



Section 3 Final Rule Training Course



Using WebEx: Q&A Features & Breakout Rooms



Welcome Remarks



Introductions, Overview & Materials



Learning Objectives

Entities responsible for implementing Section 3 will be able to define the requirements of the Section 3 final rule and effectively implement the rule.

Course Focus

- Introduce the purpose of Section 3
- Detail the Section 3 Final Rule and the key changes
- Identify administrative and implementation requirements as a result of the Section 3 Final Rule
- Describe new Section 3 reporting requirements
- Effectively apply the Section 3 Final Rule to real-world scenarios



Classroom Involvement



Knowledge Checks/Polls



Exercises



Q&A



Tools



Discussion



Sharing

Trainers

Break-Out Facilitators



Poll



Series Overview



Module 1: Understand the Basics



Module 3: Program Oversight



Module 2: Plan and Implement



Module 4: Report & Evaluate

Program Specific Application



Public Housing Financial Assistance



Housing & Community Development Programs

Materials – Day 1



- Day 1 Presentation (PDF of Slides)
- Tool: Key Changes to the Section 3 Rule: Summary Chart
- Section 3 Exercises



Minimize distractions

Participate!

Have patience

Come on time...come to all sessions

Keys to Your Success



Module 1: Understanding the Basics



By the end of this module, you will be able to answer the following questions:

- What is Section 3?
- What is the history of Section 3?
- What are the covered programs and covered economic opportunities?
- What is the purpose of the final rule?



Purpose

“To ensure that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.”

Section 3 of the Housing and Community
Development Act of 1968



“...the long, hot summer of 1967”

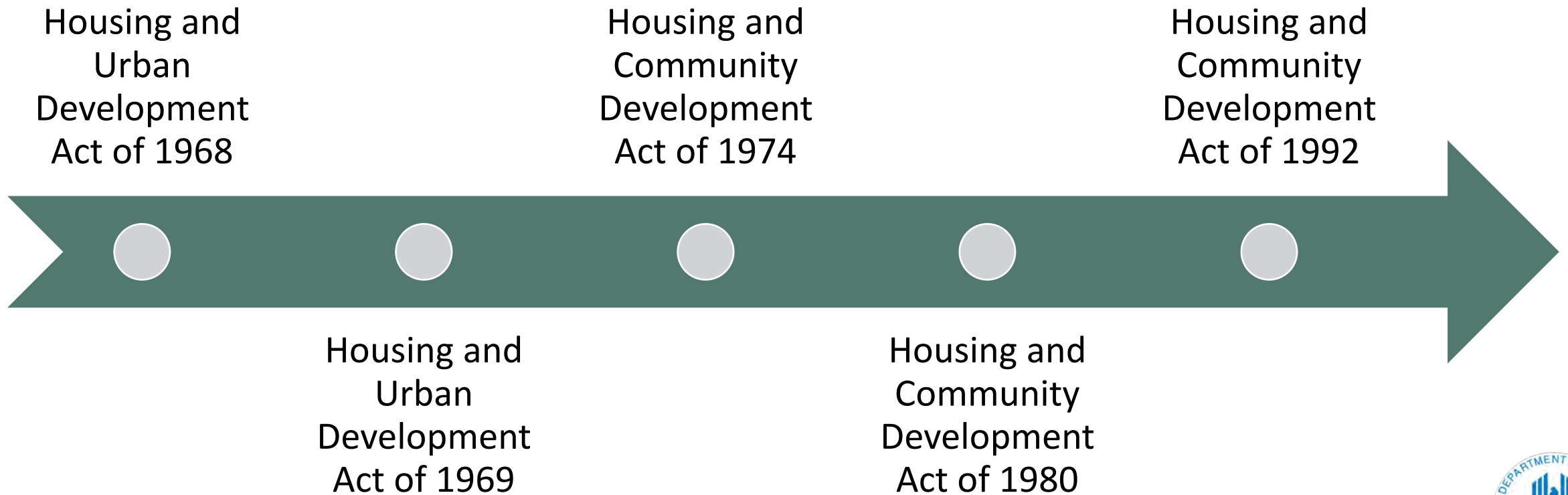


Additional Reading: *An Advocate's Guide to the HUD Section 3 Program* by the -National Housing Law Project





Evolution of Section 3



**1968**

Section 3 is codified in the Housing and Urban Development Act

**1995**

FHEO published the current regulations in 24 CFR Part 135

**2015**

FHEO published new proposed regulations in 24 CFR Part 135, which never became final

**2019**

FPM published proposed regulations in 24 CFR Part 75

**2021**

Compliance on the new regulations in 24 CFR Part 75 begins

April 3, 2019
Published proposed rule

June 3, 2019
Comment period closed

September 2019
Completed review of comments and finalize rule

December 2019
Internal clearance

March-August 2020
OMB review

September 29, 2020
Published final rule

November 30, 2020
Effective Date

July 1, 2021
Compliance on new regulation begins



Section 3 of the Housing & Urban Development Act of 1968

“To ensure that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.”





Section 3 of the Housing & Urban Development Act of 1968



Local Governments
Builders
Nonprofits
Public Housing Authorities
Private Agency
Developers
Community Housing Development
Organizations

“To ensure that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.”





Section 3 of the Housing & Urban Development Act of 1968



“To ensure that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, **to the greatest extent feasible,** directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.”



Final Rule
seeks to improve
effectiveness in
several ways...



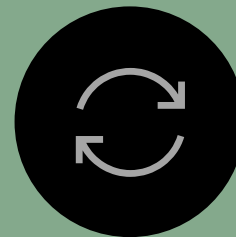
PROMOTES SUSTAINED
EMPLOYMENT AND
CAREER DEVELOPMENT



FOCUSES REPORTING ON
KEY OUTCOME METRICS



ALIGNS REPORTING
WITH STANDARD
BUSINESS PRACTICES



PROVIDES PROGRAM
SPECIFIC OVERSIGHT



CLARIFIES OBLIGATIONS

Final Rule Timeline

Legacy Projects

Legacy Projects: Contracts executed or projects for which assistance or funds were committed prior to November 30, 2020

Requirement:

- Adhere to the old rule (24 CFR Part 135)
- Expected to maintain records but will no longer be required to report Section 3 compliance to HUD in SPEARS.



Final Rule
Timeline

Transition
Period

Transition Period: Projects for which assistance or funds are committed between November 30, 2020 and July 1, 2021

Requirement:

- Adhere to the final rule (24 CFR Part 75)
- Expected to maintain records but will no longer be required to report Section 3 compliance to HUD in SPEARS.

Additional Clarification (CPD Notice 21-09)

- OBGA-Funded Projects: Report in IDIS or DRGR for open activities starting July 1, 2021.





Key Changes to the Section 3 Rule: A Summary Chart

Focusing on sustained employment of low- and very low-income populations

A new hire for a temporary, one-month job and a new hire for a permanent, year-round job counted the same, instead of placing more value on long-term employment.

Recognizes the greater value of the permanent job by focusing on labor hours instead of new hires creating an incentive for employers to invest in and retain their newly hired low-income workers

Crediting successful sustained employment in reporting benchmarks

Former Benchmarks:

- 30% of persons hired by Section 3 funding must be Section 3 residents
- 10% of total funds for construction contracts awarded to Section 3 businesses
- 3% of total funds for non-construction awarded to Section 3 businesses
- No updates to these benchmarks

Final Rule Benchmark Notice:

- 25% of all labor hours must be performed by a Section 3 worker
- 5% of all labor hours must be performed by Targeted Section 3 workers
- Benchmark Notice should be updated by the Secretary every three years

Allowing varied outcomes for different geographies and activities

Section 3 residents are:

- Former Benchmarks:
- 30% of persons hired by Section 3 funding must be Section 3 residents
- 10% of total funds for construction contracts awarded to Section 3 businesses
- 3% of total funds for non-construction awarded to Section 3 businesses
- No updates to these benchmarks

Section 3 workers is:

Final Rule Benchmark Notice:

- 25% of all labor hours must be performed by a Section 3 worker
- 5% of all labor hours must be performed by Targeted Section 3 workers
- Benchmark Notice should be updated by the Secretary every three years

Integrating Section 3 into the program offices

Enforcement and compliance was performed by the Office of Fair Housing and Equal Opportunity.

Enforcement and compliance will be integrated in regular program office work.



Definitions

Applicability & Thresholds

Safe Harbor Provisions & Benchmarks



Definitions

Applicability & Thresholds

Safe Harbor Provisions & Benchmarks

Covered Programs

Public Housing

Community Development
Block Grant (CDBG),
including –DR, -MIT, -RHP,
-CV

HOME Investment
Partnership

HOME-ARP

Housing Trust Fund (HTF)

Neighborhood
Stabilization Program
Grants

Economic Development
Initiative (EDI)/Brownfield
Economic Development
Initiative (BEDI) Grants

Housing Opportunities for
Persons with AIDS
(HOPWA)

Homeless Assistance
Grants (Emergency
Solutions Grants)

University Partnership
Grants

Economic Stimulus Funds
(including CDBG-R and
CFP Supplemental)

202/811 Grants

Rental Assistance
Demonstration (RAD)





Defining a Section 3 Project

Site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

Section 3 applies...

- applies to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.
- applies to all public housing financial assistance funds, regardless of the amount of assistance from HUD.





Defining a Section 3 worker

A Section 3 Worker is any worker who **currently fits**, or **when hired within the past five years** fit, at least one of the following categories, as documented:



- A low or very low-income worker

OR



- Employed by a Section 3 business concern

OR



- A Youthbuild participant



Targeted Section 3 Worker



PH



Targeted Section 3 Worker is:



- Employed by a Section 3 business concern
- OR



- Currently fits or when hired fit at least one of the following categories as documented within the past five years:
 - A resident of public housing or Section 8-assisted housing
 - A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance
 - A YouthBuild participant



Targeted Section 3 Worker



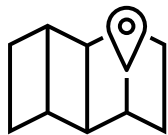
HCD



Targeted Section 3 Worker is:



- Employed by a Section 3 business concern
- OR



- Currently fits or when hired fit at least one of the following categories as documented within the past five years:
 - Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5
 - A YouthBuild participant



Service Area as Defined in 24 CFR 75.5



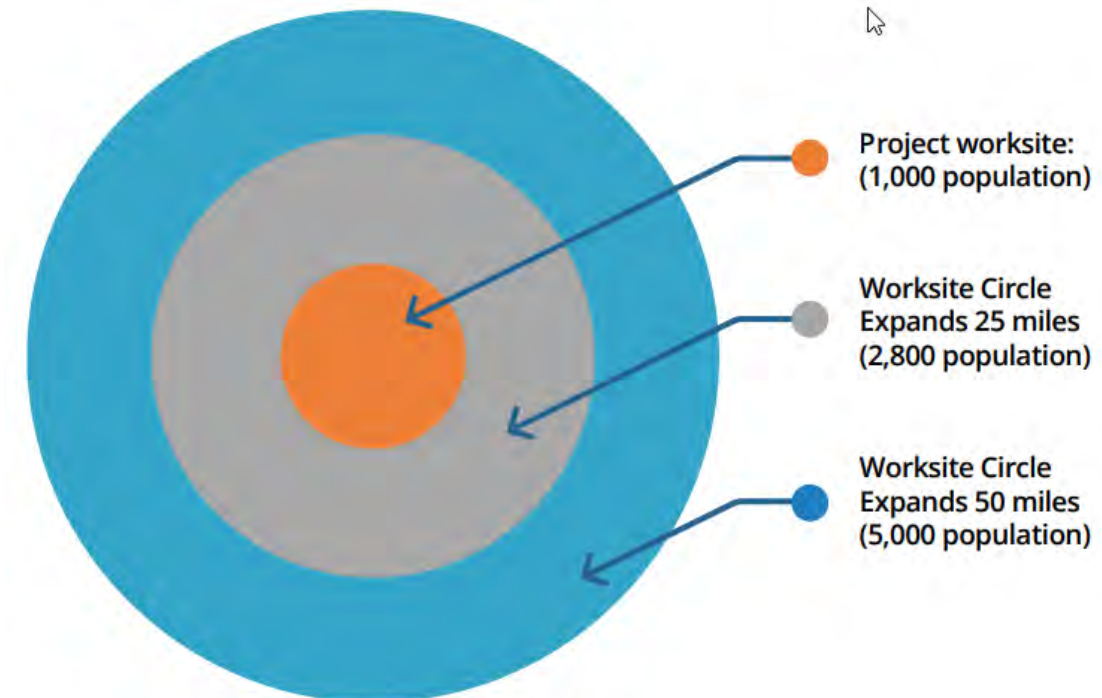
HCD

A. *Service Area* = an area within one mile of the Section 3 project

OR

B. If $< 5,000$ people live within one mile of Section 3 project,

Then, *Service Area* = an area within a circle centered around the Section 3 project site that encompasses 5,000 people.



*According to the most recent U.S. Census



Targeted Section 3 Worker - Comparison



PH Assistance

- Employed by a Section 3 business concern

Or

- Currently fits or when hired fit at least one of the following categories as documented within the past five years:

- A resident of public housing
- A resident of other public housing projects or Section 8-assisted housing
- A YouthBuild participant



HCD Assistance

- Employed by a Section 3 business concern

Or

- Currently fits or when hired fit at least one of the following categories as documented within the past five years:

- Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5
- A YouthBuild participant





Universe of Workers





Multiple Funding Source Projects – Targeted Section 3 Worker



Public Housing and
Housing and Community
Development

- PHA – must follow subpart B of Part 75
- HCD – may follow subpart B or C of Part 75



Multiple Sources of Housing
and Community Development

- Must follow subpart C of Part 75



TIP: For Section 3 projects that include public housing financial assistance and housing and community development financial assistance, recipients may want to consider following subpart B for consistency in reporting.





Redefining Section 3 Business Concerns

A Section 3 business is:



- 51% or more owned and controlled by low or very-low income persons

OR



- Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers

OR



- 51% or more owned and controlled by current residents of public housing or Section 8-assisted housing



Knowledge Check



What are the Low-Income & Very Low-Income Limits?

- Defined at Section 3(b)(2) of the Housing Act of 1937
- Determined annually by HUD
- Section 8 income limits are used to determine eligibility
- Limits are typically established at 80 percent and 50 percent of the area median ***individual*** income

HUD income limits found at:

<https://www.huduser.gov/portal/datasets/il.html>



What is YouthBuild?

Academic and occupational skills training program serving youth ages 16 – 24 who have dropped-out of high school, or previously dropped-out and re-enrolled.

Additional Criteria:

- A member of a low-income family *and/or*
- A youth in foster care (including youth aging out of foster care) *and/or*
- A youth or adult offender *and/or*
- A youth with a disability *and/or*
- The child of an incarcerated parent *and/or*
- A migrant youth.

For more information, visit:

<https://www.dol.gov/agencies/eta/youth/youthbuild>



Questions & Answers





Definitions

Applicability + Thresholds

Safe Harbor Provisions & Benchmarks



Public Housing Financial Assistance

*PH*

Applicability

- Development Assistance
- Operating Funds
- Capital Funds
- All mixed-finance development
- Programs incorporated through NOFO/NOFA processes: RAD, Jobs Plus, FSS, ROSS, Choice Neighborhood and other similar programs.

Threshold

No thresholds: all public housing financial assistance is covered, regardless of the amount of expenditure or size of contract.





Housing & Community Development Financial Assistance



HCD

Applicability

- Housing Rehab
- Housing Construction
- Other public construction

Threshold

Threshold is met if the total amount of HCD assistance exceeds \$200,000

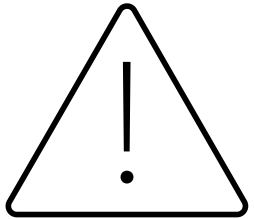


TIP: for HCD assistance, applicability is determined at the project-level.





Lead Threshold

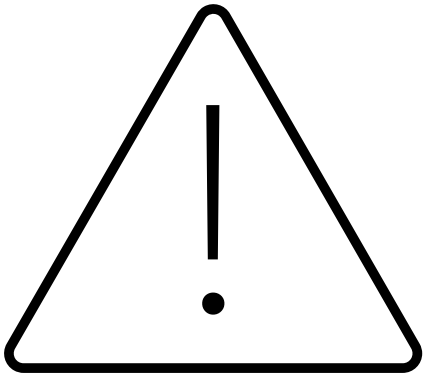


- Threshold is met if amount of Office of Lead Hazard Control and Healthy Homes assistance exceeds \$100,000.



Section 3 does not apply to...

- Material Supply Contracts
- Indian and Tribal Preferences



Tip: For other HUD or federal assistance that is not subject to Section 3, recipients are encouraged to consider ways to support the purpose of Section 3.



Rental Assistance Demonstration Applicability



Public Housing Assistance

- Development Assistance
- Operating Funds
- Capital Funds
- All mixed-finance development
- Programs incorporated through NOFO/NOFA processes: Jobs Plus, **RAD**, FSS, ROSS, Choice Neighborhood and other similar programs.



Important Detail on RAD:

- *Often entails capital improvements: this one-time activity is covered by Section 3.*
- *Properties converted through the RAD program are covered by the same rules applicable to Section 8, however, the RAD governing notice does apply Section 3 requirements to those activities occurring after the date of the RAD conversion which are contractually obligated as part of the RAD conversion.*





Multiple Funding Source Projects - Thresholds

Type of Financial Assistance	Definitions *Targeted Section 3 Worker	Thresholds	Prioritization	Reporting
Public Housing and Housing and Community Development	PHA – must follow subpart B of Part 75 HCD – may follow subpart B or C of Part 75	None *Any amount of PH assistance triggers Section 3		
Multiple Sources of Housing and Community Development	Must follow subpart C of Part 75	Exceeds \$200,000 for Section 3 projects *LHCHHP exceeds \$100,000		

Knowledge Check






Definitions

Applicability + Thresholds

Safe Harbor Provisions & Benchmarks

What is Safe Harbor?

A yellow excavator is shown in the foreground, working on a construction site. The excavator's arm is extended, and it appears to be demolishing or moving debris. In the background, there are several modern high-rise buildings with glass facades under a clear blue sky. The ground is covered with rubble and dirt.

A safe harbor is a provision of a statute or a regulation that specifies that certain conduct will be deemed not to violate a given rule.

Safe Harbor Compliance Check

Complied with safe harbor if:

Met or exceeded the
Section 3 benchmarks

AND

Followed the required
prioritization of effort

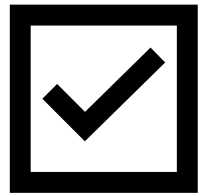
Absent evidence of the contrary



Safe Harbor Compliance Check



What if a recipient can't meet the quantitative benchmarks + prioritization of effort?



Provide evidence that they have made **qualitative** efforts to assist low and very low-income persons with employment and training opportunities.

What is a Labor Hour?



PH

Hours worked by all workers employed with public housing financial assistance in a PHA fiscal year



HCD

Hours worked by all workers employed on a Section 3 Project

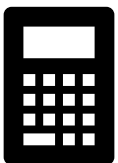


Benchmarks



PH

- 25% or more of all labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's **fiscal year** must be Section 3 workers.
- 5% or more of all labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's **fiscal year** must be Targeted Section 3 workers.



$$\frac{\text{Section 3 labor hours}}{\text{Total labor hours}} = 25\% \quad \text{AND} \quad \frac{\text{Targeted Section 3 labor hours}}{\text{Total labor hours}} = 5\%$$

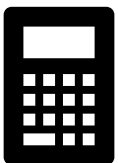


Benchmarks



HCD

- 25% or more of all labor hours must be worked by Section 3 Workers
- 5% or more of all labor hours must be worked by Targeted Section 3 Workers:



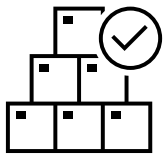
$$\frac{\text{Section 3 labor hours}}{\text{Total labor hours}} = 25\% \quad \text{AND} \quad \frac{\text{Targeted Section 3 labor hours}}{\text{Total labor hours}} = 5\%$$



Professional Service Labor Hour

What is it?

Non-construction services that require an advanced degree or professional licensing are excluded from Section 3 Final Rule.



Bonus Opportunity:

- Recipient may count any work performed by a professional services Section 3 worker or Targeted Section 3 worker as Section 3 labor hours and as Targeted Section 3 labor hours by adding to the numerator.
- Do not count the professional services as part of the total labor hours (i.e., in the denominator of the calculation).





Updates to Safe Harbor Provisions & Benchmarks

- HUD will update the benchmarks through a document published in the FEDERAL REGISTER
- The benchmarks will be subject to public comment
- Not less than once every 3 years

Safe Harbor



Example 1



ESG

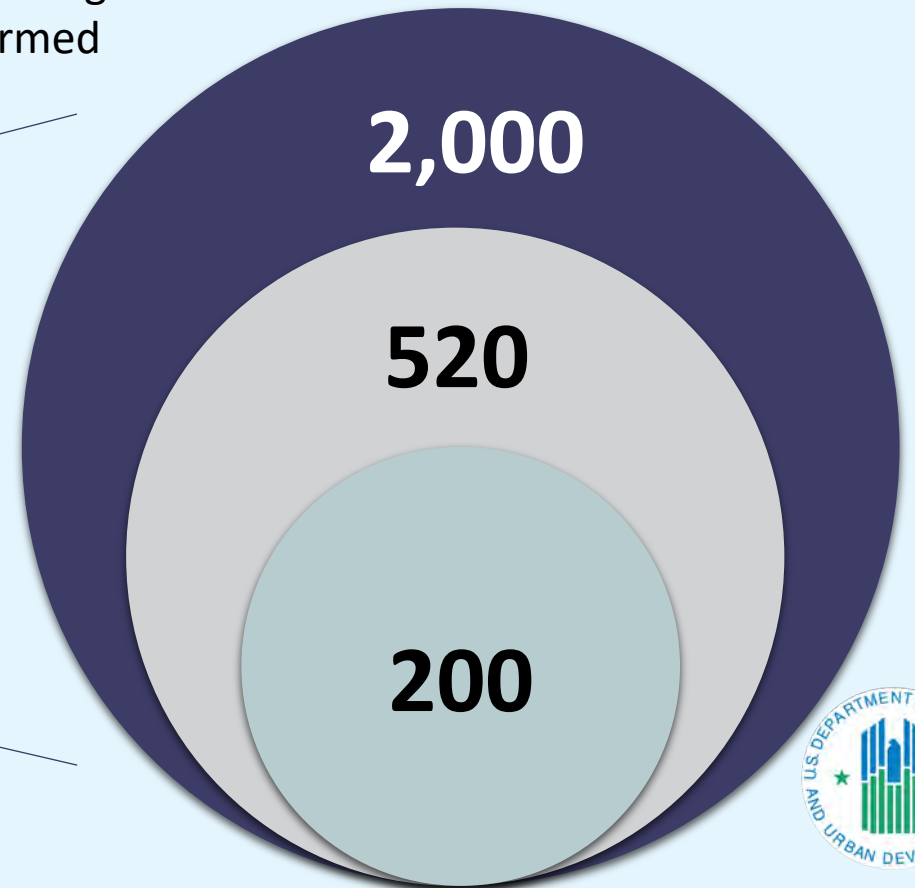
\$

207,000



Contracting =

- 41% ownership: living in Sec 8 housing
- 50% of LHs for the business performed by S3 workers



Safe Harbor



Example 1



ESG

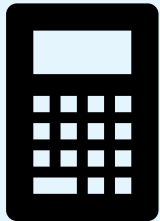


207,000



Contracting =-

41% ownership: living in Sec 8 housing
50% of labor hours performed by Sec 3.



Section 3 Worker Benchmark

$$\frac{\text{Section 3 Labor Hours}}{\text{Total Labor Hours}} = \frac{520}{2,000} = 26\%$$

Targeted Section 3 Worker Benchmark

$$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} = \frac{200}{2,000} = 10\%$$



Safe Harbor



Example 2



PIH Capital Fund

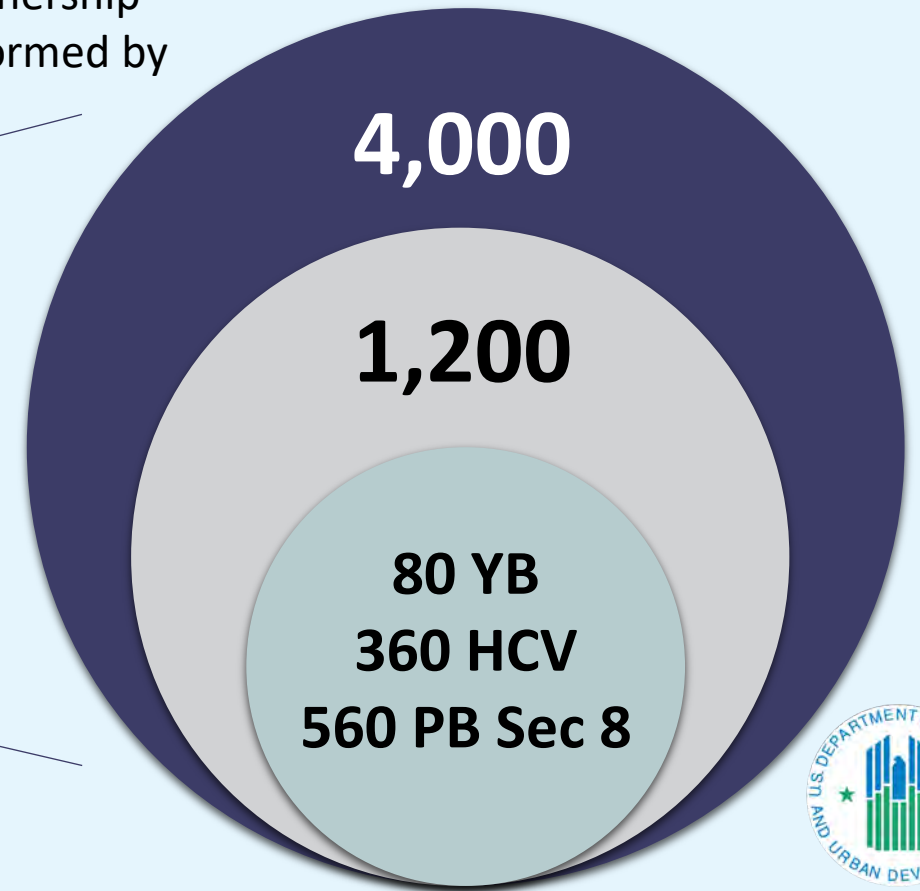


56,000



Contracting:

- No PHA/Sec 8/LI/VLI resident ownership
- 58% of LHs for the business performed by S3 workers



Safe Harbor



Example 2



PIH Capital Fund

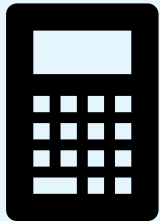


56,000



Contracting:

- No PHA/Sec 8/LI/VLI resident ownership
- 58% of LHs for the business performed by S3 workers



Section 3 Worker Benchmark

$$\frac{\text{Section 3 Labor Hours } 1,200}{\text{Total Labor Hours } 4,000} = 30\%$$

Targeted Section 3 Worker Benchmark

$$\frac{\text{Targeted Section 3 Labor Hours } 1,000}{\text{Total Labor Hours } 4,000} = 25\%$$



Safe Harbor



Example 3



PIH Capital Fund

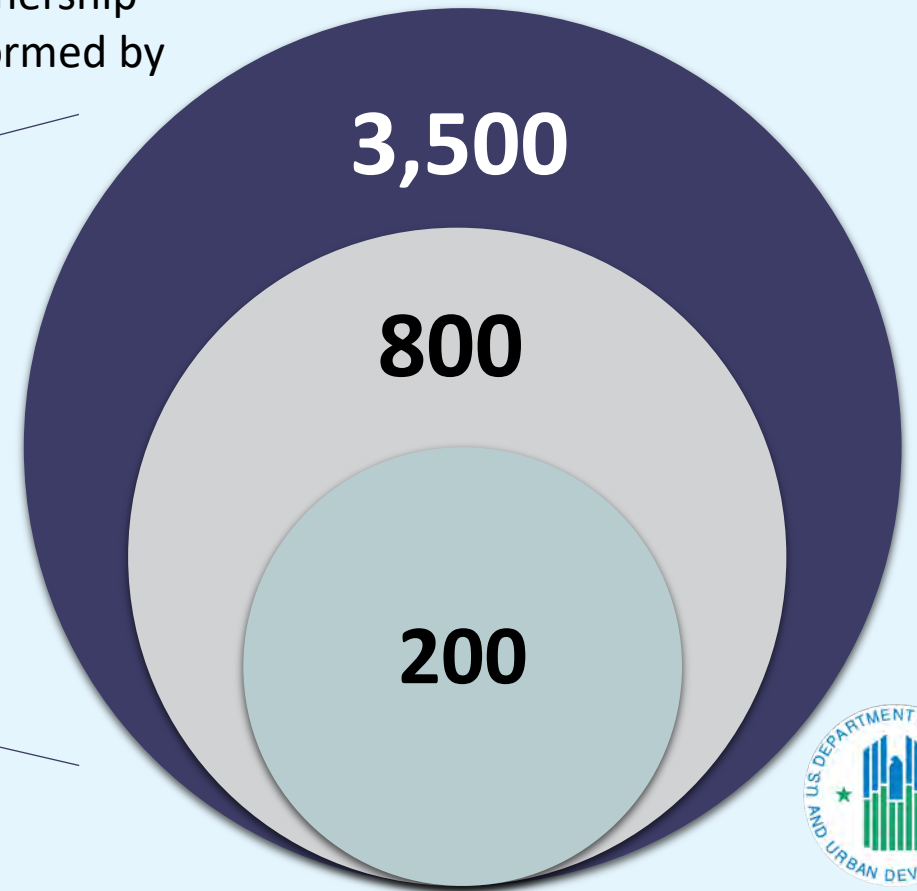


500,000



Contracting:

- No PHA/Sec 8/LI/VLI resident ownership
- 58% of LHs for the business performed by S3 workers



Safe Harbor



Example 3



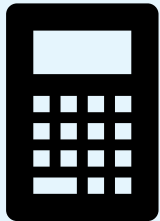
PIH Capital Fund



500,000



Contracting



Section 3 Worker Benchmark

$$\frac{\text{Section 3 Labor Hours}}{\text{Total Labor Hours}} = \frac{800}{3,500} = 23\%$$

Targeted Section 3 Worker Benchmark

$$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} = \frac{200}{3,500} = 6\%$$

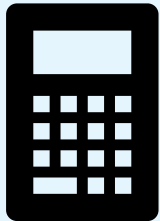


Safe Harbor



What are my options?

- Qualitative reporting
 - Check your numbers
-



Section 3 Worker Benchmark

$$\frac{\text{Section 3 Labor Hours}}{\text{Total Labor Hours}} = \frac{800 + 150}{3,500} = 27\%$$

Targeted Section 3 Worker Benchmark

$$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} = \frac{200}{3,500} = 6\%$$



Prep for Day 2 Training



Questions & Answers

