#### Section 3

Economic Opportunities for Low and Very Low-Income Persons

Public Housing Training

By

Pat W. Green

Office of Fair Housing and Equal Opportunity US Department of Housing and Urban Development

# Section 3 Summary of Course

- > Historical perspective
- > Purpose and Intent
- > Applicability
- > Definitions
- > Overview of Beneficiaries
- Developing a Section 3 Program
- > Preferences and contracting
- > Enforcement complaints and compliance
- > Reporting and record keeping
- > Initiatives and Strategies

#### Historical Perspectives

- > Civil Unrest
- > Race Riots 1965-1968
- Los Angeles (Watts), Chicago, Detroit,
- Newark
- President Johnson appointed Kerner
- Commission 1968
  - What happened? Why did it happen?
- > Current Economic conditions



In July 1967, President Lyndon B. Johnson (seated at center) signed the executive order creating the National Advisory Commission on Civil Disorders. Named to the elevenmember commission was Fred R. Harris (D-OK, 1964-1972), Oklahoma's junior U.S. senator (standing fourth from the left). Comprised of business, political, and civil rights leaders, the group investigated the causes behind some of the worst racial and civil riots plaguing the nation's cities. Harris played a leading role on the commission and called for extensive federal programs to rebuild urban areas. Also shown are chair Otto Kerner (to the left of LBJ) and vice chair and New York City major John Lindsay (to the right of LBJ). Next to Kerner is Roy Wilkins, executive director of the NAACP. To the right of Harris is Vice President Hubert H. Humphrey.

#### **Kerner Commission –1968 - Findings:**

- Riots occurred because of black frustration with the lack of economic opportunities.
- Our nation is moving toward two societies, one black, one white—separate and unequal.
- Dr. King called the report: "a physician's warning of approaching death, with the prescription for life."

- > Kerner Commission -1968
- > Recommendations:
- 1. Create Jobs
- 2. Construct New Housing
- 3. Stop de-facto segregation
- 4. Hire diverse and sensitive police force
- 5. Open suburban residential areas to minorities
- 6. Government programs needed to provide services (HUD, DOJ, DOL)

- Kerner Commission 1968
- Outcome:
- Lyndon Johnson rejected the Commission's Recommendations.
- April 1968 (one month after Report was released) Dr. Martin Luther King, Jr. was assassinated.
- Rioting broke out in over 100 cities.
- Most of the Commission's recommendations were ultimately adopted.

#### History/Background

- > 1968 Became a provision of the HUD Act (12 U.S.C. 1701u -Section 3)
- > 1969 Expanded coverage to other HUD programs
- > 1974 CDBG Program Included
- > 1980 Amended to change location preference
- > 1992 Clarified coverage and facilitated implementing regulations

#### History - (continued)

- >1992 Amendments:
  - > Identified intended beneficiaries
  - >Established priorities for preferences
- > 1994- Interim Rule issued to establish standards and procedures: 24 CFR § 135

# Section 3 Purpose/Intent 10

#### Simply Stated...

- HUD funds are one of the largest sources of federal investment in distressed communities
- These funds typically result in new employment, training and contracting opportunities
- Section 3 is designed to direct those opportunities to local residents

#### Intent

- Not intended to require recipients or their contractors to hire, provide, or award contracts beyond what is absolutely required.
- If there are going to be new job, training, or contracting opportunities --- Section 3 applies.
- > To the greatest extent feasible
  - What does this mean?

## To the Greatest Extent Feasible

Recipients must make every effort to recruit, target, and direct economic opportunities to Section 3 residents and businesses.

More than normal advertising or soliciting.

## The American Reinvestment and Recovery Act of 2009

- > Preserve and create jobs
  - > Promote economic recovery
  - Assist with the impact of recession
  - > Invest in transportation, environmental
  - Stabilize state and government budgets

#### Economic Stimulus Funding

> PIH Public Housing Capital Funds \$4 Billion

> NAHBG \$510 Million

> AHEnergy \$250 Million

> LHC \$78 Million

#### Purpose of Section 3

To ensure that economic opportunities generated from HUD funded projects will be directed to low and very low-income persons particularly those receiving assistance for housing

§ 135.1

#### Triggering the Regulation

Section 3 regulations do not require hiring or subcontracting unless it is necessary to complete the project.

Section 3 is not an entitlement, it is an opportunity

Section 3 is triggered when covered projects require "new" hires or subcontracting.

# Applicability 18

## Applicability to Economic Stimulus Funds

- Neighborhood Stabilization Program
- Community Development Block Grants
- Native American Housing Block Grants
- Assisted Housing Energy & Green Retrofits
- Lead Hazard Control (LHC Grants Only)

**Total: \$7.8 Billion** 

(57% of HUD's Stimulus Funds)

# Applicability for Public Housing Programs

- > HOPE VI
- Capital Fund
- Section 202/81II
- > Modernization
- Recovery Funds

#### Thresholds

Public Housing:

There are no thresholds in the Public Housing Programs.

#### Applicability to Entire Project

Section 3 requirements apply to the entire project or activity, regardless of whether it is fully or partially funded by HUD.

§ 135.3(b)

# Definition

#### Section 3 Definitions

- Contractor (any entity which contracts to perform work generated by the expenditure of Section 3 covered assistance or with a Section 3 covered project.)
- Metropolitan area (a metropolitan statistical area or MSA).
- > 3. Neighborhood (a geographical location within the jurisdiction of a unit of general local government.)
- > 4. Youthbuild (programs to assist and provide for disadvantage youth with opportunities for employment, education, leadership development and training.)
- New Hires (full-time employees for permanent, temporary or seasonal employment opportunities.)
  - 6. Recipient (any entity which receives Section 3 covered assistance directly from HUD. It includes any State, local government, PHA, IHA or public body.)

#### Certifications

Grantees certify that its jurisdiction will comply with all related statues and regulations. If no, sanctions may be applied.

#### Covered Programs

- Each program area within HUD has a responsibility to ensure that recipients of HUD funds comply with Section 3.
- Examples of covered funding:
  - CDBG (housing construction);
     (Demolition); and (rehabilitation)
  - Home Investment Partnership Assistance
  - Lead Base Paint Abatement
  - HOPWA

# Overview of Beneficiaries

#### Section 3 Resident

or

- A resident of metro area or non metro county in which the Section 3 covered assistance is expended, and who qualifies as a low- or very low-income person.
  - Low income = 80% of the median area income
  - Very low income = 50% of the median area income
  - http://www.huduser.org/portal/datasets/il.html
- Public Housing Resident,

# Today a Section 3 Resident may include

- Residents of Public Housing
- Section 8 Voucher Holders
- Recently Unemployed
- Veterans
- Recipients of Other Federal Assistance
- Single Mothers Re-entering the Workforce
- Recent College Graduates

# Benefits for Residents In training and employment

- Residents residing in the service area or neighborhood in which the covered project is located will receive a preference.
- Homeless persons residing in the service area or neighborhood shall be given priority or preference.
- Participants in HUD Youthbuild programs.
- Residents of public housing and other housing developments will be given priority.

#### Section 3 Businesses

51% or more owned by Section 3 resident, or

30% of employed staff are currently Section 3 Residents or were Section 3 residents within three years of the date of first employment; or

25% of the dollar award of all subcontracts committed to Section 3 Businesses.

# Developing A Section 3 Program

# Developing a Section 3 Program

- Appoint a Section 3 Coordinator
- Develop a Section 3 Plan
- Develop a registry of Section 3 residents
- Develop a registry of Section 3 businesses
- Market the program through outreach and education.

#### Sample Certification Form Section 3 Residents

THE HOUSING AUTHORITY or City

#### RESIDENT EMPLOYMENT OPPORTUNITY DATA THE HOUSING AUTHORITY OR CITY OF THE CITY OF ELIGIBILITY FOR PREFERENCE

#### Eligibility for Preference

A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of digibility for the preference is oridence of receipt of public assistance, or oridence of participation in a public assistance program.)

> Conflication for Resident Socking Section 3 Profession in Training and Employment

- am a legal scatdont of the \_ \_\_ qad meet the income eligibility guidelines for a low- or very-low-tecome person as published on the several. My pomenont address is: \_
- I have attacked the following documentation as evidence of my status:

DD Copy of lesse DD Copy of eccept of public

DD Copy of Exidence of participation DD Other exidence to, a public assistance program.

Signature

Print Name Date

### Section 3 Businesses and Contractors

- > Improve and facilitate the bidding process
- > Bid announcements
- Pre-bid meetings
- > Contract Section 3 Clause
- > Award Conference
- Routine Monitoring Reports

#### Section 3 Business Concern

- > 51% or more owned by Section 3 Residents, or
- 30% of employed staff are Section 3 Residents; or
- 25% of subcontracts committed to Section 3 Businesses
- > HUD Section 3 Registry www.hud.gov/Sec3biz

### Sample Certification Form Section 3 Businesses

#### CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPBILITY

Name of Dusiness
Address of Business
Type of Business: □□ Corporation □□ Partnership □□ Sole Proprietonhip□□ Joint Venture Attached is the following documentation as evidence of status:
For Business claiming status as a Section 3 resident-owned enterprise:  Copy of resident lease CC Copy of receipt of public assistance Copy of evidence of participation CC Other evidence in a public assistance program
For business entity as applicable:  Copy of Articles of Incorporation Coertificate of Good Standing  Capy of Articles of Incorporation Coertificate of Good Standing  List of owners/stockholders and Coertificate Report  ownership of each Clatest Board minutes appointing officers  Corporation chart with names and titles Coertificate documentation and brief function statement
For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:
□□ List of subcontracted Section 3 husiness(es) and subcontract amount  For business claiming Section 3 status, claiming at least 30 percent of their worldowe are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:
□□ List of all current full-time employees □□ List of employees claiming Section 3 status □□ PHA/IHA Residential lease less than 3□□ Other evidence of Section 3 status less than 3 geagg from day of employment years from date of employment Exidence of ability to perform successfully under the terms and conditions of the proposed contract □□ Current frameial statement □□ Statement of ability to comply with public policy □□ List of owned equipment □□ List of all contracts for the past two years
(C crypo rate Seal)
Authorizing Name and Signature
Attested by.

# Procurement and Contracting

#### Preferences and Contracting

Section 3 is not intended to create an "entitlement" for eligible residents and businesses—it creates opportunities

Simply meeting the definitions will not automatically mean that residents will be given jobs, or business contracts.

#### Procurement Standards

Section 3 regulations do not supersede the general requirement that (material only) procurement transactions be conducted in a competitive manner.

Consistent with 24 CFR § 85.36(c)(2), Section 3 encourages a geographic preference in the evaluation of bids.

#### Federal Labor Standards

> Trainees hired under Section 3 may work subject to HUD determined prevailing wage rates and ratios of apprentices to journeymen in approved training programs.

§ 135.11 (c)

#### Race and Gender Neutrality

- A minority business enterprise or womenowned business shall be required to present Section 3 certification to receive preference.
- > Section 3 of the HUD act is race-neutral.
- The preference provided by this federal act is based on income and location.

#### **Executive Order 11246**

- The recipient shall ensure full compliance with E.O. 11246 - equal treatment without regards to race, religion, color or ethnic background.
- The recipient shall ensure that all contractors and subcontractors participating on Section 3 governed projects comply with E. O. 11246.

# Enforcement, Complaints and Compliance

#### Numerical Goals

#### **Employment:**

30 percent of new hires annually

#### Contracts:

10 percent of the total \$ amount of all Section 3 covered contracts for building trades work

3 percent of the total \$ amount of nonconstruction contracts (PHAs only)

#### Safe Harbor and Compliance

- A recipient that meets numerical goals will be considered in compliance.
- A recipient that has not met the numerical goals has the burden of demonstrating why.
- All documented efforts taken to assist Section 3 residents and businesses will be considered.

#### Types of Opportunities

Administrative/ Management

Services

Construction

accounting payroll research bookkeeping purchasing word processing appliance repair florists marketing carpet installation janitorial photography catering landscaping printing computer/information manufacturing transportation

architecture bricklaying carpentry cement/masonry demolition drywall electrical elevator construction engineering fencing heating iron works machine operation painting plastering plumbing surveying tile setting

## Eligibility for employment and contracting

Section 3 of the HUD act is race and gender-neutral.

A Section 3 resident must meet the qualifications of the position to be filled.

§135.34(c)

A Section 3 business concern must have the ability and capacity to perform.

§135.34(a)(2)

# Section 3 Recipient Responsibilities

#### Recipient Responsibilities

- Notify Section 3 residents and business concerns about economic opportunities
- Notify covered contractors and incorporate the Section 3 clause verbatim into contracts
   parts A through G
- Facilitate training and employment of residents
- > Award contracts to Section 3 Businesses

### Recipient Responsibilities -continued

- Meet annual numerical goals
- Facilitate compliance among contractors
- Document other actions taken to achieve compliance
- Submit annual report (60002 form)

#### Preference for Training and Employment

#### **Order of Priority for PIH Programs**

- Category 1 Residents of the housing development
- Category 2 Residents of other housing developments managed by the Housing Authority
- Category 3 Participants in HUD's Youthbuild program
- Category 4 Other Section 3 Residents

#### Preference for Training and Employment

Order of priority for Programs funded by the McKinney Act

- Category 1 Homeless persons in the service area
- Category 2 Residents in the service area or neighborhood
- Category 3 Participants in HUD's Youthbuild program
- Category 4 Other Section 3 Residents

§ 135.34(a)(2)

# Preference for Section 3 Business Concerns Order of priority for PIH Programs

- Category 1 Section 3 businesses that are 51% or more owned by residents of the housing development
- Category 2 Section 3 businesses that are 51% or more owned by residents of other housing developments managed by the HA
- Category 3 Youthbuild programs operated in the metro area
- Category 4 Section 3 businesses that are 51% or more owned by Section 3 residents or that subcontract in excess of 25% to Section 3 businesses.

# Section 3 Enforcement

#### Complaint Processing

- Form HUD 958 filed within 180 days of alleged non-compliance
- Most complaints are associated with contracting issues
- Preference- to conciliate
- Sanctions debarment, suspension or LDP (24 CFR 24)

§ 135.76

#### Criteria for Compliance Reviews

- Number of complaints
- Amount of Funding
- > Recommendations from Field
- > 60002 data
- > Need for Corrective Action
- > Technical Assistance

## Annual Summary Report of Section 3 Activity

All recipients of Section 3 covered funds must submit Form HUD 60002 annually.

Reporting cycle – Simultaneously with funding annual report, at project completion or January 10<sup>th</sup>, annually.

Should be submitted to HUD HQ, preferably on-line, by direct recipients only, not contractors or sub-recipients.

§ 135.90

#### Form HUD 60002 Section 3 Summary Report

Section 3 Summary Report Economic Opportunities for Low and Very Low-Income Persons	U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity	OMB Approval No.2529-0043 (exp. 8/31/2007)  *HUD Field Office:  Select HUD Field Office
See Public Reporting Burden Statement below General Instructions		
*1. Recipient Name :	Recipient ridui ess	Street  City  State  (or Postal Code)
*2. Grant Number: 📿	*3. Total Amount of A	Award: 2 \$ read-only
4. Contact Person:	5. Phone:	
6. Length of Grant : (2)  Month(s)	*7. Reporting Period: Select Quarter ▼	Select Fiscal Year
*8. Date Report Submitted:	*9. Program Code-Na	me: 🔞
(MM/DD/YYYY)	Select Program	

#### **Current Initiatives**

- HUD Form 60002 included in A-133 Compliance Audit checklist
- Complaint processing and investigation has been returned to Regional Field Offices
- Revisions to HUD Form 60002
- Development of a national Section 3 business database

### Failure to Comply with Section 3

- > Debarment
- > Suspension
- > Limited Denial of Participation

## Strategies for Implementation

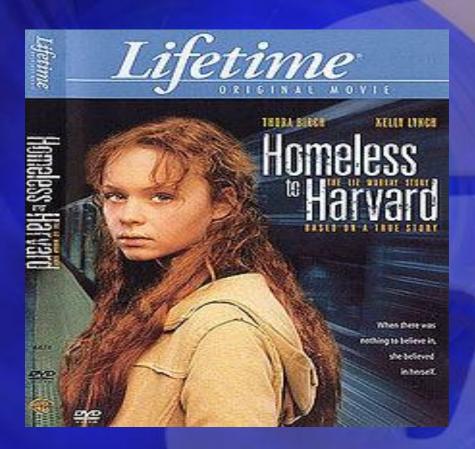
- Network/Collaborate with local agencies
- > Participation in Regional Consortium
- Use elements of Sample Plan
- Designate a Section 3 Coordinator
- > Adopt and execute Section 3 Plan

#### Section 3 Compliance

- > Plan and Coordinate
- Utilize the Section 3 Monitoring Checklist
- Conduct periodic reviews of progress
- > Implement the Plan
- > Report goals

#### From Homeless to Harvard

> Liz Murray's Story



#### Homelessness in NC - 2011

**Emergency Shelter** Transitional Housing **Unsheltered\*** 

# Unemployment in NC