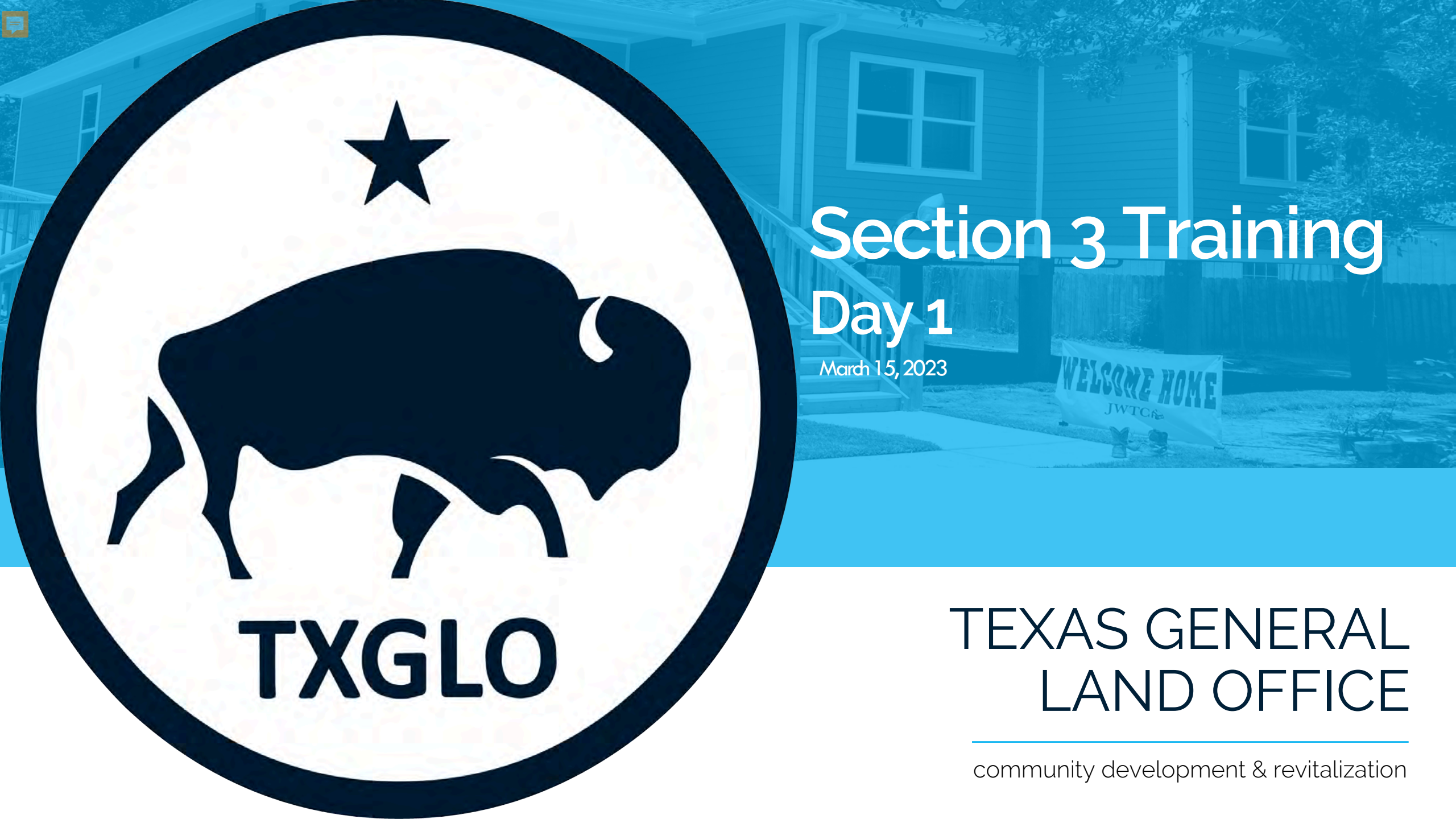


Section 3 Training

Day 1

March 15, 2023

TXGLO

TEXAS GENERAL LAND OFFICE

community development & revitalization

PRESENTERS

Les Warner

Senior Technical Specialist | ICF

Les.Warner@ICF.com

Kristen Supik

Section 3 Specialist | GLO

kristen.supik.glo@recovery.texas.gov

AGENDA

Day 1 March 15th 10:00AM- 12:00PM

- Module 1: Understanding Section 3 Basics
- Questions and Answers

Day 2 March 16th 10:00AM- 12:00 AM

- Module 2: Plan and Implement
- Module 3: Program Oversight
- Module 4: Report and Evaluate
- Questions and Answers

COURSE OBJECTIVE

Staff responsible for implementing Section 3 will be able to define the requirements of the Section 3 Final Rule and actions required to implement the rule.

- Introduce the purpose of Section 3.
- Detail the Section 3 Final Rule and the key changes.

By the end of this course, participants will be able to:

- Identify administrative and implementation requirements as a result of the Section 3 Final Rule,
- Describe new Section 3 reporting required elements,
- Effectively apply the Section 3 Final Rule to real-world scenarios.

SERIES OVERVIEW

Module 1: Understanding Section 3 Basics

Module 2: Plan and Implement

Module 3: Program Oversight

Module 4: Report & Evaluate

Module 1
Learning Objectives

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

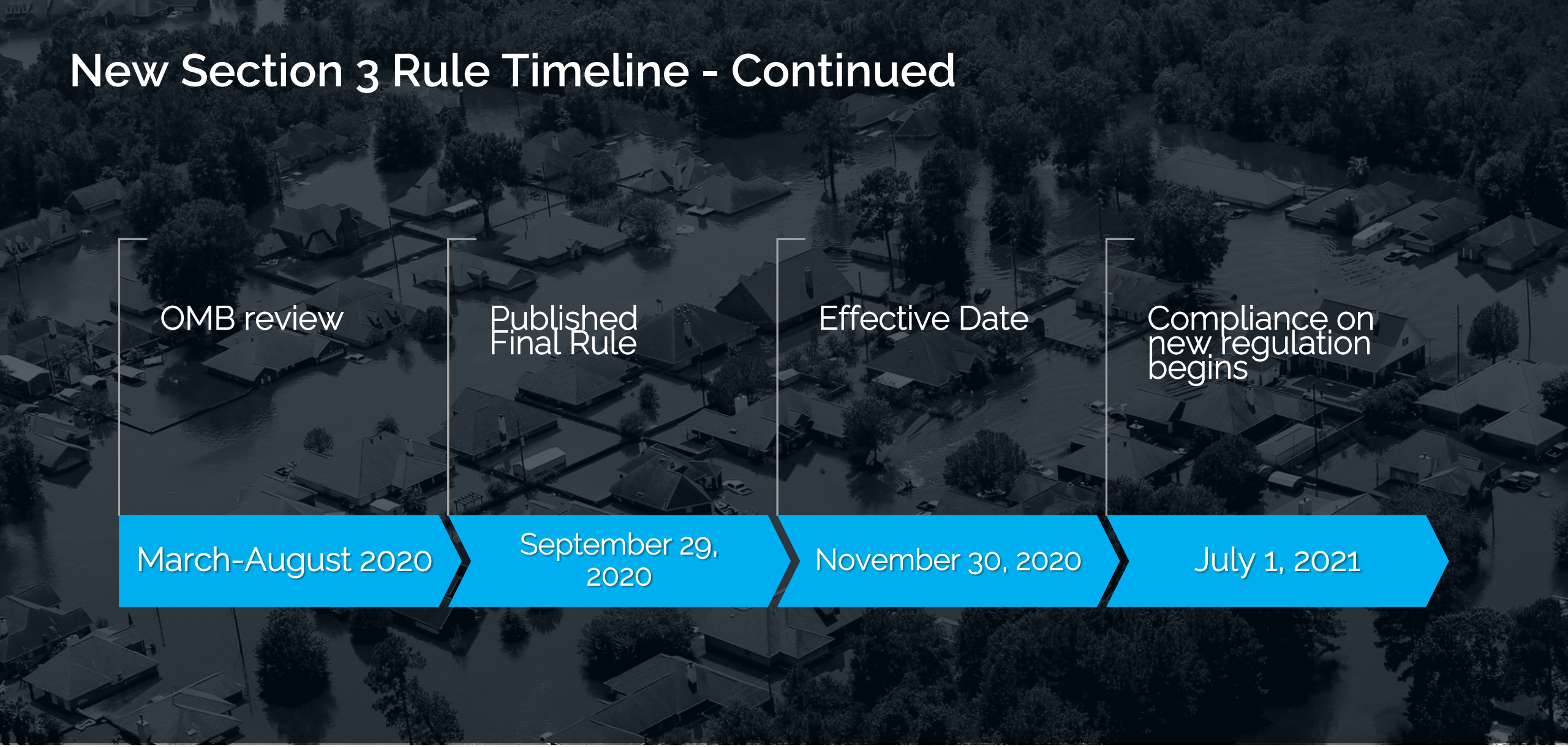
- What is Section 3?
- What is the history of Section 3?
- What are the covered programs and covered economic opportunities?
- What is the purpose of the Final Rule?

History of Section 3

Housing and Urban Development Act of 1968 was enacted with the objective of providing employment opportunities for lower income persons in connection with projects involving housing construction and rehabilitation.

New Section 3 Rule Timeline

New Section 3 Rule Timeline - Continued



Purpose of Section 3

"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-income 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

Who is Impacted by Section 3

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

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 Performance Evaluation and Registration System (SPEARS).

Final Rule Timeline: Transition Period

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

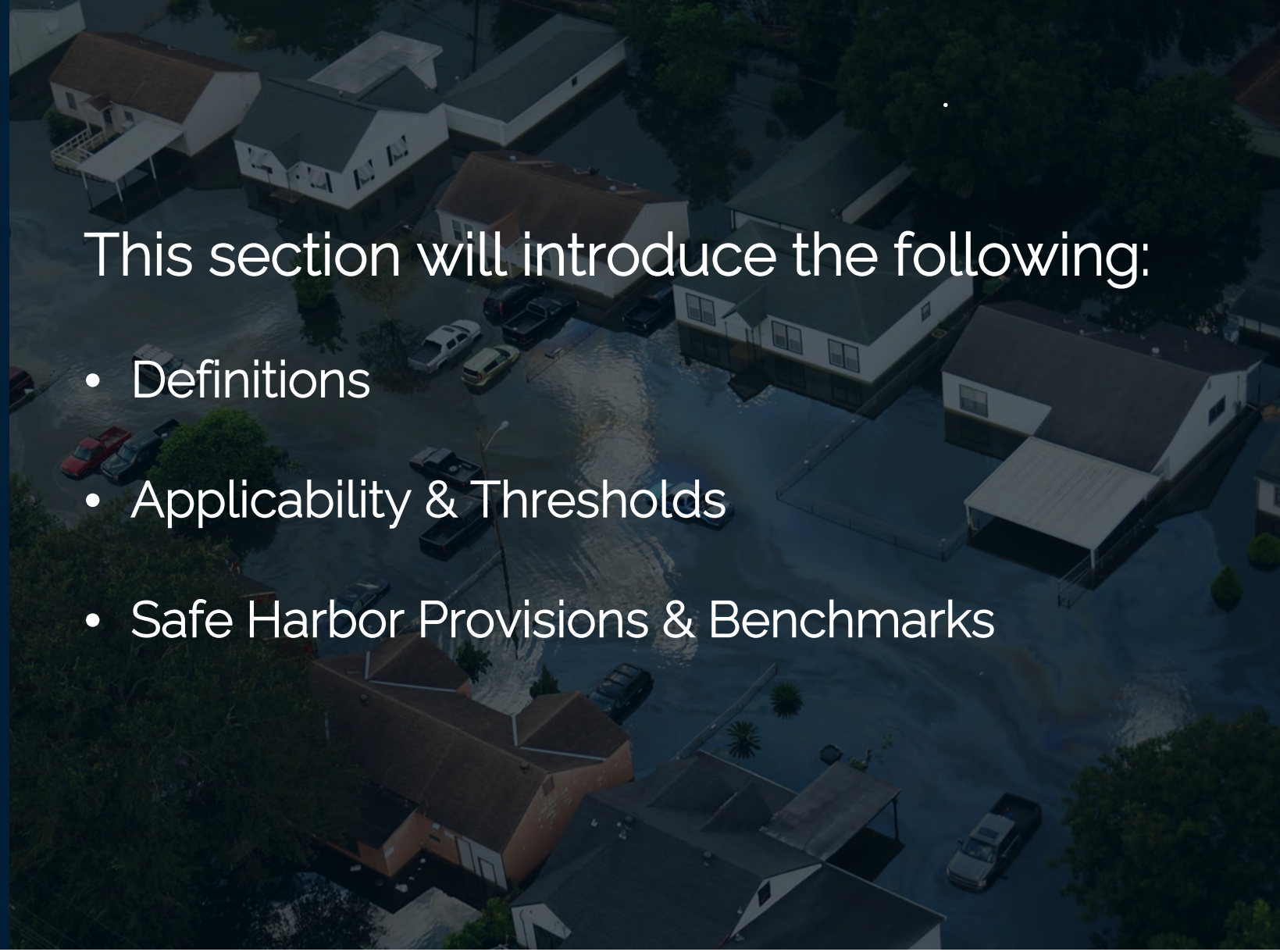
Requirement:

- 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 Performance Evaluation and Registration System (SPEARS).

Additional Clarification (CPD Notice 21-09):

- Office of Block Grant Assistance-Funded Projects: Report in Integrated Disbursement and Information System (IDIS) or Disaster Recovery Grant Reporting (DRGR) for open activities starting July 1, 2021.

Defining Section 3 & Applicability



This section will introduce the following:

- 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 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.

- all public housing financial assistance funds, regardless of the amount of assistance from HUD.

Housing & Community Development Financial Assistance

Applicability

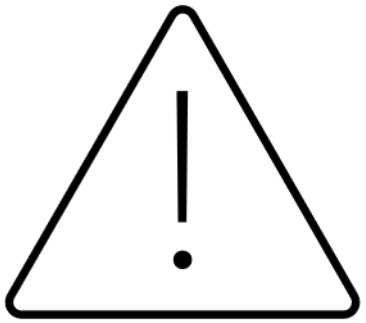
- Housing Rehabilitation
- Housing Construction
- Other Public construction.

Threshold

- Threshold is met if the total amount of Housing and Community Development (HCD) Assistance exceeds $200,000.

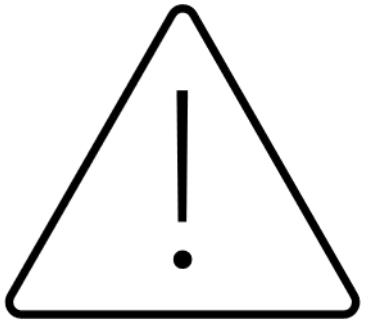
TIP: for HCD assistance, applicability is determined at the project-level.

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.

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 concern.

OR

- A YouthBuild participant.

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 person and/or,
- A migrant youth.

For more information, visit:
https://www.dol.gov/agencies/eta/youth/youthbuild

Targeted Section 3 Worker

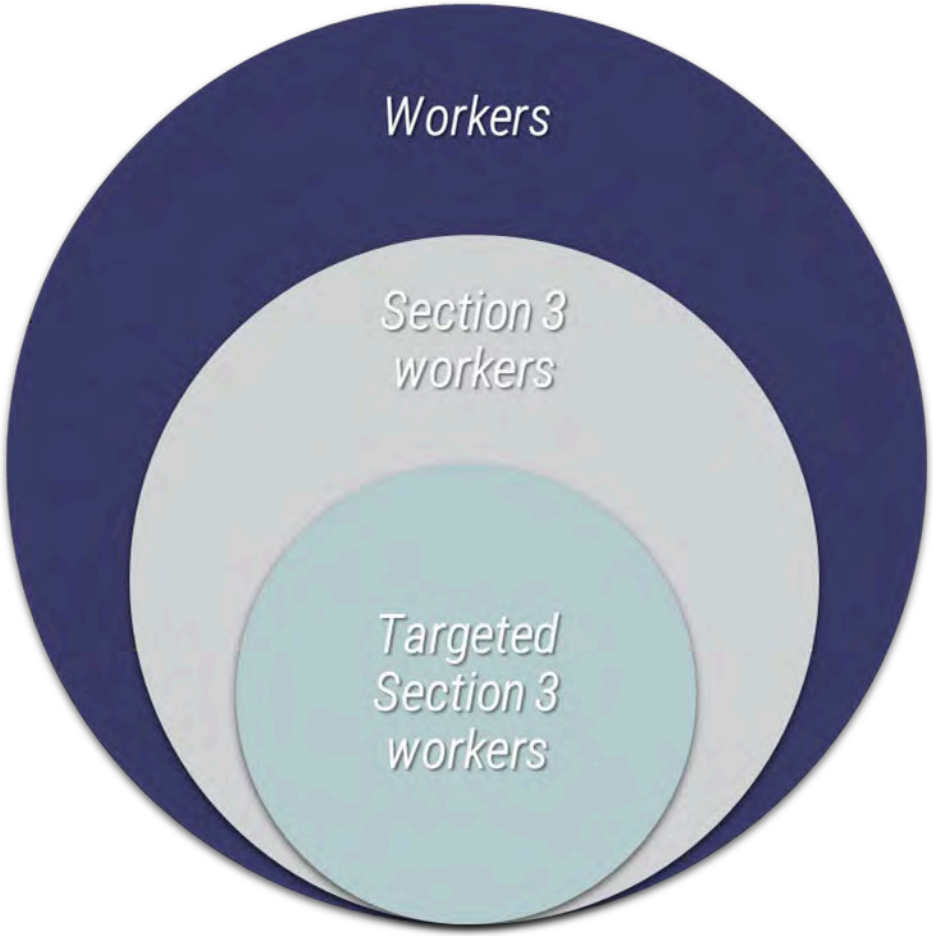
Targeted 3 Section Workers are:

- 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 Subpart C of Part 75.
  - A YouthBuild Participant

Universe of Workers



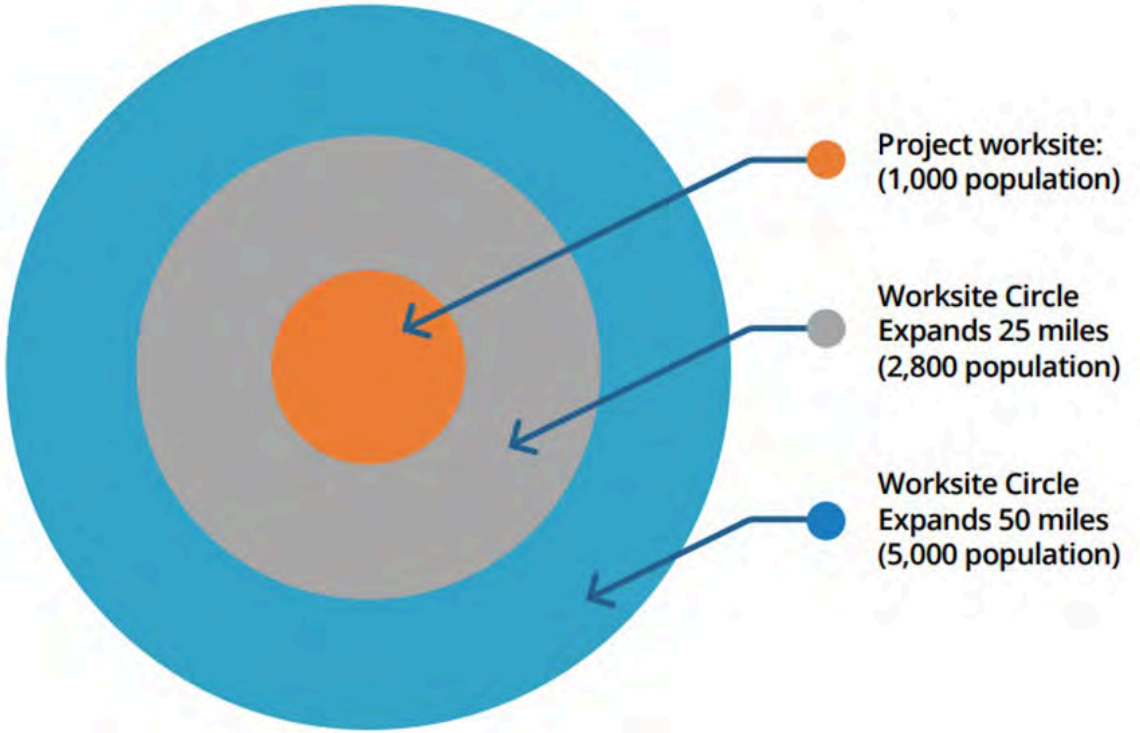
Service Area as Defined in 24 CFR 75.5

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

OR

If < 5,000 people live within one mile of Section 3 project*,

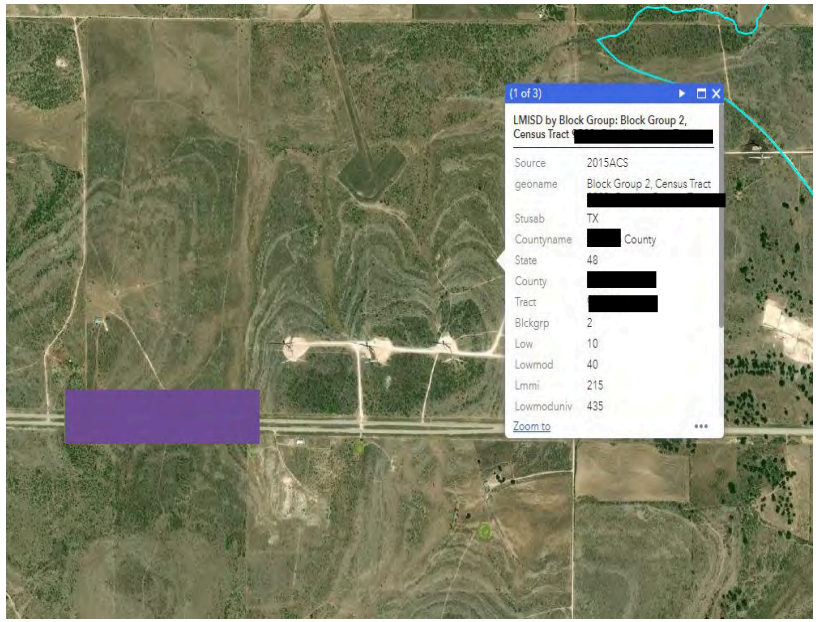
Then, **Service Area** = an area within a circle centered around the Section 3 project site that encompasses 5,000 people.



** According to the most recent U.S. Census*

Identify Service Area for Targeted Section 3 Workers

Step 1: Identify the project site.

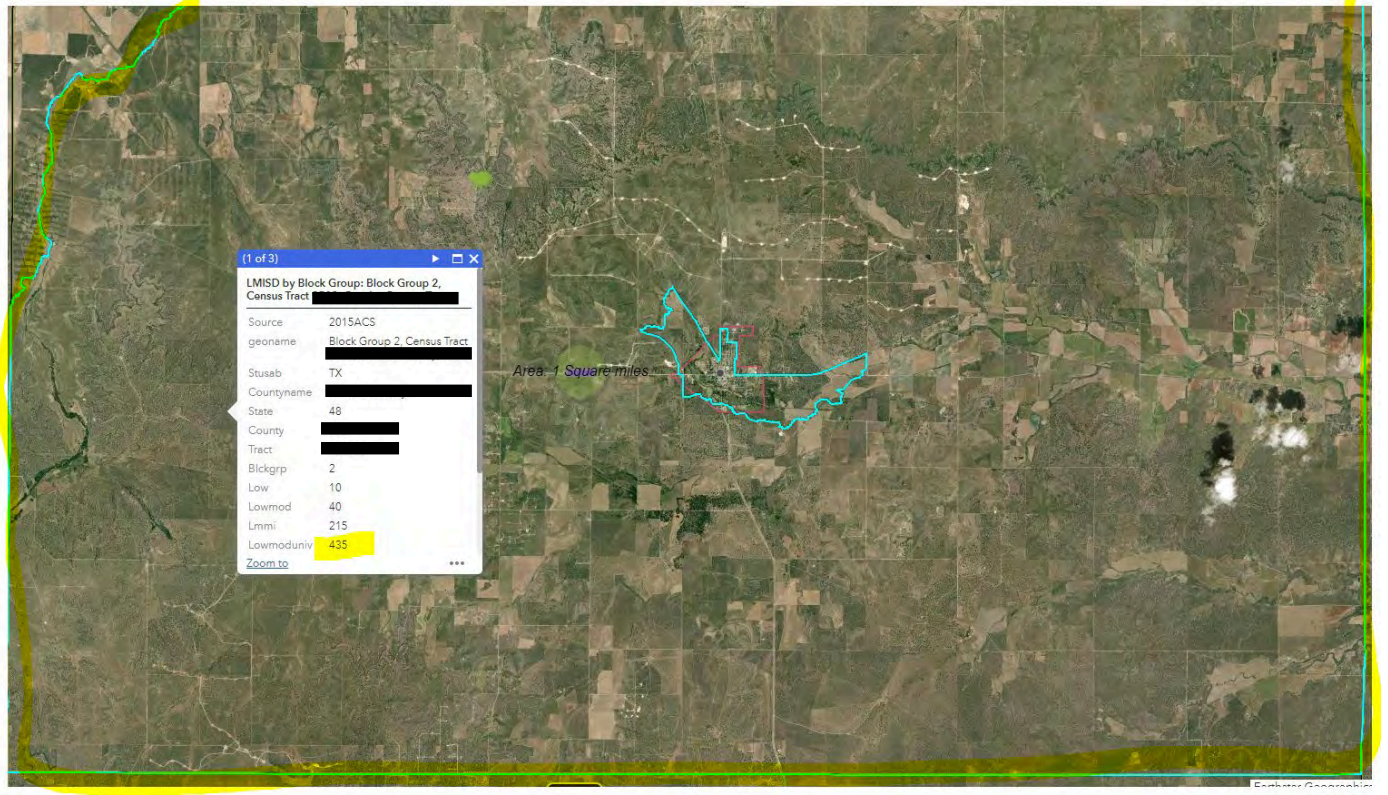


Step 2: identify a circle around the center of the project site with a radius of 1 mile

https://hud.maps.arcgis.com/apps/webappviewer/index.html?id=ffd0597e8af24f88b501b7e7f326bedd

Identify Service Area for Targeted Section 3 Workers

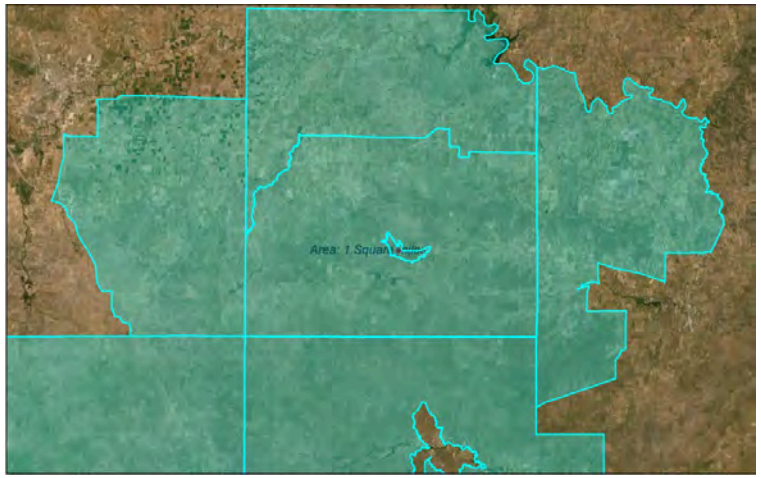
Step 3: Estimate the population that resides within the one-mile circle using the block groups that fall into that circle.



https://hud.maps.arcgis.com/apps/webappviewer/index.html?id=ffd0597e8af24f88b501b7e7f326bedd

Identify Service Area for Targeted Section 3 Workers

Step 4 (if applicable): If less than 5,000 people according to the most recent U.S. Census, then aggregate census block group geographies totaling a minimum of 5,000 persons that both surrounds all components of a Project Site, AND most closely approximates a circle shape.

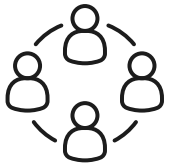


In this example the following Block Groups make up the "circle":

Census Block Group	LOWMODUNIV
[redacted]County (all BG)	2685
[redacted] Co Block Group 1	655
[redacted]Co Block Group 1	465
[redacted] Co Block Group 4	1330
Total Population	**5135**

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.

What is Safe Harbor?

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 a 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 Labor Hour?

- Hours worked by all workers employed on a Section 3 Project.
- May include grantee staff if charged to the project rather than administration.

Benchmarks

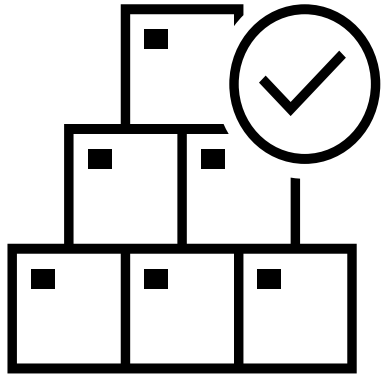
- 25% or more of all labor hours must be worked by Section 3 Workers.
- 5% or more of all labor hours must be worked by Targeted Section 3 workers.

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

Professional Service Labor Hours

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 though 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

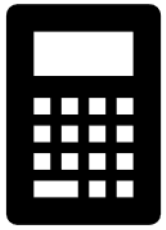
CDBG-DR

$ 207,000

Contracting=

- 41% ownership: living in Section 8 housing
- 50% of labor hours for the business performed by Section 3 workers

Safe Harbor Calculations



Section 3 Worker Benchmark

$$\frac{\text{Section 3 Labor Hours}}{\text{Total Labor Hours}} = \frac{529}{2{,}000} = 26\%$$

Targeted Section 3 Worker Benchmark

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

Safe Harbor Compliance Check

Complied with safe harbor if:

Met or exceeded the Section 3 benchmarks,

AND

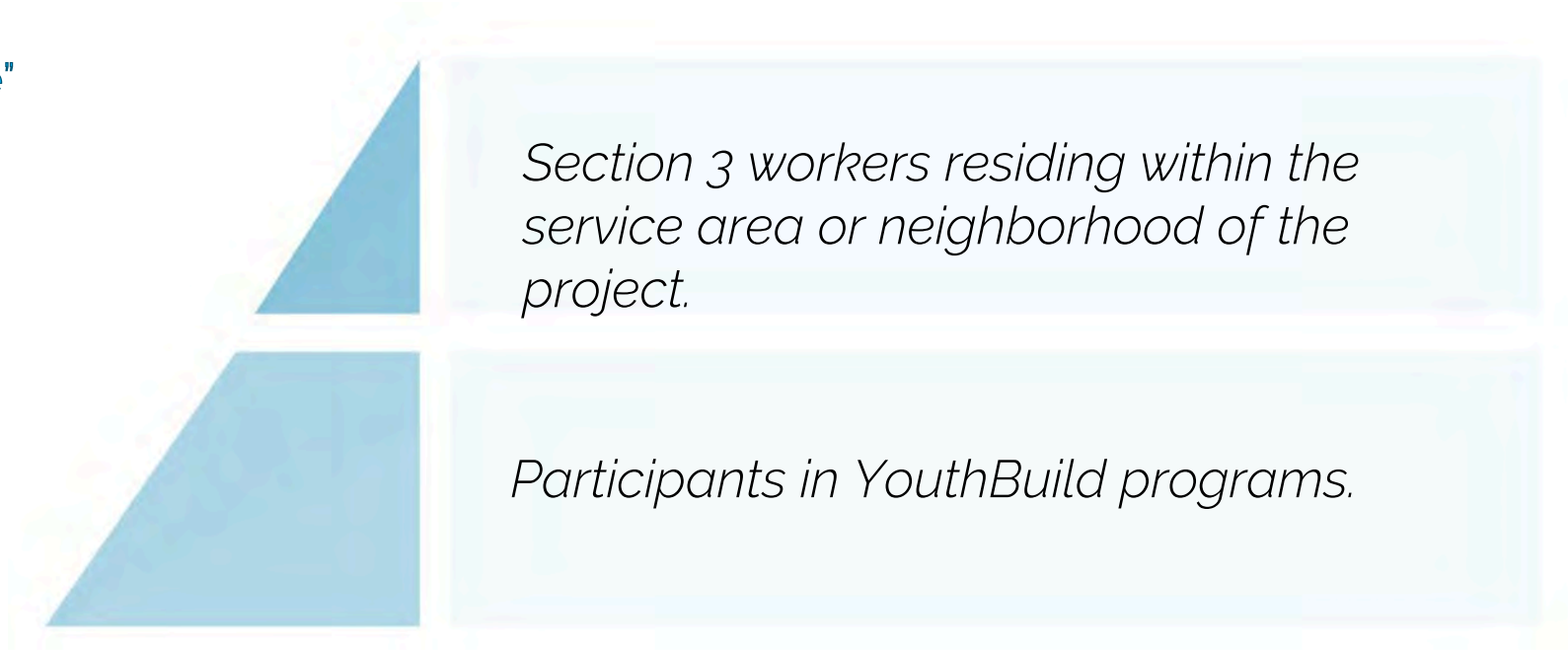
Followed the required prioritization of effort,

**Absent evidence of the contrary.*

Certificate of Prioritization Of Effort

Employment & Training

"to the greatest extent feasible"

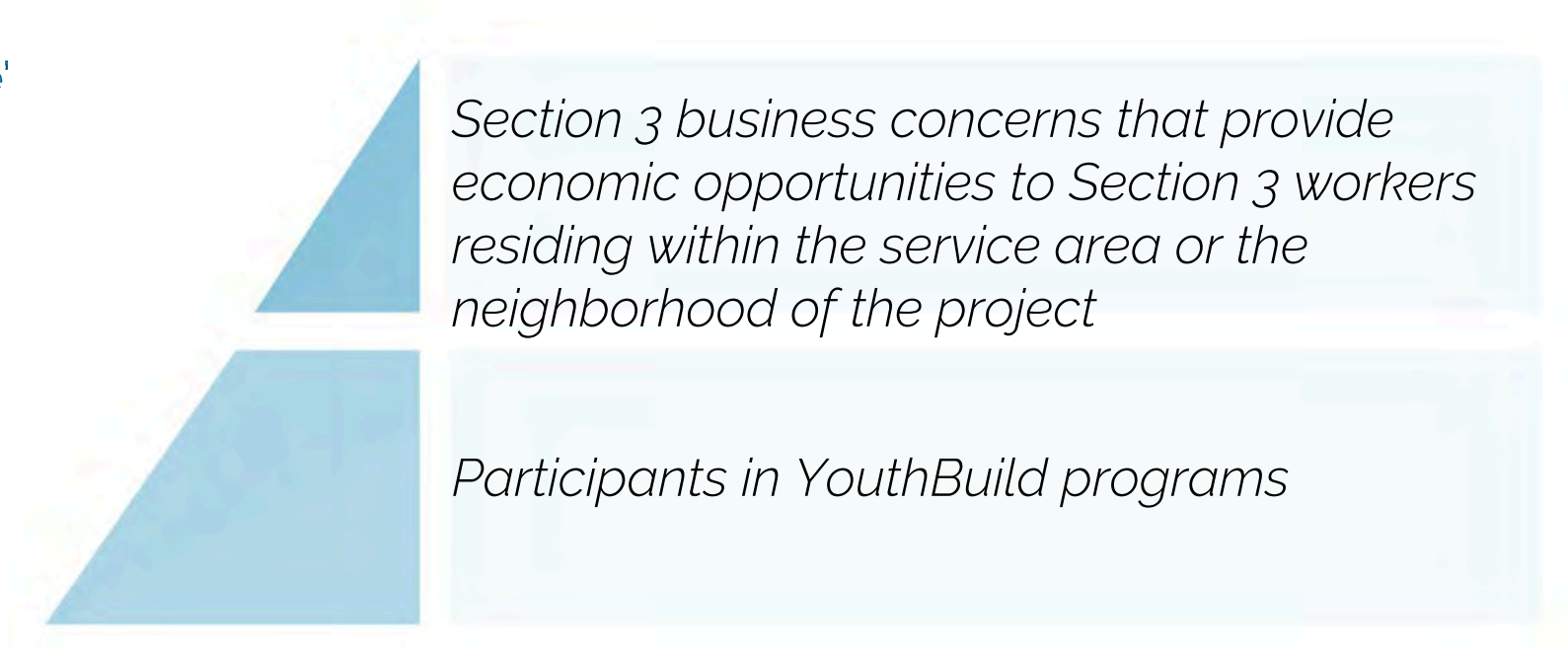


Consistent with existing Federal, state and local laws and regulations.

Certificate of Prioritization of Effort

Contracting

"to the greatest extent feasible'



Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project

Participants in YouthBuild programs

Consistent with existing Federal, state and local laws and regulations

Questions