mitigation and some other things are going into DRGR and so you would need to follow the path on that. So in some cases, if you were receiving, let's say HOME funds, probably that information is going to be provided back to the participating jurisdiction, the city, the county, the state, and they would be the ones that would actually be reporting into that system.

All right. So let's talk a little bit about timelines on this. So we said that for public housing assistance, this is going to be reported on a fiscal year basis. And so the trigger for starting that reporting, and that was that if you recall yesterday, we talked about our legacy projects that

weren't reporting. They were following the old rule. They were collecting and holding in their files the documentation.

We also had transition period projects that fall under the new rule, but they were funded prior to July 1st, 2021, that they are following the new rule, holding on the documentation, but there's no reporting.

Beginning with 20- -- 2021, July 1st is when our actual reporting would be triggered. And the way this is working is, it begins at the -- with a fiscal year that begins on or after July 1st, 2021. That reporting will happen at the completion of that fiscal year.

There's a 60-day window there to complete that reporting in this new S3R system that will be launching. So this is going to -- when you begin to need to do reporting, it's going to be based on when your fiscal year is.

So if you were maybe the unlucky grantee that had a fiscal year that began on July 1st, 2021, the completion of that fiscal year would then be June 30th, 2022. Then there would be a 60-day period to report into that new system.

Now we know at the moment, that that new system is not available, but this is when the effective date would be for that. So for instance, if you had an April 1, '22 date, you're not completing that fiscal year until March 31st of '23, and then you would have a 60-day window to be reporting that information.

So that's the timeline, and it will be the S3R system once it is launched for public housing financial assistance. So let's talk a little bit about what we know about the reporting on this. So I'm just going to say that this is a mockup of what it might look like.

We do not have access to any kind of a prototype on this. And so we'll talk about this and then I'll talk a little bit about the sample reporting form that has been suggested and provided by HUD. So our understanding of what this reporting will require is that, of course, we'll be identifying in the system, the agency, the source of funding on this, and then contact information there.

And so we'll be putting in the information we've been talking about of, we need to know what are the total labor hours for the project. You probably can't read in this example on your screen, but I believe this one has 900 some hours in total labor hours.

And then they're reporting that for Section 3 workers, they've got, I think it's 206 hours, and then they've also plugged in the number for targeted workers which I believe is 90 something. Tiny numbers on the screen. So you'll be plugging in those numbers and the system itself will calculate that.

So in this case, our initial for Section 3 workers is less than a 25 percent benchmark. And so you see the system has this red X that's popped up telling you that you've missed that benchmark. And then for our targeted workers we have hit or exceeded that 5 percent benchmark. And so you see, we have a check mark here that says that, yes, we have met that, we are also going to be

certifying that, yes, we followed that prioritization of effort and we went through those a little earlier than our prioritization of effort.

We have two separate ones, one for jobs and training, and also a prioritization of effort for contracting. So we're going to plug in the data that we have and then the system is going to calculate.

In the case where we have failed to meet those benchmarks, then as we talked about, we still have the ability to be considered to be in Safe Harbor because we are going to be able to report about having completed our qualitative efforts. So in the -- my understanding is how this system will look, is in the situation where you have failed to meet those benchmarks, you will then have a screen that will pop up which will list out these qualitative efforts.

And this is not an all-inclusive list, but it is simply showing the examples that are right out of the regulations themselves. You could look at those at 75.15 within the regulations. But you'll notice if you can actually read that, that at the bottom of that list is another. So you could have qualitative efforts that didn't really fit into one of these pre-identified categories. That's fine. You would be indicating other.

And so in this case, you are -- you're not submitting documentation on this so that would be maintained in your file, and you would then -- when either we're monitoring, they might then choose to look at the documentation to learn more about how you met that qualitative effort and making sure that you had appropriate documentation.

So if we talked about when we had a job fair that happened at the project site where that investment was happening, I would think we're going to have our marketing material, maybe the postings that were done, maybe we sent letters to residents of the property, or maybe we did postings, we would have the information about that.

But then also a description of, it happened on June 30th and so that would be captured in your file. So you'd be able to say, yeah, this is what we did, this is how we met that qualitative effort. And that might be something that you as the PHA were responsible for and completed or this may be a qualitative effort that the contractor or subcontractor have completed.

So we might be collecting that information from one of those individuals. So examples of this would be, maybe we're providing training or apprenticeship opportunities. I mentioned in areas with unions, sometimes those apprentice positions are the ones that are going to qualify and then their income is going to go up when they're no longer an apprentice, but we have this five-year look-back period so we'd still be able to count that worker that was originally hired as an apprentice and count them for up to five years.

But we might also have things like providing technical assistance to workers that are completing job postings or putting together a resume and that wouldn't necessarily be done by the PHA or the contractor. Might be that you are working in partnership with maybe workforce development office or a technical school that's providing those sorts of services, and we could document that

they are doing that in conjunction with our Section 3 program. And that would then qualify as a qualitative effort on that.

A lot of this has to do with connection, making connections so helping workers post linking up employers to use the -- something like the opportunity portal to identify workers and reach out to them as part of that.

And that could also include things like working with potential contractors to help them understand how they could qualify as a Section 3 business concern. So we have a lot of opportunities on how we might qualify with that. So I just wanted to mention, so as part of the PIH notice, 2022-10, there was a sample form 6002a which is this reporting on Section 3 activities.

I would suggest you take a look at that. And I think this is a pretty good -- this is provided as a sample on how you would collect the information that you're going to need to be able to report. I suspect this is a pretty good snapshot of what screens will look like and how that format will follow.

Now, I'll note that within the PIH notice in section six which is on reporting, and they're talking about the SR3 system in section A which is on page 12, it talks about the fact that the new rule states that non MTW agencies will initially report at the grant or program level, but that there's a possibility that in the future HUD might expand that and essentially make it an agency level reporting to help streamline things.

So I think there's still some questions on what the final version of that would be, but I think in being prepared for that new system, you're going to recognize the things you're going to need to report on are going to be total labor hours, qualifying, targeted, and Section 3 labor hours on that and then also about the qualitative efforts that have been completed.

So you might use this sample form as a way to be able to do that. And I think through implementation on this, I would think that even if you are reporting it on an aggregate for a program, so maybe everything that is being funded out of operating or capital funds, I would think you're probably collecting that data on a project by project or contract by contract basis anyway.

So kind of think about how you're going to collect that information, what's the best way to capture that to have it ready so that when the reporting system is ready for your use, that you'll have it be in place. And it's obviously important for partners to know on the front end of a project what you need them to collect and track for you.

All right. So we talked a little bit -- I've mentioned about the 6002a form, and that was included in your links of tools. And it's not that this one has been ripped that there's a section missing, if this was an attempt to be able to show you more of the form, but the attachment is one of -- is included in the links that we provided today.

And it's also in the toolkit of Section 3 tools that we are also recommending; there are a number of useful items there. So wanted to just kind of wrap this up a little bit by talking about some of our examples of qualitative reporting activities. So I've talked about things like job fairs, I think things that help link Section 3 business concerns to identify where there are bidding opportunities, would be something that would fit within that sort of outreach.

Anything that you are linking in and using the HUD opportunity portal. So we mentioned before, it could be a recommendation. It could be a requirement that for a contractor that is awarded, a contractor that they'd be required to then post using the opportunity portal, any subcontracting opportunities, any hiring opportunities or training opportunities, so that we're creating that linkage, and that's part of our qualitative outreach efforts that we would be able to then demonstrate as meeting these requirements.

And that also might include, as I mentioned, doing some kind of outreach with an external organization, like a state one-stop system workforce development program or something like that. Also within this list are examples of qualitative reporting activities. Could be things like capacity building, whether it's something like we talked about, apprenticeship opportunities.

I know we have some communities who are having conversations with unions and looking for opportunities where we might have qualifying positions for Section 3. We talked about direct assistance to workers themselves to help them be ready and whether that's a resume, whether that's coaching on interview skills, but it also could be technical assistance to a business itself. The things like being able to get bonding other things in place.

And then we've talked about these connections of using the opportunity portal and other sources to make those connections. And as I mentioned earlier, here's the regulatory reference at the bottom of the slide, 75.15, and you can look at what's listed in the regulations itself.

So couple of things we want to revisit here under reporting considerations. We have some flexibility here. So an employer that doesn't have an electronic payroll system can -- we can accept a good faith assessment of the labor hours, and that would include any professional service hours that they were using to meet their benchmarks on that.

This needs to include workers that are part of the subrecipient, the contractor, subcontractor. We've had some discussion about, well, what about PHA employees? If they're being billed to capital funds, if they're being billed to operating as part of one of these eligible activities, then they would be part of that calculation of total labor hours.

And if those workers, when we've had questions about, I've got an agency worker that income-wise qualifies, well, then you would document that using one of the options we've talked about, self-certification, the employer could document that, and they would -- we would then count and track their labor hours that are billed during that fiscal year and they would count towards those benchmarks.

We've already talked about the small PHAs having the ability to opt out of the quantitative part of this and working with HUD to establish then an approved qualitative effort process that they're going to be doing. Keep in mind for PHAs, this is on a fiscal year basis.

Just a reminder that if we have a project that includes both PHA funding and HCD, the PHA folks are always going to need to follow Subpart B, but for the HCD funds, they can choose to use either Subpart C or Subpart B.

And I think probably the best practice is since we're going to have different definitions of a targeted worker and also differences on our prioritization of effort, it might be easier for the HCD funds to say, let's follow Subpart B.

So when we're working with a contractor, how we define who qualifies for each of these categories would be exactly the same not needing to kind of divide that out across a couple programs. Just a reminder, there's no threshold for PHA funding in this, so any amount's going to trigger that. And I think we can move forward from that.

All right. So at this point, we're going to go into our exercise breakout sessions. John's going to put up our joining, click on the join button and we'll be whisked right into our small groups. All right. So we are back in our group. I want to go quickly over this exercise because I want to make sure we have some time for questions and answers.

So as we went through our exercise, in this case, we have a project that is -- and let's actually, we can pull up the answer key, I think, oh, do we have day two on this? We might not. Maybe I can move to the -- no, it doesn't look like we can. All right.

So in our exercise, I'll just pull my little copy over here. So we were at the end of this project figuring out the reporting on this. So we were asked about the main factors that are going to be used for determining whether this meets the Safe Harbor. This really follows and I keep talking about this 6002a form that's included in the PIH notice.

That's the data we're going to be reporting. So we're collecting those total labor hours, the Section 3 labor hours, the targeted labor hours as part of that. And then in the event that we haven't met the benchmarks, then we're going to be reporting on those qualitative hours on that.

We also would be certifying that we follow that prioritization of effort. So then we are asked as part of this, since this is a multi-funded project, what Subpart are we going to be following? So the specifics for public housing financial assistance are in Subpart B. And so that's always going to be used by the PHA for their funding, but in this case, this project also includes CDBG and lead funding, and those have separate thresholds.

And in this case, both of these exceed those thresholds so CDBG threshold is exceeding 200,000 so both of these will be reported then in their applicable systems, so we're going to be using the new S3R system or the PHA funding, and then the Healthy Homes system for the lead and IDIS for the CDBG. All right. I think with that, we don't have about more than a minute or so, let's go to -- back to any questions that remain.

Andelyn Nesbitt Rodriguez: Thank you. So do you have an idea when the S3R reporting report will be ready and will a PHA be reporting on a project or project basis, or for all projects within a funding source, inclusive of all projects, all hours for the project together?

Les Warner: So that's where I was pointing out in the notice, the PIH notice, page 12 that's section A that it talks about for non MTW agencies, that it's going to be on a grant or program level.

So my understanding from that would be, at least initially it would be for anything that's charged off to capital funds would be reported as an aggregate and vice versa with operating or RAD. Now, it does identify that there's this possibility in the future that they could choose to aggregate this agency-wide so I don't think we'll have a final answer on that until we actually see the final system and one would presume that they'll be guidance that will be provided with more details.

Andelyn Nesbitt Rodriguez: All right. I'm going to -- one more quick question and then a very quick question. Do the labor hours include hours worked by the owners, and I think, yes, the total labor hours would include hours worked by the owner if [talking over each other] those funding pots that we discussed yesterday.

All right. Last question. Thank you for this excellent training. You are so welcome. Several questions that don't have time to address now. Please provide us with -- if there's a someone that we can contact with the HUD staff or office, the questions can be submitted. And that's why I wanted to get to this one before we sign off today.

Right. I suggest reaching out to your local HUD field office. They are there to help you, they are ready and waiting for questions so please reach out to your local HUD field office staff with any additional questions about this. Okay. I'm going to turn it back over to Les now for resources and thank you guys so much for participating.

Les Warner: Just want to mention that both on the HUD exchange and hud.gov, that their landing page is that, all of the Section 3 information is together. There is a guidebook. This PIH notice that we've mentioned quite a bit are there, and then programs have also issued separate notices.

So if you were working with HOME, trust fund, CDBG funds, there are separate notices on that. Kind of key I wanted to mention, they've just released additional tools of the Section 3 tools, not only the sample forms that we provided but some others are available.

And then the FAQs, frequently asked questions, keep being expanded. So I think I would keep an eye on that. This three day course, if you need to learn about the Subpart C part of this, that is available for you. There is a how-to-video about using the opportunity portal.

So if you were asking contractors to use that, you could also give them this link and say, hey, there's a helpful link video that will help them on that. And then we have office hours that are

being scheduled, and that would give you an opportunity to ask additional questions and there's time set aside for that.

So I'd encourage you to register for those. I think they're being scheduled now and that will give you an opportunity in addition to working with your HUD program office. So we've kept you a little bit past the hour. Thank you, everyone for your participation. Hope this was helpful and encourage you to use some of these resources. Thanks everybody.

Andelyn Nesbitt Rodriguez: Thank you. Goodnight.

(END)