2022 Section 3 Final Rule Training Series

Session 2 Office Hours

Andelyn Nesbitt Rodriguez: Hello everybody, and welcome to the Section 3 Final Rule Office Hours. My name is Andelyn Nesbitt Rodriguez and I'm here joined today by my colleagues. I will pass it over to Les for a quick introduction.

Les Warner: Hey everybody, I'm Les Warner. Glad to be part of this.

Andelyn Nesbitt Rodriguez: All right, and Kris.

Kris Richmond: Hi everybody. This is Kris Richmond. I helped teach a number of these over last year in the spring and glad to be here with you today. Welcome.

Andelyn Nesbitt Rodriguez: All right. Thank you guys. And again, I'm Andelyn Nesbitt Rodriguez. I've worked in community development for about 15 years, done some CDBG, HOME environmental reviews, and of course, Section 3. So I'm very happy to be here and we'll go ahead and get started now. I'm just going to go through some information about Section 3 before we get started.

So while I'm going through all of this information, a little bit of an overview then you can either type questions into the Q&A box, or if you'd like to come off mute go ahead and get in the queue by typing that you would like to come off mute into the chat box. And as soon as I get done with these slides we'll go right into answering questions.

All right. So resources, there are a number of Section 3 resources available to you. We want to make sure that you have these resources. There's Section 3 of course at the hud.gov at Section 3. There's a whole HUD Exchange page on Section 3 with lots of good information. There is a Section 3 eGuideBook that is extremely helpful.

This came out just a few months ago and so you'll definitely want to peruse that guidebook and it should be very helpful. There are some CPD notices that you should make sure that you are aware of. If you work with housing and community development funding like HOME or HTF, then Notice 21-07 and for Office of Block Grant Assistance, Notice 21-07.

There's also a Public Housing Notice that came out more recently, 2022-10, that gives a lot of really great information, including some clauses in Section 3 language. So that's a really good notice as well. Over under training and tools we have 15 Section 3 tools. There are searchable FAQs that I think are one of the most valuable tools that we have.

The searchable FAQs are very, very good. There's also the Section 3 training course that we did, those are recorded, and you can go and watch the actual training course for housing community development and public housing recipients. There is the HUD opportunity portal and that's a really good tool for businesses, for grantees, and for job seekers to find employment opportunities and to post-employment opportunities.

I won't go through the rest of these. There are a lot of really good tools and trainings, and so I hope that you will make use of all of those. All right. So Section 3, implementing. We want to hear from you. Please share your experiences. We know that the final rule is kind of new, but if you have had any success or if you've had things that have come up as a problem that you'd like to discuss how to overcome then we'd really like to hear from you.

Of you will put your email address and maybe a little information into the chat box, not necessarily the Q&A box but into the chat box, then we can grab those and we would love to hear your experience working with unions, working with apprenticeship programs. Maybe you've created a Section 3 plan and that has been helpful or you found things that you should have added that weren't in there originally.

Any other ideas to share, please let us know. Go to the chat box, provide your name, email, and a little bit about what you'd like to share. All right. So going into Section 3 now, and we want to demystify Section 3 applicability. I know that it's a lot to wrap our brain around, but demystifying Section 3 applicability.

There is public housing, and that's the bright red box that you see here. These are covered programs. So we tried to make this list exhaustive, but this is not limited to so there's public housing and then all of the gold boxes are different housing and community development related programs that do trigger Section 3.

And then of course there's a lead hazard control and healthy homes programs. Those are also covered under Section 3. Of course there are different thresholds for each of these, but these are kind of an idea of the covered programs. So for housing and community development financial assistance Section 3 applies to housing rehab, housing, construction, or other public construction projects.

You should note that demolition projects are covered under Section 3. I know that's a question that I received a lot in the past when I worked for an entitlement community. Demolition projects are covered under Section 3. When I mentioned other public construction a moment ago, that includes infrastructure work, extending water and sewer lines, sidewalk repairs.

It includes site prep and installing conduits for utility service. All of those things are going to be applicable under housing community development financial assistance, and may trigger Section 3. There is a threshold for housing community development assistance funding. Section 3 requirements apply if the project exceeds $200,000 of community development financial assistance.

That can be from one or more HUD programs. So if you have a project that has little CDBG, a little HOME, if those combined equal or exceed $200,000, then Section 3 would be triggered as long as it's housing rehab, housing construction, or other public construction projects. All right. And for housing community development assistance, housing applicability is determined at a project level.

So you're going to be reporting project by project. You'll be reporting into IDIS at project closeout, and so that's a good thing to know, project by project. All right, let's talk about lead hazard control and healthy homes. So lead hazard control and healthy homes are treated like housing community development, financial assistance, as far as applicability and as far as defining a Section 3 project.

But there's a lower threshold for housing, I mean for lead hazard control and healthy homes programs the threshold is $100,000. So neither public housing financial assistance or housing community development financial assistance are going to be included in calculating whether the lead hazard control and healthy homes financial assistance exceeds $100,000.

So the lead hazard control and healthy homes funding would stand on its own, and if it's over $100,000, then it would trigger Section 3. All right. So for public housing funding there are no thresholds under Section 3. So that means that $1 in and Section 3 is triggered if the public housing funds are coming from these particular sources.

So Section 3 applies to capital funds, it applies to operating funds, it applies to RAD, the rental assistance demonstration program for construction and rehab, not for the Section 8 rental assistance part, and we'll talk about that a little bit more in the upcoming slides, but for the construction and rehab related to RAD then that would trigger Section 3.

Also for mixed finance development under public housing funds it would trigger Section 3. I'm going to skip the last two boxes, the last two on the left for a moment and I'm going to come back to them in a second. Programs or funds that are not applicable under Section 3 for public housing funds include housing choice vouchers.

Project-based vouchers or project-based rental assistance contract payments do not trigger Section 3. Rental assistance demonstration program, the RAD program Section 8 part of it does not trigger Section 3. All right. So now back to the left, things that do trigger the applicability of Section 3.

Choice Neighborhoods and certain instances of Section 8. So these two items the reason that they're in that applicable column is because they're connected with housing and community development financial assistance projects. So they will be triggered if the housing and community development funds are included and if they're applicable.

So if the housing community development funds is being used for housing rehab, housing or public construction, and if those housing community development funds are over $200,000 then that would trigger Section 3.

So for Choice Neighborhoods, all projects, phases, or activities that receive that HUD housing community development, financial assistance exceeding the $200,000, including but not limited to Choice Neighborhoods and CDBG are subject to Section 3 requirements. Phases and activities unfunded by HUD financial assistance that are part of the Choice Neighborhoods transformation plan are not subject to Section 3.

So just the parts that are funded with the housing community development assistance would trigger Section 3. All right. For Section 8, these are properties that receive Section 8 project-based or tenant based monthly rental assistance payments. Section 3 is not covered for those, but those properties may receive other funding like CDBG or HOME for rehab or construction activities.

So again, if the project receives over $200,000 of the CDBG or HOME funding or other housing community development funding then Section 3 would be triggered and you would use subpart C of the final rule. So part 75 subpart C which governs housing, community development funding.

All right. So back to RAD. We talked a little bit on the last slide about RAD and what's covered, the rental assistance demonstration program. So under RAD the transfer of housing stock from public to private ownership often incorporates upfront capital improvements. Now, this one time activity is covered by Section 3.

And there's a RAD notice that came out, a RAD notice revision for H2019-09, PIH 2019-23, that was published on September 5th, 2019 that speaks to that change. So that one time cost of the upfront capital improvements that were laid out as a part of the plan, your conversion plan does trigger Section 3.

There's also RAD guidance published on the RAD resource net around this. So properties converted through the RAD program are covered by the section, the same rules as Section 8, aren't triggered except for that one time expenditure. So for that one time expenditure those capital improvements that were laid out as a part of that conversion plan.

If housing community development funds were utilized to carry out those necessary improvements, then you would use, again, subpart C of part 75, because that subpart C speaks to housing and community development funding. If no housing and community development funding was utilized to carry out those capital improvements, then you would use subpart B of part 75, which speaks to public housing, financial assistance.

So subpart B speaks to public housing financial assistance, subpart C speaks to housing community development financial assistance. And again, properties converted through the RAD program are covered by the same rules as Section 8.

So generally it's not triggered, does not trigger Section 3 except for these occurring after the date of the RAD conversion, those capital improvements that are contractually obligated as part of the RAD conversion that were laid out in that conversion plan. All right. A couple of things that Section 3 does not apply to across the board, whether it's housing community development funds or public housing funds.

Section 3 requirements do not apply to material supply contracts. So these are contracts that don't require any labor. So for example, a contract for office or janitorial supplies wouldn't be covered by Section 3. It's encouraged, but not required. However, a contract to replace windows, which includes the removal of the existing windows and installation of new windows would be covered due to the involvement of labor.

So material supply contracts are not covered, but when labor comes in then Section 3 can be triggered. Also Indian and tribal preferences are not covered by Section 3. Contracts, subcontracts, grants and sub grants subject to section 7B of the Indian self-determination education assistance act or subject to tribal preference requirements as authorized under the Native American Housing Assistance and Self-determination Act.

So those must provide preferences in employment training and business opportunities to Indians and Indian organizations, and therefore they're not subject to Section 3 requirements. All right. Going back again, these resources are extremely valuable and just want to make sure that you are aware of them. So we put them twice in this short presentation here. All right. And that's it. It is time now to go to questions. John, do we have any questions in the queue?

John: No verbal questions in the queue yet.

Andelyn Nesbitt Rodriguez: All right. If anybody has questions then feel free to go ahead and get in line. Just go into the chat box and let John know that you'd like to come off mute and ask her questions. Les, Kris, do we have any questions that have come in in writing?

Les Warner: We seem to have a lot of questions from trying to figure out again about when things apply. And so I would just go back, maybe if you want to pull up that applicability chart again.

Andelyn Nesbitt Rodriguez: Absolutely.

Les Warner: So sort of the process that you need to be following is looking, thinking about the funds that are involved in that project. So if you have public housing assistance you're going to be under subpart B and you'll be following those requirements which don't have a threshold. So any amount of funding in one of the applicable programs is going to trigger Section 3.

For HCD funding then we would be looking at that total, generally the cumulative total of those funds and determining whether they exceed $200,000. So a lot of questions coming in about, well, is this going to be covered by Section 3? For example, we had a question of if I'm running a homeowner rehab program where I have lots of individual units.

Well, because those are individual projects and we are measuring this threshold on a project by project basis, if you're doing, I don't know 20 homeowner rehabs and each one of those will be a separate project, then we would apply that threshold to each one of those. So if you don't have any homeowners that are being assisted with in excess of $200,000, then you would not have triggered Section 3 for that.

We also had sort of a related question that was saying, well, we're only putting our money into the acquisition of the land but somebody else is paying for the construction itself. Well, we're really looking at that overall project that's involved. So if you are under HCD it's looking at what is involved in that overall project, not necessarily just what you are putting your funds into and then applying the threshold.

So you might be only putting in money for acquisition, but if that project includes housing rehab, housing construction, or other public construction, then those types of activities are going to trigger Section 3. And then we're looking to see, does the investment of HCD funds exceed 200,000 to determine whether it's triggered or not? But it's a project by project basis.

Andelyn Nesbitt Rodriguez: Thank you so much. Absolutely. I'm looking for slides on defining a Section 3 project here because that might be helpful as well. Let's see if I can get to those. All right. So for housing community development, like Les just talked about, these are going to be on a project by project basis.

So a project is a site or sites together with any buildings and improvements located on the site that are under common ownership, management and financing. So that's really important under common ownership, management and financing. So if you have a rehab program and they're dedicating $200,000 to the rehab program for homeowner rehab and you spread that 200,000 over 10 homes, so you spend $20,000 per home, 10 homes.

Each of those homes is owned by a different person, so that would not constitute one project. Therefore the funds would not be aggregated to meet that $200,000 threshold. So hopefully that was helpful there. All right. John, any questions in the chat?

John: Yes. We have some people in the queue. First is Maggie Bolton.

Andelyn Nesbitt Rodriguez: All right. Hi, Maggie.

Maggie Bolton: So my question for you is there are times that the developer, so you must be familiar with by the time that we get an opportunity to do affordable or to build affordable housing or renovate affordable housing typically we've been working on it for probably a couple of years because we need to put proforma numbers together for them, for their budget, right?

So we are already bidding that out to our subcontractors. And then sometimes we're not finding out that Section 3 is applicable because they have to go and get CDGB dollars or they apply for CDGB dollars, but they don't know that at the time of the award to the contractor. So we're having to go back and tell all of our subcontractors after we've already issued contracts to them that Section 3 applies.

So we are not necessarily able to get out in front of this and do some of these job fairs and get our subcontractors kind of doing this after the fact, after we've already been awarded a project because they're trying to fill the gap with either CDGB dollars or some other funding source that is triggering the Section 3. What do you suggest in that situation when we don't know that it's Section 3 is triggered?

Andelyn Nesbitt Rodriguez: Well, I would suggest including Section 3 from the beginning and having Section 3 language in your contract that if these funds are utilized then Section 3 would be triggered. I don't know if you have a Section 3 plan, but going ahead and introducing the Section 3 plan at the pre-bid. I would suggest folding in Section 3 from the very beginning.

Maggie Bolton: Okay. All right. Great suggestion. Thank you.

Andelyn Nesbitt Rodriguez: Thanks. All right. John, next caller.

John: Next we have Leanne Lawrence.

Andelyn Nesbitt Rodriguez: Okay. Hello Leanne.

Leanne Lawrence: Hey. I'm Leanne, I'm from the city of Memphis housing and community development. Apologies for using the Q&A instead of the chat. You actually have to close the Q&A then open the chat. Anyway.

Andelyn Nesbitt Rodriguez: That might be helpful for other people on the line as well.

Leanne Lawrence: Anyway. So I have a laundry list of questions. I'm sure folks have similar questions. I didn't know quite how to organize them. But one question I have is around union obligations because it really wasn't covered very thoroughly in any of the regulations or in the presentations but I recently saw it one little tiny bullet point and the compliance checklist that HUD put on the website.

So that's a little bit of a tricky one that I think we may not be able to tease out completely on this webinar, but we should because unions, as we all know, have their own process, they have basically a priority list for their own hiring process. And I think it's a little challenging to impose Section 3 on that because they're under a whole different set of laws.

And so there must be some input that you all could provide on what do we mean by union obligations? I mean, those are HUD's words and then they just leave it as that. So do you have any way to put some daylight on what that means?

Andelyn Nesbitt Rodriguez: I don't. And I'm hoping that Les and Kris might be listening for I don't have any further input on union obligations. Here's what I know, the obligation is on the grantee. So it's a good idea to work with unions. There's often some synergy in ways that you can work together to build a pipeline for workers, and unions are often that middle piece in the pipeline, but I don't know anything about union obligations under Section 3.

Leanne Lawrence: Well, let me just add to that because they do have their own pipeline. And so let's say we have 20 contractors on a job and some are union, some are not. The union like the plumbers and the electricians and such have their own process. They're not going to reshuffle their workforce because of Section 3.

I don't think we can force them to do that. So they already sort of have a hiring process and a lot of their workers are Section 3 but it's only because they make such little money. So it's not like they're getting extra benefits by being on that job, it's just their turn to work. So I'm not sure we can bring unions to jobs if they're not part of the bidding process. So I'm not sure what that really means.

Les Warner: So I'll just add in a little bit. I missed a little bit of the beginning because I was busy typing on something else, but I think your obligation is you're trying to further the goals of

Section 3 with the programs that you're implementing. And so folks are having discussions with unions about like apprenticeship programs because of that ability oftentimes to then have folks that are going to qualify wage wise in that initial period.

And we have under the new Section 3 rule the ability to then count them for up to five years on those projects. So it's kind of helps to build those numbers. Also in the trainings we talk about ways to encourage bidders to come to you with proposals that help you meet those requirements. And that could become part of your procurement policy on how you are going to rate or rank on responsive bidders to your proposal.

But there's not a way for you to control forcing or -- you're trying to get the information out, you're trying to encourage where there's a potential to have qualifying workers, qualifying Section 3 business concerns. And really your backup plan then is also to implement standardly those qualitative efforts, those outreach efforts that you're doing and document that so that you're going to be in safe harbor even if you are unable to meet those quantitative benchmarks of the 25 and 5 percent.

Leanne Lawrence: Okay. Okay. So I have another question. So it's CAPR season and for some of us it's going to be the first time that we're reporting on our Section 3 under the new rule. And so I'm just curious, are we only obligated in the CAPR to report under the project subject to the new role?

And so even if we have legacy projects under the old role that are still going is it just, and I understand it's just the projects that have completed during the program year that we're reporting on, is that correct?

Andelyn Nesbitt Rodriguez: Let's look back at the final rule timeline here, and I think we go back. So for legacy projects, projects that were executed or for which assistance for funds were committed prior to November 30th your requirement is to adhere to the old rule.

You're expected to maintain records but aren't required to report in Spears [ph]. And I believe we may need to get some clarification on this, but I believe that that also includes IDIS. You're reporting on the projects that were closed out in the year.

Leanne Lawrence: Okay. And so with ESG, emergency solutions grant those projects are batched under activities in IDIS. I believe that's a HUD requirement. So we could have five or six contracts under one ESG activity. So it's not going to load the Section 3 reporting. There's no way to input it so we can edit it in the CAPR ourselves.

But I'm just wondering in the narrative if there's any guidance on how we're supposed to report an ESG project that was subject to Section 3. And someone else had a question in the chat about the same type of project. It was a domestic violence shelter that did an HVAC installation, and it was a $300,000 ESG contract and the construction portion exceeded the $200,000.

So I can put it in the narrative, but I guess my concern with the CAPR and HUD's oversight is just making sure we're not opening up a can of worms that we really don't want scrutinized and sort of like, what is the expectation for reporting ESG Section 3 data, because you can't do it the same way you would for say CDBG or HOME.

Andelyn Nesbitt Rodriguez: Yeah. That is really, really good feedback. And I apologize, I worked with CDBG and HOME. I haven't worked with ESG. I'm not familiar. This is certainly something that we can take back to HUD and get some clarification on. If you don't mind just put your name in the chat.

Leanne Lawrence: Okay. Sure.

Andelyn Nesbitt Rodriguez: Yeah. Message me privately on here so that I can get your email address and get back to you on that.

Leanne Lawrence: Okay. And then the next thing, and I'll be quick because I'm sure lots of people are waiting to chat as well. So legacy projects, so unfortunately here in Memphis we signed a ton of projects the month that the new rule came into effect, but it was like November 15th, 2020, and many of them were like three year projects.

And none of these projects I'm referring to even qualify under the new project definition under the new rule. And we haven't figured out how to get these real small contractors. This isn't the lead program primarily out of the Section 3 reporting requirements. And for them it's real cumbersome. The reports are really low quality.

So there's a lot of oversight and compliance we have to perform to get good information. But considering they're not even subject to the new role, is there any sort of technical thing we could do in terms of amending the contracts that wouldn't conflict with the award date of the contract?

So the award date would be under the old role, but we just think it's a waste of time and lots of paperwork for these small contractors to continue to report under the old role but we have no other way or no other knowledge of how we can do that until the contract expires.

Andelyn Nesbitt Rodriguez: Yeah. And that was the point of the November 30th, 2020. So you said most, if not all of these were executed earlier in November?

Leanne Lawrence: Yeah.

Andelyn Nesbitt Rodriguez: That's the good news, and that was the point of that. HUD did not want folks to have to go back and amend contracts that were executed prior to November 30th, 2020. So if they were executed prior to November 30th, 2020, you can rest assured that you don't need to go back and do anything on them except for adhering to the old rule and maintaining those records on paper or electronically.

Leanne Lawrence: Is there any way to get out of that because it just seems kind of silly.

Andelyn Nesbitt Rodriguez: To adhere to the old rule?

Leanne Lawrence: Well, because under the new rule they don't even qualify as having to meet Section 3 at all because they don't meet the project definition. These are all individual homeowner repairs scattered throughout the city.

Andelyn Nesbitt Rodriguez: Right. So no. The old rule was in effect until November 30th, 2020, and then the new rule. So Section 3 is an ongoing thing and there's no time in the middle that Section 3 just didn't apply.

Leanne Lawrence: Okay. Thanks.

Andelyn Nesbitt Rodriguez: Thank you. All right. Les, Kris, any questions from the chat that we need to get to that we should get to right now or should we go on the next caller?

Les Warner: I think you could go on if you've got another caller.

Andelyn Nesbitt Rodriguez: Okay. John?

John: We do. Next is Steven Oaks. Steven, you are unmuted.

Andelyn Nesbitt Rodriguez: Hi Steven.

Steven Oaks: Hello, and then I muted myself. I have a couple of really quick questions and then one that's a little more nuanced and I hope I do it justice. The first was we've been through some trainings and at one point there was a list of like qualitative things we could do, and I haven't been able to find one now that in any of the trainings it's kind of a list of recommended qualitative things we can do to comply with the Section 3. So I was wondering if you could point me to that.

Andelyn Nesbitt Rodriguez: Let's see. That's considerations of -- I'm sorry. I thought that I was going to it. Bear with me. There is a list and I think that it appeared when we showed a printout from -- here we go,

Les Warner: It is I believe at 75.15B. So it's right in the regulations itself, and then that's what's been duplicated in the IDIS list.

Andelyn Nesbitt Rodriguez: Thank you so much.

Les Warner: But keep in mind it's not an exhaustive list, so you could have something, that's why there's another at the bottom of this, you could have something else that accomplished these goals but didn't seem to fit into one of these populated categories.

Steven Oak: Okay.

Andelyn Nesbitt Rodriguez: There may be something that's going to work really well for your community that's just unique, and in that case you might want to talk to your field office staff about them and just make sure that that's a good qualitative effort and quite often those will go too. So things that are not on this list at all that are just unique to your community might be really good.

Steven Oak: Oh, okay. Okay, great. And the next question was if there was any updates on when the new reporting platform was going live.

Andelyn Nesbitt Rodriguez: No. We don't have any updates on S3R, the new Section 3 reporting platform for public housing agencies. Is that the one that you were referring to?

Steven Oak: Yes. Yes.

Andelyn Nesbitt Rodriguez: Yes. No updates at this time on when that'll be going live.

Steven Oak: Oh, okay. And then my last question is, and I guess I was going to try to make a statement and see if it's accurate. And that is so I work for a public housing agency out here in Lane County in Oregon and I don't work on the public housing side and I'm trying to make sure we're implementing it correctly on that side of things. So with the public housing money that comes in, so all I guess our reporting would apply to any employee that's employed using the public housing funds. I guess that's a question.

Andelyn Nesbitt Rodriguez: Yeah. So for public housing funds for public housing funds, I'm trying to get back to the slide that's going to be helpful to us. All right. For public housing funds. So if an employee or a project, an employee or a project is paid out of these funds, the applicable funds, capital funds, operating funds, if that employee is working on a part of the contract for the capital improvements for RAD, if they're working on a public housing, mixed finance development fund, if they're being paid from those funding buckets, then you would collect their information.

Steven Oak: Oh, okay. That makes sense. And what about public? And I hope I'm saying accurately. There's typically, and I don't know if this can be done with operating funds, but we have funds that go from public housing into kind of, they call it the ROCC budget, which is the admin things like that. When those funds go into that other bucket, do they still carry with them this Section 3 requirement?

Andelyn Nesbitt Rodriguez: Yeah. I'm going to tag Les in for this one if we can, because I know that we've talked about this before. This wasn't something I was familiar with before. Les, if you can we're talking about funds going from let's say the operating fund into a bucket, what's it called?

Steven Oak: We call it our COCC fund, but it's the fund that pays for kind of the administration of the housing authority, and it's kind of mixed in with other funds to pay for finance and things like that.

Les Warner: So my understanding, and we don't have as much clarity as we would probably like, but my understanding, so when we talk on the applicability chart that's showing here generally we're saying, well, anything that's coming out of operating funds is going to be triggering Section 3.

But my understanding was that there may be admin funds that are coming out of that that might be used for administering one of the non-applicable like you're using some of your operating funds to cover the administration of the Section 8 housing voucher program or project-based vouchers.

So I think there are probably some additional questions that you may need to run a question and we're trying to field some of these, but I think if those administrative funds are being used to fund the implementation of one of these non-applicable programs or types of uses, then we could say, okay, that gets excluded. But I think for overall operations of the PHA itself that those are not excluded, that they would be part of your Section 3 liability essentially.

Steven Oak: Oh, okay. So if they're clearly working in the non-applicable realm then it should be okay, but if they're not in the non-applicable then it's applicable.

Les Warner: That's my understanding.

Steven Oak: Okay. Okay. That's very helpful. That's all I had. Appreciate it.

Andelyn Nesbitt Rodriguez: Okay. Thank you so much, Steve. All right, John, who's next?

John: Next we have Anne [inaudible]. Anne, you are unmuted.

Anne: Great. Thank you.

Andelyn Nesbitt Rodriguez: Hey, Anne.

Anne: I asked this question in the chat and Les answered it, but I really just want to make sure I'm understanding this because I'm getting a lot of pushback from our development department. I'm with the city and county of Denver and I did ask this question to HUD and I got two different answers.

So this pertains to acquisition. A lot of our CDBG funds go to acquisition of property. The funding for development and rehab is going to come from a separate entity that we're not even involved with. And again, Les stated that it's based on the whole project, but I just really want to make sure that I'm understanding that because like I said, development is giving me pushback.

Saying, no, this is just acquisition, we are not involved in any of the construction. I asked the question to HUD. I had one person come back and say, no Section 3 on acquisition would not apply. Then another person came back and told me it would, similar to what Les's answer was on this. Again, I'm getting really confused on this so I'm hoping you can just clarify a little bit more for me.

Les Warner: So I think the issue here is what is the project, and I presume that when you were setting up your use of your CDBG funds for acquisition that well, so for -- let's use one of these as an example. What's the national objective on this? What's the project that you're doing?

Anne: It would be building affordable units rent or for sale.

Les Warner: Okay. So the way you are making that use of CDBG funds eligible, you're saying that this is a housing project.

Anne: Yes.

Les Warner: And so because of that, it's CDBG funds so we know they're covered by Section 3. What the project is, is within these triggers of housing rehab, housing construction, or other public construction. And so by definition we do have applicability because you're not setting this up as an acquisition project, you're setting this up as a housing project. So I mean, you are tied --

Anne: Overall. Yeah. Yep.

Les Warner: Yeah. And then, so then you would apply the threshold to that. I think, I mean, we've got a new set of regulations here. Everyone's working to get up to speed so it doesn't surprise me that you might get an answer that wasn't quite on target. And we typically have some folks in our team or external that are saying that are looking for, well, why does that have to be counted?

Is that all I'm doing is? And we kind of as a standard for a lot of the things that we do, environmental review, number of other things we're saying, okay, but what's the project. And then that's what really defines, okay, what's going to apply here?

Anne: Okay. And again, and that makes sense, Les, it does. It's just the development department is saying, hey, we're only giving funds out on acquisition, you know?

Les Warner: Sure.

Anne: They're getting another entity, not city of Denver, another organization they're getting funds for their rehab. So again though, it's over the threshold. I'm looking at the whole project. We're going to have rehab, we're going to have construction, we're going to have all that. Even though they didn't get the money from us for that part of it --

Les Warner: Right.

Anne: -- I'm looking at the whole project so therefore yes, Section 3 is going to apply.

Les Warner: Yeah. And I mean, you've probably had to deliver that kind of bad news on any number of topics in the past where folks wanted to say yeah, but my money's only doing this. Okay.

Anne: Yeah. You're right.

Les Warner: Yeah.

Anne: Okay. So then again, though, I'm just trying to, because they're working with the recipient, the recipient's going to work with the contractor and the subs, da, da, da.

Les Warner: Right.

Anne: So they're going to work with the recipient, and again it's just stating upfront that, okay, we're funding acquisition but you need to understand that the whole project, HUD is looking at the whole project, even though we're doing a piece of this they're still going to have to report back to me on Section 3. Is that correct? Or would it be reported back to the entity putting the money in for construction and rehab?

Les Warner: No. Because you have CDBG funds invested in this project, you've triggered it for your investment so you have to collect that information to be able to report it on the screens in IDIS

Anne: Okay. And then here's the last thing. So since we have another entity that's putting money in let's say HUD funds for construction and it's over the threshold, would they be reporting on it as well? And would they be --

Les Warner: Yes.

Anne: Okay. So the recipient would possibly have to be reporting it to this city and whatever other entity, correct?

Les Warner: Yes. Yes.

Anne: And that's easy enough, they just send the same thing. Okay. All right. All right, Les. Well, I'm going to hold you to that.

Les Warner: I mean, if you can get somebody high enough up to put it in writing that you can depend on saying, oh, it doesn't apply.

Anne: I don't who to go higher on it. Because even when I go to my field administrator or field rep, and that's where I'm getting two different things and then I went to community planning and development and they said, well, I think the administrator or field rep already answered this and I said, but I got two different answers so I'm going with you.

Les Warner: All right.

Anne: Thank you.

Andelyn Nesbitt Rodriguez: All right. Thank you, Anne. All right, John,

John: That's it for people in the queue.

Andelyn Nesbitt Rodriguez: All right. Very good. Kris Les, were there any questions that you want to discuss or?

Les Warner: Well, I've got a messy one which might be easier to just discuss then. This was a question about the specifics on when we have RAD funding and that the transaction is not receiving capital funds.

So I would just send you to, if you've gone to the trainings in, I think session number one slide 24, which is specific to the rental assistance demonstration program points out that we're really looking at, it's not going to apply after the conversion activities have been completed, but it may be triggered by what you're putting into that project as part of the conversion.

So two things just to reference on this. So this RAD notice revision four which came out in 2019 kind of goes into the details on that. And then also there's some additional RAD Section 3 guidance that's on the RAD resource net.

So essentially properties that are converted through the RAD program are covered by the same rules but it doesn't apply to Section 3 requirements for activities that occurred after the date of the RAD conversion. And so I just would route you back to the notice on that for as much detail as is available on that.

Andelyn Nesbitt Rodriguez: All right. Thank you so much, Les.

Kris Richmond: Andelyn.

Andelyn Nesbitt Rodriguez: Yes.

Kris Richmond: I think somebody was asking about the Section 3 plans.

Andelyn Nesbitt Rzzzzzzzz: Absolutely.

Kris Richmond: And even though the plans are not required anymore it's a best practice. I thought it might be helpful for you to go to that slide. I'm trying to remember which day ,was it day one maybe?

Andelyn Nesbitt Rodriguez: I think it was day two and here we go.

Kris Richmond: Yeah. Maybe kind of go over some of those parts and I can put in the link of where they can find the sample plan.

Andelyn Nesbitt Rodriguez: Perfect. Perfect. Yeah. So Section 3 plans, as Kris said, this isn't a required component but it is really a best practice and really, really helpful. It helps sub-recipients recipients, the contractors and subcontractors, just everybody involved in the project know their requirements.

You can have the timing as a part of the Section 3 plan, let's see what the -- it can include the purpose of Section 3. It can include applicability. It can include those 25, 5 percent safe Harbor benchmarks, clearly laying out recipient and contractor responsibilities. And one thing that I like to suggest is at pre-bid have the contractor initial, or at contract execution, have the contractors initial next to their responsibilities.

It gives you a little bit more teeth that you knew that you had to do X, Y, and Z. It can lay out prioritization of efforts, which we went into during the training and eligibility requirements, certification procedures for workers and businesses. You can even have the forms in there as part of the plan.

It lays out reporting deadlines and of course complaint procedures. So the Section 3 plan is really yours to create in the way that it best fits your community. Another really good idea is to have a Section 3 coordinator, someone who knows Section 3, really, really well and can communicate to all the stakeholders involved their roles and can track Section 3 compliance.

So some key practices, you want to include a diverse community of stakeholders in developing the plan. So having your procurement officer for your organization there in the beginning when you're creating your Section 3 plan is really good because ultimately you're going to have to follow your procurement policies and procedures, and they should kind of jive with Section 3 requirements and that person can be a part of that Section 3 plan.

Maybe having someone from your legal team on the plan development is a really good idea. So this also lays out procurement person, Section 3 coordinator. Utilize your local HUD team, get your field office kind of stamp of approval on your Section 3 plan is a really good idea as well.

So there is a sample Section 3 plan that we've provided, and I think Kris is going to put the link in. It's also a part of the resources that are here for you. I believe it's in this 15 Section 3 tools, so when you do receive, or when this is posted, which I believe that this slide deck will be posted with the recording of this office hours, when that's posted you can go there and go to these 15 Section 3 tools. There's a lot of really good information in there and sample plans and templates and forms for you.

Les Warner: Andelyn, I just -- go ahead, Kris.

Kris Richmond: I was just going to say, I put the link in the chat box and I've also put it in the three or four questions that I've answered as well.

Andelyn Nesbitt Rodriguez: Thank you so much.

Kris Richmond: So I should be readily available. But you just go to the HUD Exchange and at the bottom there's these little cards that flip over, and one of them says guidebook, one of them says tools, you just click on the tools and then all 15 tools show up there and you can click on whatever you want.

Les Warner: And I was just going to suggest that I think one of the best practices here is that because I think most folks have a little bit of a challenge on getting the word out both internally on what the new rule requires, what we're measuring, what our process is going to be, but also with those external partners.

So I do think there are folks much like we used to do under the old Section 3 requirement where maybe some part of your Section 3 plan gets pulled out and kind of serves as a handout that goes you know, to contractors, to sub-recipients laying out some kind of quickened version of what the new rules are and then kind of helping with the roles and responsibilities.

And I think one of the things that you're -- one of your challenges is to try to make sure that everybody understands what their role on this is. So for instance if we're talking about reporting responsibilities then using your Section 3 plan to help all those parties that we're expecting to collect documentation or the employer's going to be using a particular form that you've adopted, using the Section 3 plan in a way to kind of standardize here's our process, here's our expectation for the qualitative efforts where we're expecting folks to do certain kinds of outreach.

I think a lot of folks will come up with some standards that will say we're kind of going to expect everybody when you're hiring to do these sorts of things, or when you are seeking a subcontractor. And so that could be part of your Section 3 plan.

And in some cases I've certainly seen where folks then referenced in their written agreement that in that contract that the contractor agrees to follow our Section 3 policy as outlined in this section of our Section 3 plan, just as a way to tie people into what those expectations are and when we need them to do it and what tool we expect them to use when they do it.

Andelyn Nesbitt Rodriguez: Absolutely. Thank you so much. And we have Leanne Lawrence who wanted to give us some lessons learned with the plan. John, is Leanne on the line?

John: Yes. She should unmuted.

Andelyn Nesbitt Rodriguez: Okay. Hi Leanne.

Leanne Lawrence: Hey. So in the city of Memphis we had a Section 3 plan under the old rule and we really sort of just took that and adjusted it for the new rule, and I think that was my first mistake. I should have started just from scratch because the community, the broader community, the prime contractors and such, I think got a little confused and really didn't take it very seriously.

So over the last, I would say two to three months, I've converted what we call the Section 3 opportunity plan into more of a policies and procedures document that's a little bit more typical of HUD's other programs. And I require that every contractor or subcontractor attend a mandatory Section 3 training workshop before they sign a contract.

And then they have to look at the plan and they actually have to fill in the blank. I've kind of converted it into tell me how you will meet these requirements. So what are your procedures? So it's slowly been evolving into what I'm calling an operating plan and trying to use more of the lingo that a typical prime contractor would use because they really haven't done too good of a job.

And it's really required a lot of time and effort on our part to chase down the data on all the contractors and their workers on the project. And I realized that they just didn't have the procedures in place, and to Les's point, assign those roles and responsibilities. And so moving forward we won't be signing a contract until they've actually written out their own procedures and tagged the project manager or whomever in each of their roles and responsibilities, including stage gates or things that will create a lockstep process.

So if the accountant, for example, is the one doing the reporting, does she check that work with the project manager or the superintendent? So tying it back all the way to the job site. The other thing I'm doing is I'm certifying certain staffing services that are preferred by prime contractors to outline their procedures for Section 3 hiring.

We're also adding a Section 3 preference tagline to all job descriptions that go out to the public, and I drafted that for them. They can amend it if they'd like as long as I approve it. And so that way we're showing that priority of effort, particularly around the service area of the job site, which has been extremely challenging.

But I think the biggest mistake I made is I assume they read the plan, they signed off on it, and then I found out they really didn't know how to do it. So I'm actually asking them to sort of like, you know 11th grade level fill in the blank quiz on how they're going to do these activities and that way they're bound, and then we attach that as an exhibit to the contract. That seems to be helping.

Andelyn Nesbitt Rodriguez: That's great. That's really, really great feedback and good lessons learned. I know this is still kind of new, but have you had opportunity for a contractor to complete that so far and was it difficult for them or did they [inaudible]?

Leanne Lawrence: Well, they're completing it because I put them on corrective action. It's really gotten to that level where when we have -- and under CDBG, you know, this other public construction, it applies to non-profits that have community centers that are going to be taking big chunks of CDBG to do a new construction project.

And I think when they hire their prime and put all the responsibilities on the prime, it's been a really big challenge to track what's going on at the job site. So I've also leveraged our Davis-Bacon coordinator who goes on the job site and does interviews all the time and we're sharing notes.

And so we are starting to do that, but unfortunately I don't know how other folks on the webinar have experienced this. There's been a lot of complacency, combined with the labor crisis and this overall concept that people don't want to work people aren't getting responses to jobs advertisements and such.

So I really had to invigorate the whole process. And there seems to be just a real lack of interest. It's also very cumbersome reporting for them in addition to Davis-Bacon. There's a new digital tracking system out that someone's marketing called LCP Tracker that cities can purchase to track the Davis-Bacon prevailing wage and Section 3.

Unfortunately the Section 3 component is not very well developed yet. So we are looking for ways to streamline this reporting. It's difficult for primes who can push a button to do their certified payroll and a nice report comes out. Section 3 is very different. So they haven't had a chance to even create the software or algorithms to embed it in their current system.

So that two layer of reporting has also created some audit issues when the Davis-Bacon coordinator is getting different data than I'm getting. So I'm just trying to find a way to shore it up, to set them all up for success. So people fail, they fail small. That's my motto, but it has been very, very difficult.

And so if folks can proceduralize it in the way that Les was talking about, I didn't get that at first. And so just like our nonprofit partners, when they turn in their policies and procedures on how they're doing whichever grant they're managing, I'm doing that with contractors now, treating them just like a sub-recipient.

Andelyn Nesbitt Rodriguez: That's great. I mean, it sounds like you have a really holistic approach and you've thought it out and you've given yourself a little bit of teeth with it too. So I applaud you in that. We've had a couple of comments come up. Someone said, does she have a training that she would share? So thank you.

Leanne Lawrence: Well, I do. It's constantly morphing. And one of the things I was hoping to bring up in this conversation, since all of the participants we can't see each other or talk to each other and I'm going to put a big ask out there, it would be really cool if we could put together a work group of folks who work on Section 3. These calls are amazing but I would love to have like --

Kris Richmond: Right. Andelyn, can you go back to one of the very first slides we have on here where we're trying to get people's names?

Andelyn Nesbitt Rodriguez: Absolutely.

Kris Richmond: So it might have gone over really quickly there, but -- there you go. So we are trying to put together a panel or some type of work group. And so every time we do an office hour we keep asking people but it might not have come across this way, but this is why we want people to go into their chat.

And you have this great training program, you have some good implementation information. We had people asking about unions. I'm sure there's others that are working with unions. So if you are having some success or if you think you got a great idea, please self nominate yourself and put your name in there and we can contact you.

If you're not comfortable sharing in front of the people we can chat with you and get your information and share it with others. But we're just trying to cast a wide net to try to figure out who's doing what so we can share that.

Because I agree with you, Leanne, like hearing from others is the best way to learn in the real world. And so we're trying to gather that information, but thanks so much for sharing what you've been doing today. It's really helpful for everybody here today.

Les Warner: I would just add a couple of things. So we've encouraged folks as part of the training talking about maybe do like a pre-bid conference. So you're trying to directly, particularly in this period where we've got a new rule, things are different, to require bidders, and that's always a slippery slope when we start to require additional things.

But I think in this initial transition period, to in that pre-bid conference kind of talk about, okay, this is how this is going to work. That also could be done as part of the pre-construction conference once you've selected. But I wanted to tag a little bit on, so, you know, you were mentioning with Davis-Bacon projects and I would think --

We haven't really spent a lot of time on this when we've done the trainings but you have some options on how you're trying to collect the data. So I hear you saying, hey, we're trying to get the prime to take the responsibility on that. And I think that makes a lot of sense. We've had folks that thought, oh, I'm going to have to do outreach to each of the workers and get self certification forms filled out.

And it probably is easier since this allows the employer to certify based on their income, their wage rate annualizing that. Doesn't require you to look at the household, doesn't require you to ask if they have other employment. So it may be an easier option to have the employer doing this certification.

So I kind of imagine that you would do something at the beginning similar to Davis-Bacon, where you are saying, okay, now we have a contract, identify the workforce for this project. It'll probably have to be updated over time and then would include subs, but based on the wage rates that are being paid, be able to, with that workforce, identify, okay, which of these workers qualify as Section 3.

You could ask additional information then to qualify your targeted workers. Once you've done that then you can simply -- I think some folks will probably add a standard sheet to their Davis-Bacon reports, which are saying, okay, for these workers what's our cumulative number of hours for these qualifying workers?

With the Davis-Bacon certified payrolls that you're getting it gives you some backup documentation to be able to do that spot check to see that, okay, yeah, they did work this number of hours. This is the wage rate that's listed that calculates. So you could kind of double check that.

And obviously there's some differences on scale and who those partners are and what's going to work for you and what won't. But I do think we're going to get to the point where part of this electronic reporting that we are already using for things like Davis-Bacon will end up adding a page that will track those identified workers that we've determined qualify in that way.

So I think as we go forward kind of sharing what's working on that will probably help everybody involved. But I do think this scale issue, what works for a large entity may not work on a small CDBG project or a small public housing project.

Andelyn Nesbitt Rodriguez: All right. Thank you, Les. Thank you, Leanne. That was a really good conversation. And thank you to those people who are putting your name, email address, and a little bit about your experience into the chat box. We appreciate y'all. All right. John.

Les Warner: Can I do one since I've got a messy one that is -- I've got a question about qualitative efforts and saying we've got vendors that are working with an existing workforce, they're not probably triggering job creation on this, but you could as part of your qualitative efforts say, okay, our policy isn't you agree to follow that, that anytime there's subcontracting we're going to post this on the opportunity portal.

Anytime we are hiring we're going to use some of these networks so that you kind of have standard steps and procedures that are in place that are part of your program implementation, which you then could show as yes, we're following the qualitative efforts that prioritization of effort on that. And you'd have a paper trail to then be able to support that.

So I don't think it's always restricting you to we have to have actually hired, filled a position to be able to do that. I think by implementing standard systems I would think that you could demonstrate that you are implementing those efforts.

And that may be we've talked in some of the trainings about protocols of job fairs or doing outreach, maybe working with partners on trying to identify Section 3 business concerns, potentially qualifying businesses and providing some technical assistance to them would count as then qualitative efforts.

So I think kind of think a little outside of the box, look at that list that's in the regulations themselves and see if there aren't some standard sort of protocols that would help you meet that qualitative effort documentation.

Andelyn Nesbitt Rodriguez: Absolutely. All right. Thank you so much. All right, John. Do we have Lori? Is Lori still available?

John: Yes, Lori, you are unmuted.

Andelyn Nesbitt Rodriguez: Hi, Lori. Thank you for your patience. Are you still on mute? We can't hear you.

John: Lori, you are currently unmuted. Lori, are you there? Can you hear us. Hey Lori, we may just have you ask your question in the Q&A box and then one of our panelists will read it.

Andelyn Nesbitt Rodriguez: Okay. Do we have anybody else in the queue?

John: Nobody else in the queue as of right now.

Andelyn Nesbitt Rodriguez: All right. All right. So we got one question here, does construction using low income tax credits, LIHTC, apply? I'm going to ask Les to double check me on this, but I do not believe that they apply. It's not HUD funding.

Les Warner: Yeah. It's non-federal dollars. It's really an IRS. But a lot of our LIHTC projects have gap funding, and so again, looking at what's the overall project, we could have a tax credit project that then had HOME or CDBG funds as part of that. And then that we then follow the protocol of, you know, is it that type of activity? Does it exceed the threshold on that? And so we could still trigger Section 3 because of the mix of funds in that tax credit project.

Andelyn Nesbitt Rodriguez: All right. Les, Kris, any other questions in the queue right now that we should discuss?

Les Warner: Not at the moment. I got multiple boxes here I'm trying to scan.

Andelyn Nesbitt Rodriguez: Yep. Yes. So we have one question here about using base pay rate, excluding fringe for a union worker to qualify as a Section 3 worker. So we can talk a little bit about annualizing a pay rate. Les, I always thought that it was just the hourly pay and I never considered fringe being included in the hourly pay rate. Any thoughts on that, or is it something that we should take back to HUD and get more clarification on?

Les Warner: I think it does include -- well, I don't think it would include fringe that's not being paid to them. I believe it is their wage rate. We will double check with HUD on this, but I think you would look to payroll to see what their actual pay is on that.

Andelyn Nesbitt Rodriguez: Yeah. Really quick question.

Les Warner: We have a question that just came in asking about safe harbor benchmarks. Do they apply to the current employee as well as, oh, it just disappeared, as well as prime contractors and subcontractors. So we're looking at when we're determining our benchmarks and we're looking at all labor that is being paid for that project.

And so there is for current employees, the old rule was really focused on new hires only. And that's the big change between the old rule and the new rule is that we're looking overall through a workforce. So we can have workers that qualify based on their current salary, but we also could have workers that qualified based on this look back to when they were hired.

So we can't look back prior to November 30th, 2020, which is our effective date, but we could certainly have a worker that was hired let's say December of 2020 and the wage rate that they were being paid at the time they were hired qualified them as a Section 3 worker.

We can continue to count them for up to five years even though they have gotten subsequent raises and no longer qualify. I mean, that's really, our goal is to have the spinoff effect of these investments, public investments, have folks find sustainable employment and be able to advance. And so this look back period allows us to do that.

So I think in most cases we would look at, okay, let's look at our workforce for this project, what workers currently qualify based on their wage rate, and then we then do a second step of, are any of these folks that don't qualify currently, have any of them been hired after November 30th, 2020?

And look at their initial hiring rate to determine, well, did they qualify then? And if so, then we could also qualify them in that way and count them going forward. So the benchmarks are higher on this because we sort of have a broader way to be able to count those employees. And that's part of the, when we talked earlier about internships apprenticeships with unions that a lot of our union positions would be over income and be excluded on this.

But if we can bring someone in as an apprentice and they qualify at that point, we can continue to count them as having qualifying hours. And so that's one way, particularly in areas where you've got a high union presence, to be able to perhaps be able to meet the quantitative standards on this.

Andelyn Nesbitt Rodriguez: All right. Thank you so much. All right. John, anybody in the queue?

John: Nope. Nobody in the queue right now.

Andelyn Nesbitt Rodriguez: All right.

Les Warner: There is a question in the thing here about youth build, and we oftentimes have gotten this question where is this person have to be actively part of YouthBuild now to be able to qualify, or could they be a graduate of that program? And so the regulation is that they would be part of YouthBuild at the point that you hire them.

So it could be today, it could be the look back to when you hire them, but the fact that you went through the YouthBuild program and have been actively working for someone else and now have applied, and we know that you at one point went through YouthBuild, that's not going to count. It's where we're actively hiring people from the YouthBuild program that we're going to be able to count them.

Andelyn Nesbitt Rodriguez: Thank you. All right. And we have a question here about safe harbor benchmarks. So when a project does meet safe harbor benchmarks, how many qualitative efforts must be undertaken to be considered compliant? That's a great question. And when you meet your 25 percent and 5 percent safe harbor benchmarks you are considered compliant with Section 3 at that time.

It's always good to do qualitative outreach, number one, because it's a really great thing to do for your program for the pipeline and for workers and businesses who are looking for those Section 3 opportunities, but it's also really good to do your qualitative efforts just in case you don't meet the Section 3 benchmarks for some reason.

So I'm going to take a minute and go back over the Section 3 benchmarks. That was day one that we talked about those. So the Section 3 benchmarks for public housing and for housing community development are slightly different. So 25 percent of all labor hours worked by all the workers employed with public housing financial assistance in the public housing authority during their fiscal year.

So the difference is public housing authorities will be reporting on a fiscal year basis where housing community development agencies will be reporting on a project by project basis. But under both circumstances you're looking for 25 percent of the total labor hours that are worked to have been worked by Section 3 workers and you're looking for 5 percent of the total labor hours worked to have been worked by targeted Section 3 workers.

So that's the 25, 5 percent benchmark. And at the end of your fiscal year for public housing authorities, on the end of your project for housing community development agencies, if you meet the 25 and 5 percent benchmarks then you are in compliance with Section 3. I just wanted to go over that quickly.

All right. Okay. So it looks like there's another question in the chat about youth build and the timing of participants there. YouthBuild participants are supported for up to three years by a YouthBuild program after they graduate. Not sure a contractor will hire YouthBuild participant who hasn't graduated or finished training. We can take that back to HUD and get a little bit more guidance on that for you as well. Okay.

Les Warner: I will just mention that we are meeting with HUD on a weekly basis. So there's kind of an ongoing stream of we don't really have a clear question or an answer on some of these items and so we do have a way to do that. And then we tend to recommend that an FAQ, frequently asked question, be developed and they then are added and posted.

So that's one of the reasons we were encouraging on the front end on the resource list to go to the HUD exchange. We'll keep an eye on the FAQs as they're posted because we would expect that those will kind of be built out over time as we can get some additional information.

Andelyn Nesbitt Rodriguez: Very good. Thank you. We have about 10 minutes left. I think that we have answered most of the questions in the chat. I want to encourage everybody again to put your name, email address, and experience into the chat if you would like for us to reach out and interface with you about that, about more opportunities for maybe work groups, getting folks together and also some other opportunities that we might have coming up.

All right. And I'm putting this back on the resources page again. If you have any other questions feel free. We have again, about another 10 minutes left, but I wanted to make sure that everyone had access to the resource page again because there are a lot of really valuable resources out there for you.

Les Warner: Andelyn, I think we could mention one of the questions that we routed recently to HUD and got an answer back on was this question about Section 3 business concerns and the timing on their certification. So our question had been that once a business was certified as a Section 3 business concern that it would retain its status if it continues to meet this definition.

But then the question was, well, so do I need to keep going back and re-certifying the business? Is there a time limit of six months or something where that remains valid? And then also if we have the same vendor who then was applying for another project would we need to re-certify, would we have to start fresh? Could we still count that existing certification that had been done for another project?

So the answer we got back was that for the purposes of documenting that that entity meets the qualifications as a Section 3 business concern they do upfront need to certify that they meet that definition and then they would be considered to remain certified throughout the duration of that contract.

So you're not being required to have to go back every six months and re-certify, and then what happens if their status changes on that and how you can account workers. So then the second part of that question was if we had a second contract and the same recipient is going after that, would we have to go through the whole re-certification process?

And the answer on that was essentially that as long as it was within six months of when that initial certification had been done, that we would still consider that certification, that information that we collected from the company to still be valid.

And so we could, for that new contract, use that same certification if it's within that six month window. Beyond that then we're going to be considering that that information may not still be current, and so you would need to go back through the re-certification as part of that process.

Andelyn Nesbitt Rodriguez: Thank you. That that makes a lot of sense.

Kris Richmond: Do we have a slide that has when the feature dates are for office hours? Is that in the slide deck?

Andelyn Nesbitt Rodriguez: I do not think that we have one that would be good, but I can pull it up.

Kris Richmond: Okay. I know my original draft had that in there. I don't know if it made it to the final.

Andelyn Nesbitt Rodriguez: Yeah. We're doing one per month. Our next office hours, let me just look it up so I just to make sure I don't misspeak. Okay. Upcoming office hours, October 11th is our next one. October 11th, and then November 3rd, December 13th, then January 11th, 2023.

Kris Richmond: Andelyn, there's a question that came in that you might want to answer about housing authorities updating their manual for Section 3 businesses to provide copies of time sheets for each employee over the past three months. Can you speak to that?

It's unclear though whether they're asking about a Section 3 business concern where the business concern really just needs to self-certify that they're a Section 3 business, or if this is a contractor that they've awarded a project that has to comply with Section 3. So I'm a little unclear from the question, but I don't know if you can see the question or if you and Les want to handle that.

Les Warner: I can see the question. So I think this reference to three months. I'm kind of lines up with this qualifying a Section 3 business concern itself. So I think if the question is what's the level of documentation that we actually need to have to be able to back that up, so you'll see on a number of these things that the Section 3 guidelines have allowed for this to be sort of a streamlined process.

And so it allows for a self-certification to be done by a company. You as the administrator then have the ability to say, okay, I'm not comfortable with that. I want some level of additional documentation, and this is a little bit of a slippery slope. We're trying to have Section 3 be not so an administrative burden to implement, but also wanting to make sure that it is correctly done.

So I do think with a housing authority, a grantee, putting in place within their own Section 3 plan or policies and procedures, determining what their standard is going to be for any additional documentation as part of that is something that you have some flexibility to be able to do.

Andelyn Nesbitt Rodriguez: All right. Another question

Kris Richmond: Can I just add real quick, Andelyn? I put in the answer and I can stick in the chat the link. We have a sample Section 3 business concern form that is a self-certification form, but if you think that's appropriate for your community please feel free to download that and use that or adopt it as needed. Sorry, Andelyn. Go ahead.

Andelyn Nesbitt Rodriguez: Thank you. We got a question, and we have about two minutes left so I do want to answer this question. How are folks gathering proof of Section 3 business qualifications? Section 3 business license, IRS tax filings?

Les Warner: So again, it goes back to if you look at the standard form it is a certification from the company. So then it's a decision on your part on what additional documentation you may require as part of that. So the standard has not been set by HUD on that. And kind of quickly there's a question about a contract for plumbing services.

I'm going to assume this is a PHA and we're following subpart B, and they're saying that each service is only 500 dollars would Section 3 apply. So if it's subpart B, the PHA assistance, you don't have a threshold. So if it's coming out of your operating your capital funds that contract would be covered as part of Section 3.

If the plumbing services is part of a HCD funding, let's say it's a HOME project, then we would be looking on a project by project basis at the overall project and determining whether you have an excess of $200,000 in that individual project. But I'm kind of thinking this probably is a PHA question.

And so for the PHAs you don't have a threshold on that. And I know that we've gotten from Lori that she's put in question but we've not answered it and she can't unmute and I don't see a question in the queue.

Andelyn Nesbitt Rodriguez: I've looked also. There was one question in the chat and Les answered that.

Les Warner: Okay. So Lori, if you have an additional question that hasn't been answered I'm going to go ahead and capture your email address and I'll just check back with you to make sure that we did actually get you covered.

Andelyn Nesbitt Rodriguez: All right. And we are at time folks. Thank you so, so much for joining us today for the Section 3 office hours and for your input and engagement today, and we look forward to seeing you at the next one. Thank you.

(END)