



# Cross-Cutting Requirements Spotlight: URA and Section 3

2023 CDBG-DR Problem Solving Clinic | Chicago, IL

Tuesday, April 25, 2023 | 1:00PM-2:00PM

### Presenters



Regina Montgomery, **HUD** 



Maria Caridad Palerm, **HUD** 



Maureen Thurman, HUD



James R. Castle, **HUD** 

# **Learning Objectives**

- Understand URA and Section 3 at a high level as each crosscutting topic intersects with CDBG-DR
- Identify resources and establish next steps grantees can take to further their comprehension of URA and Section 3

# Agenda

- Acquisition, Displacement, Relocation Activities-Disaster Recovery
- Section 3
- Questions and Answers



# Acquisition, Displacement, Relocation Activities-Disaster Recovery

**Project and Administrative Considerations** 

### Relocation and Real Estate Division

HUD delegated authority for the URA



Works closely with the Federal Highway Administration (FHWA), the designated Federal Lead Agency for the URA



Responsible for developing and implementing national policies for real estate acquisition, rehabilitation, demolition and displacement activities in connection with HUD programs



Provide referrals to citizens/receive inquiries and complaints



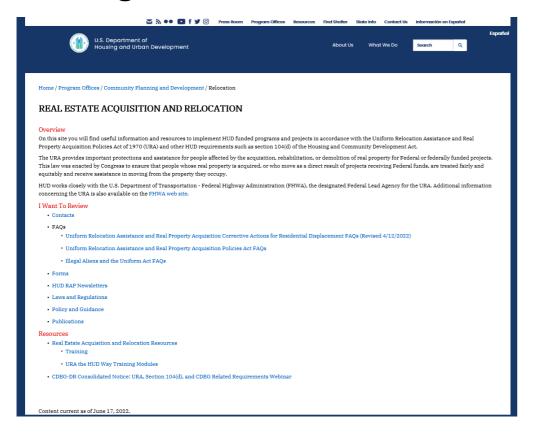
Provides guidance and technical support to HUD program offices as well as technical assistance, training, and monitoring to CPD grantees

### **HUD Office Locations**

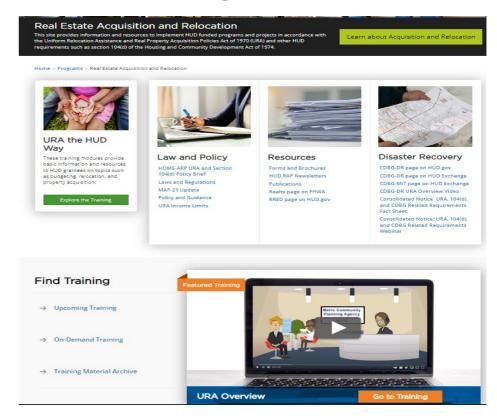


### Acquisition and Relocation Websites

HUD.gov



HUD Exchange



# **URA the HUD Way-Training Modules**



### URA the HUD Way

These training modules provide basic information and resources to HUD grantees on topics such as budgeting, relocation, and property acquisition.

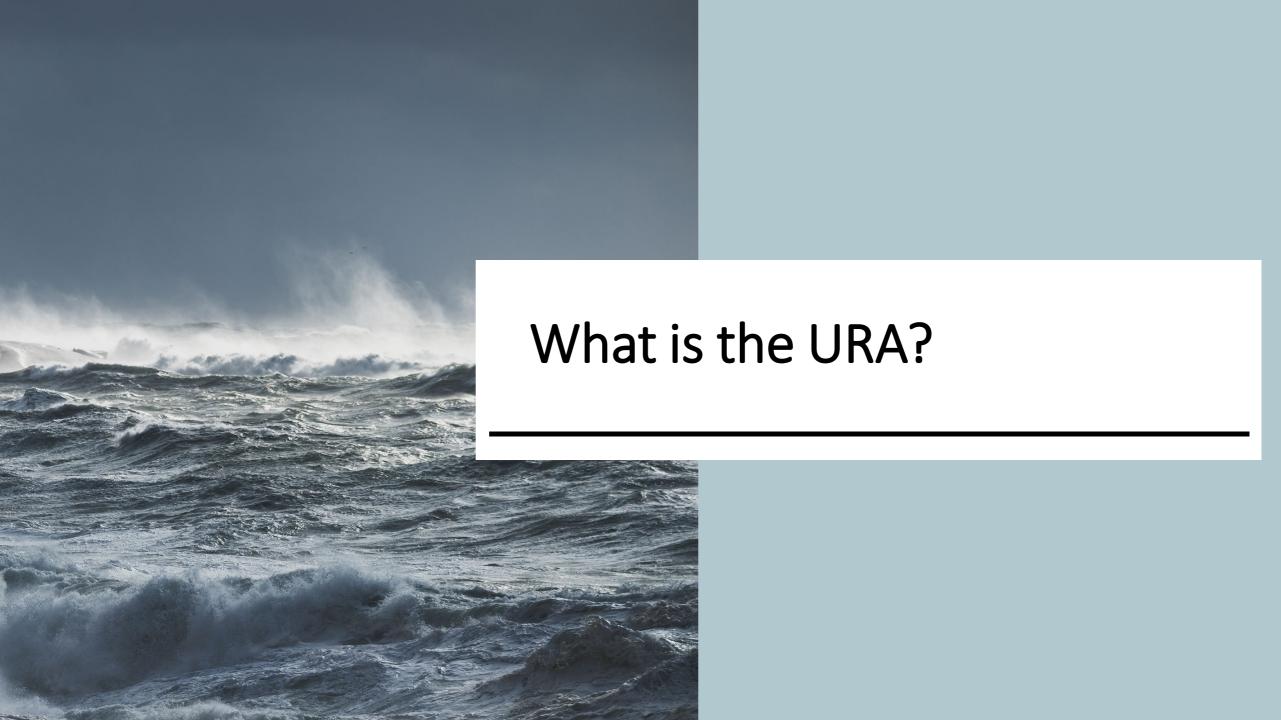
**Explore the Training** 

A set of <u>self-paced training modules</u> to learn about URA basics and other topics

Module 1: URA Overview	Module 2: Section 104(d) Overview	Module 3: URA Planning and Budgeting	Module 4: Real Property Acquisition
Module 5:	Module 6:	Module 7:	Module 8:
Residential	Nonresidential	Temporary	Administration and
Relocation	Relocation	Relocation	Oversight

# **Learning Objectives**

- Learn about RRED Division Who we are, what we do.
- How does the URA, section 104(d) and CDBG relocation apply to DR
- ✓ What are basic URA acquisition and relocation requirements
- importance of URA planning and budgeting
- Know where you can find more information
- Know who to contact if you have URA/Section 104(d) questions



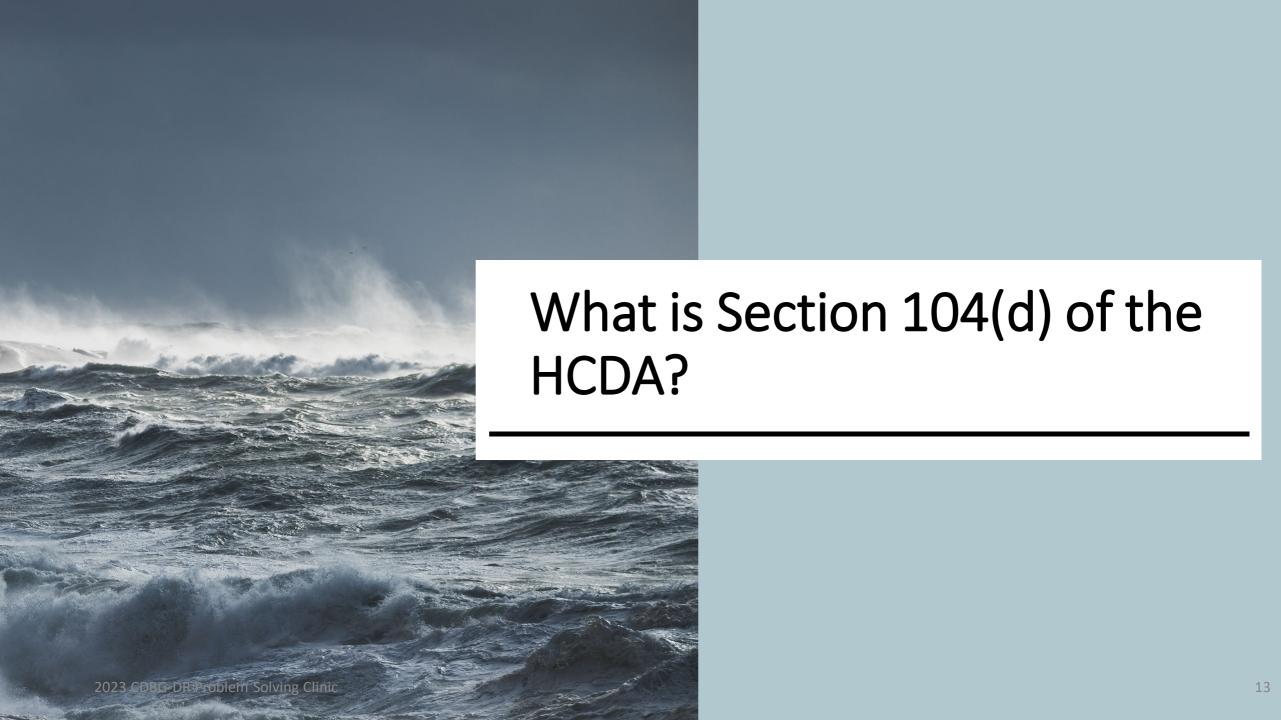
# Uniform Relocation Assistance and Real Property Acquisition Act (URA)

- Federal law: "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA)"
- Applies to acquisition, rehabilitation, and demolition for federally-funded projects
- Establishes minimum federal requirements for real property acquisition and relocation of people and businesses

### **Key Objective:**

To ensure that people whose real property is acquired, or who move as a direct result of projects receiving federal funds, are treated fairly and equitably and receive assistance in moving from the property they occupy.

View Module 1: URA Overview for additional information!



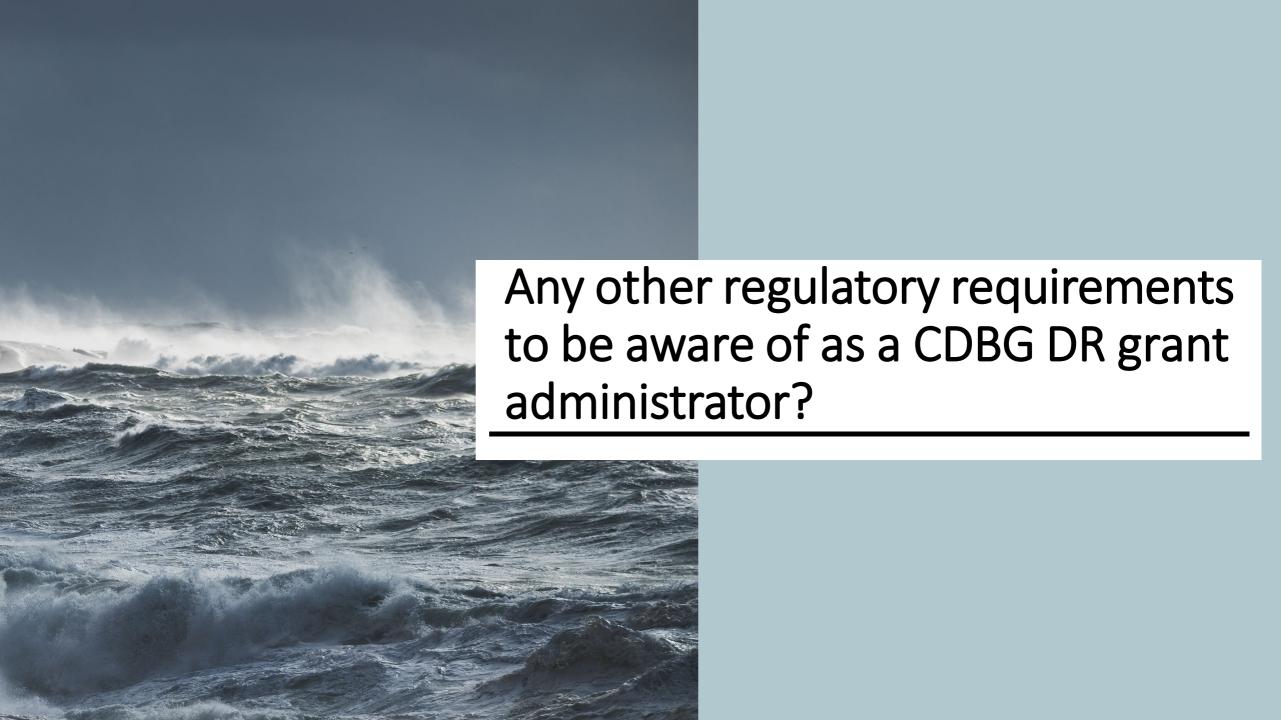
# Section 104(d)

- Refers to a section of the Housing and Community Development Act of 1974, as amended (HCDA), separate from the URA
- Applies to demolition or conversion of lower-income dwelling units in connection with a CDBG/HOME/CDBG-DR assisted activity
- Review this <u>URA and Section 104 (d)</u> and <u>Related CDBG Program</u> <u>Requirement</u> overview document any time you need a quick refresher!

### **Key Objectives:**

- Minimize displacement
  - Provide relocation assistance
  - Replace lower income housing demolished or converted

View Module 2: Section 104(d) Overview for additional information!



# CDBG acquisition, relocation programmatic requirements (24 CFR 570.606)

- Policy for minimizing displacement
- Definitions of displaced person
- Initiation of Negotiations
- Optional Relocation Assistance
  - Allows grantee to provide relocation assistance to persons not considered displaced (e.g. owner-occupants waiting for rehab.) or assistance in excess to URA limits to displaced-persons
  - Policy must be in writing, available to public and provide equal relocation to each class of persons

# FRN's waivers to URA, Section 104(d) and CDBG program - related requirements

- HUD provides waivers applicable to some URA, section 104(d) and CDBG relocation requirements
  - Most waivers provide alternative requirements that must be met
  - Review your applicable Federal Register Notice (FRN) to identify what URA/104(d) waivers are applicable to your programs and projects
  - Important to review minimizing displacement and Residential Anti-displacement and Relocation Assistance Plan (RARAP) content requirements
  - Additional waivers can be requested to Secretary if good cause exist

#### • Note:

- RARAP minimizing displacement requirements are more specific for the Consolidated Notice
- Section 104(d) one for one replacement waiver in the Consolidated Notice is stricter than previous 104(d) waivers and <u>only applies to owner-occupied lower-income dwelling units</u> that are disaster-damaged and "not suitable for rehabilitation" as defined by the Grantee in their Action Plan or policies and procedures

# Planning and Budgeting is Critical

Early planning reduces inefficiencies in project development and implementation

Budget for the following:						
Acquisition Costs (Voluntary/ Involuntary)	Permanent Relocation Costs	Temporary Displacement Costs	Special Needs Populations	Other		
<ul><li>Legal Expenses</li><li>Appraisals</li><li>Surveys</li></ul>	<ul> <li>Moving         Expenses</li> <li>Replacement         Housing         Payments</li> </ul>	<ul> <li>Cover         Moving         Costs</li> <li>Increased         Housing         Costs</li> </ul>	<ul> <li>Challenges and higher level of advisory services</li> </ul>	<ul> <li>Background checks</li> <li>Transportation</li> <li>Pets</li> <li>Credit history</li> <li>Under-housed</li> <li>Criminal issues</li> </ul>		

View Module 3: URA

Planning and

Budgeting

for additional

information!

# What To Consider When Planning









### Minimizing Displacement Policy and an RARAP

Grantees can amend existing RARAPs or create a separate one under CDBG-DR

# **Budgetary Implications**

Realistic estimates and sufficient funds

#### **Project Coordination**

Agencies, neighborhood groups, persons affected

#### **Resource Needs**

Policies and procedures, staffing needs, training, capacity building

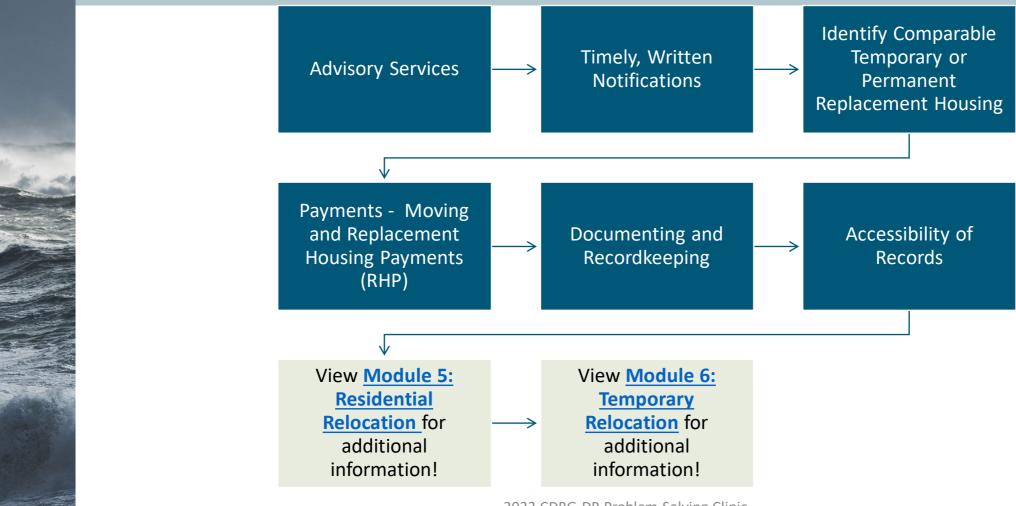
# Planning, Advisory Services and Coordination Residential and Non-Residential

- Advisory services are the single most important part of a successful relocation program. It's a requirement and NOT an OPTION!
- Relocation planning and coordination is also essential with multiple funding agencies
- For advisory services to persons displaced:
  - 1. Determine needs and preferences
  - 2. Personal Interviews
  - Provide information on housing and suitable commercial properties and locations
  - 4. Provide transportation

<u>URA § 24.205 Relocation planning, advisory services, and coordination</u>



### Residential Relocation



### Non-Residential Relocation

### **Businesses, Farms and Nonprofits**

- Advisory services personal interview.
- Written Notices
- Actual, Reasonable Moving Expenses, or a fixed amount payment.
- Re-establishment Expenses if continuing business at a new site.

View <u>Module</u>
6: Nonresidential Relocation
for additional information!

# Acquisition Under the URA

- Voluntary or Involuntary?
  - A common misconception is that a
     "willing seller" or "amicable agreement"
     means a transaction is "voluntary." This is
     not necessarily true under the URA and
     the requirements of 49 CFR 24.101(b)(1) (5) must be satisfied for a transaction to
     be considered a "voluntary acquisition".
     The next couple of slides provides a basic
     understanding of what a voluntary sale is
     under the URA.



# URA Acquisition – Entities with Eminent Domain Authority

- Voluntary Acquisition
  - 1. No specific site or property needs to be acquired
  - 2. Not part of an intended, planned, or designated project area where all or substantially all of the property will be acquired
  - 3. The Agency will not acquire the property if negotiations fail
  - 4. The Agency will inform the owner in writing of the market value

- Involuntary Acquisition
  - If it doesn't meet all 4, it's considered an <u>involuntary</u> acquisition and must follow Subpart B of the URA requirements

View Module 4: Real
Property Acquisition for additional information!

# URA Acquisition – Entities without Eminent Domain Authority

For Agencies <u>WITHOUT</u> EMINENT DOMAIN,
Subpart B does not apply to acquisitions that meet <u>ALL</u> of the following conditions at 24.101(b)(i)-(ii):

Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property if negotiations fail to result in an agreement; and

Inform the owner in writing of what it believes to be the market value of the property.

LIMITED WAIVER ALERT! Notifications waived only If acquisition is undertaken by a homeowner with DR assistance to buy property to use as primary residence

# Common URA Findings

- Grantee Monitoring of Acquisition Compliance
- Compliance with Voluntary Acquisition Requirements
- Documentation of Required Acquisition Policies and Procedures
- Valuation methodology used is not applied consistently or documented
- Timely Required Notices for both acquisition and relocation
- Correct calculations of Replacement Housing Payments (RHPs)
- Not having a written/adopted/published optional relocation policy (for those not eligible for URA)
- Recordkeeping

#### Remember:

The grantee is responsible for ensuring compliance with requirements notwithstanding any third party's contractual obligation

**Oversight** for additional information!

# **Key Takeaways**

- URA is Relocation and Acquisition
- Review rules, waivers and alternative requirements applicable to your CDBG-DR funding
- Capacity of staff, contractors and consultants for URA and 104(d) requirements
- Planning and budgeting is key!
- Develop policies and procedures for URA and 104(d) compliance across your DR programs
- Focus on advisory services and meetings with participants
- Agencies must follow their policies and procedures
- If its not documented, it didn't happen!
- Your Regional Relocation Specialist is always available to help

### **Best Practices**

- Train your staff use URA the HUD Way modules
- Action Plan Minimize displacement and RARAP for Consolidated Notice grantees, add your Planning and Budgeting plans
- As you design your programs, plan and budget for acquisition and relocation activities in compliance with rules and waivers
- Develop your DR programs incorporating compliance with URA/104(d) and waivers
- Follow your policies and procedures
- Monitor frequently. Understand what HUD will monitor
- Network with successful, similar CDBG-DR grantees

### Resources

- HUD Handbook 1378
- HUD Notice CPD-14-09 (MAP-21)
- CPD Monitoring Handbook (6509.2 REV 6) Chapter 25
- 2022 URA Low-income Limits
- URA Fixed Residential Moving Schedule (FHWA)
- URA Frequently Asked Questions (FHWA)
- HUD Acquisition and Relocation Mailing List

# Resources: URA/104(d) DR

- URA the HUD Way Modules
- Introductory URA-DR Video
- Consolidated Notice URA, 104(d) and CDBG related requirements webinar
- Consolidated Notice DR guidebook (URA/104(d) section):
- Consolidated Notice DR URA/104(d) Fact-Sheet
- Real Estate Acquisition and Relocation Policy and Guidance HUD Exchange (New FAQs on Relocation Corrective Actions)





# Section 3

# **Learning Objectives**



Understand what is Section 3



Understand Section 3 Rule change



Discuss Section 3 challenges



Know where to find Section 3 resources



Know who to contact if you have Section 3 questions



### What is Section 3?

The Section 3 program requires that recipients of <u>certain HUD financial</u> <u>assistance</u>, to the greatest extent possible, to provide training, employment, contracting and other economic opportunities to lowand very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons.

# What is a Section 3 Project?

### Section 3 Project:

 Housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide Housing and Community Development financial assistance when the total amount of the assistance to the project exceeds a threshold of \$200,000

### Section 3 applies to:

 An entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs, when the total amount of the project exceeds \$200,000

### "Certain HUD Financial Assistance"

• Nearly all CDBG-DR, CDBG-MIT, and CDBG-NDR funding is subject to Section 3, for example:

Subject to Section 3	NOT Subject to Section 3
<ul> <li>Construction of Housing</li> <li>Construction of Infrastructure</li> </ul>	<ul> <li>Professional Services</li> <li>Downpayment Assistance</li> </ul>

#### Section 3 Old Rule vs. New Rule

November 30<sup>th</sup>, 2020

# Old Rule: *Prior to November 30<sup>th</sup>, 2022*

- \$100,000 contract threshold
- Reporting occurred in SPEARS
- Counting new hires

# New Rule: *Post to November* 30<sup>th</sup>, 2022

- \$200,000 contract threshold
- Reporting occurs in DRGR
- Counting labor hours
  - Total labor hours
  - Section 3 Worker hours
  - Targeted Section 3 Worker hours

#### What is a Labor Hour?

- Hours worked by all workers employed on a Section 3 Project
- Professional service labor hour
  - Non-construction services that require an advanced degree or professional licensing are excluded from Section 3 Final Rule

## Section 3 New Rule: Key Definitions

Non Section 3 Worker

 Above very low and low income limit Section 3 Worker

 Below very low and low income limit

- Employed by Section 3 Business Concern
- Worker is a YouthBuild participant

Targeted Section 3 Worker

- Employed by Section 3 Business Concern
- Worker is a YouthBuild participant
- Living within the service area or the neighborhood of the project

#### Section 3 Worker

- ection 3 Worker
- 1. Below very low and low income limit
- 2. Employed by
  Section 3 Business
  Concern
- 3. Worker is a YouthBuild participant

- 1. HUD publishes the <u>very low and low income</u> <u>limits</u> on an annual basis
- 2. Section 3 business concern defined

A business that meets <u>at least one</u> of the following criteria, documented within the last six-month period:

At least 51 percent owned and controlled by low- or very lowincome persons Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers

A business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing

3. View **YouthBuild participants** 

# Targeted Section 3 Worker

#### Targeted Section 3 Worker

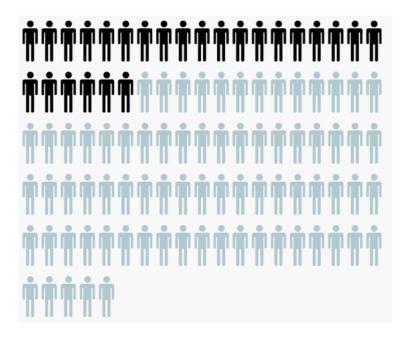
3

- Employed by Section 3 Business Concern
- Worker is a YouthBuild participant
- Living within the service area or the neighborhood of the project

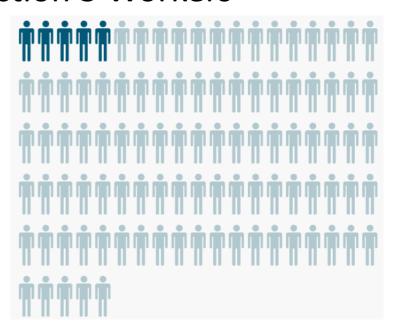
- 1. Section 3 business concern defined (view previous slide)
- 2. View YouthBuild participants
- 3. Service area defined
  - 1. Service area" or the "neighborhood of the project" means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

## Compliance (Safe Harbor) Benchmarks

 25% or more of all labor hours must be worked by Section 3 Workers

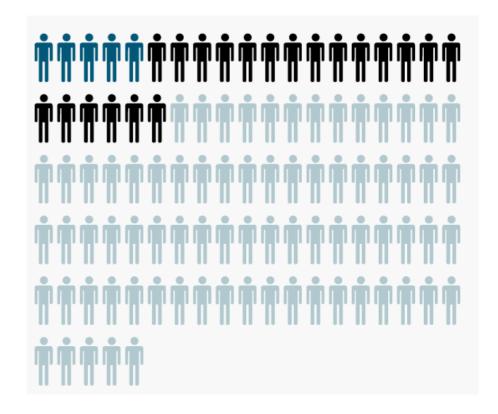


 5% or more of all labor hours must be worked by Targeted Section 3 Workers



## Compliance (Safe Harbor) Benchmarks

 Note: To meet the requirement that 25% or more of all labor hours must be worked by Section 3 Workers, grantees can include the labor hours worked by Targeted Section 3 Workers.





## Section 3 Compliance

- Regardless of which rule grantees are following, grantees are required to document compliance!
  - Section 3 monitoring (i.e. review of forms, timely and accurate reporting, etc.)
- Old Rule
  - Enforcement and compliance was performed by the Office of Fair Housing and Equal Opportunity
- New Rule
  - Enforcement and compliance is performed by program offices (ODR)
  - Compliance = Safe Harbor
  - Non Compliance = qualitative effort reported in DRGR

## Common Findings Under the New Rule

Grantees are not entering data into DRGR!



## **Grantee After Clinic Action Items:**



- Enter proposed Hours into DRGR
  - A. <u>View DRGR Fact Sheet: DRGR Guidance on Reporting Section 3 Labor Hours</u>
    (hudexchange.info) if you need assistance!
- 2. Report actual hours in QPR

## **Key Takeaways**

- Request TA ASAP if you need further assistance
- Subs and contractors need to understand the rule (communicating requirements)
  - Many contractors add this function to their "Davis-Bacon" employee
- Documentation
  - HUD will visit and look at Section 3
  - HUD is reviewing Section 3 data in DRGR



#### Section 3 on HUD.gov

- Section 3 Publications And Regulations | HUD.gov / U.S.
   Department of Housing and Urban Development (HUD)
  - Key Publications and regulations
  - YouthBuild Information
  - Sample forms to utilize

#### Publication of Section 3 Utilization Tool and Sample Certification Forms

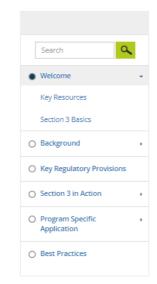
- HUD Form 4736 Section 3 PH Certification Form
- · HUD Form 4736A Section 3 Worker Employer Certification Form HCD
- HUD Form 4736B Section 3 Worker Employer Certification Form PH
- HUD Form 4736C Section 3 Worker Self-Certification Form HCD
- · HUD Form 4736D Section 3 Worker Self Certification Form PH
- HUD Form 4737 Section 3 Utilization Tracker Business Labor Hours
- HUD Form 4737A Section 3 Utilization Tracker S3 Labor Hours

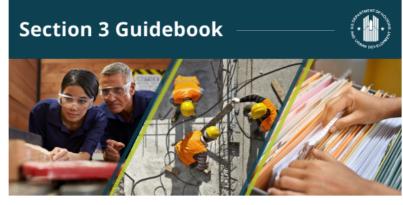
#### Section 3 Guidebook

#### Section 3 Guidebook

 This Guidebook curates the latest guidance, tools, and resources for implementing and applying Section 3 to HUD funded projects and activities

#### Section 3 Guidebook





#### Welcome to the Section 3 Guidebook!

This Guidebook curates the latest guidance, tools, and resources for implementing and applying Section 3 to HUD funded projects and activities.

Section 3 is a provision of the Housing and Urban Development Act of 1968 whose purpose is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing and to business concerns which provide economic opportunities to low- and very low-income persons.

This resource will help HUD grant recipients and sub-recipients, contractors, and Section 3 businesses who manage or implement Section 3 provisions. It complements the Section 3 Rule and Benchmarks Notice and has been updated with guidance from HUD's Office of Field Policy and Management (FPM) Regional Points of Contact (POCs) to ensure the content is current and consistent with Section 3 requirements.

#### How to Use this Guidebook

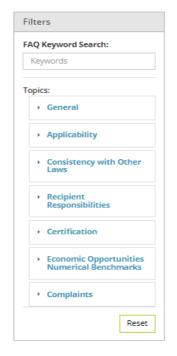
This Guidebook informs users on how to implement the requirements of the new Section 3 final rule, as well as specific application as it relates to different professional and construction services and how it is applied within different HUD program offices.

The Guidebook begins with the evolution of Section 3 and recognizes key differences between the Section 3 former rule and the new final rule but expands to provide more general information on how to apply Section 3 in the field, compliance, complaints, and best practices.

#### Section 3 FAQs

- Section 3 HUD
   Exchange
  - Searchable FAQ collection for your reference

#### Section 3 FAQs





Viewing 20 of 118 FAQs

Should the labor hours worked by a company's upper management (CEO, COO, etc.) be included in the Section 3 benchmarks for Section 3 projects funded with housing and community development (HCD) assistance?

Date Published: June 2022

FAQs

With the exception of professional service labor hours, Section 3 applies to all labor hours billed to an applicable housing and community development project as long as HCD assistance for the project exceeds \$200,000 and the project is a housing rehab, housing construction, or other public construction project. In this example, if the labor hours ...

Should the labor hours worked by a company's upper management (e.g. CEO, COO) be included in the Section 3 benchmarks for Section 3 projects funded with public housing financial assistance?

Date Published: May 2022

With the exception of professional service labor hours, Section 3 applies to all labor hours billed to a project or contract funded with public housing financial assistance as long as the public housing financial assistance for the project is funded with development assistance, operations and management assistance, or development, modernization, ...

#### Are demolition projects covered by the requirements of Section 3?

Date Published: May 2022

Yes, the Section 3 requirements apply to demolition projects funded with housing and community development financial assistance that meet the regulatory threshold. Section 3 would apply to stand-alone demolition Section 3 projects or Section 3 projects that are a part of a housing rehab, housing construction or other public construction project. ...

If a public housing agency (PHA) donates land for a project but does not provide public housing financial assistance towards the project, does Section 3 apply to the project?

Date Published: May 2022

Section 3 would not apply to the project if land is being donated for a project and no amount of public housing financial assistance is included in the project.

#### Other Section 3 Resources

- Section 3 HUD Exchange
- DRGR Fact Sheet: DRGR Guidance on Reporting Section 3 Labor Hours
   HUD Exchange
- Section 3 Final Rule Training HUD Exchange
- Section 3 Resources and Tools HUD Exchange

#### **HUD ODR Section 3 Contacts**

 Always feel free to reach out to your grant manager/desk officer if you have any questions! We are here to support you through this process



# Thank you!

If you have any questions, please feel free to send an email to ODR's Policy Division at ODRPolicyDivision@hud.gov