

***Community Planning &  
Development***

***Understanding Section 3  
of the Housing and Urban  
Development Act***

***WELCOME!***

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**Office of Fair Housing & Equal Opportunity**

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# ***Training Overview***

- **Section 3 History**
- **Section 3 Purpose/Intent**
- **Overview of Section 3 Beneficiaries**
- **Recipient Responsibilities**
- **Responsibilities of Section 3 Residents and Businesses**
- **Applicability & Funding Thresholds**
- **Reporting Requirements**

## ***Section 3 History***

### ➤ **Race Riots 1965-1968**

- **Los Angeles (Watts), Chicago, Detroit, Newark**

### ➤ **President Johnson appointed Kerner Commission—1968**

- **What happened? Why?**
- **How to prevent from happening again?**

# *Section 3 History*

## **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.”

# ***Section 3 History***

## **Kerner Commission—1968**

### **Recommendations:**

- **Create Jobs**
- **Construct New Housing**
- **Stop de-facto segregation**
- **Hire diverse and sensitive police force**
- **Open suburban residential areas to minorities**
- **Government programs were needed to provide these services (HUD, DOJ, DOL, etc.)**

# ***Section 3 History***

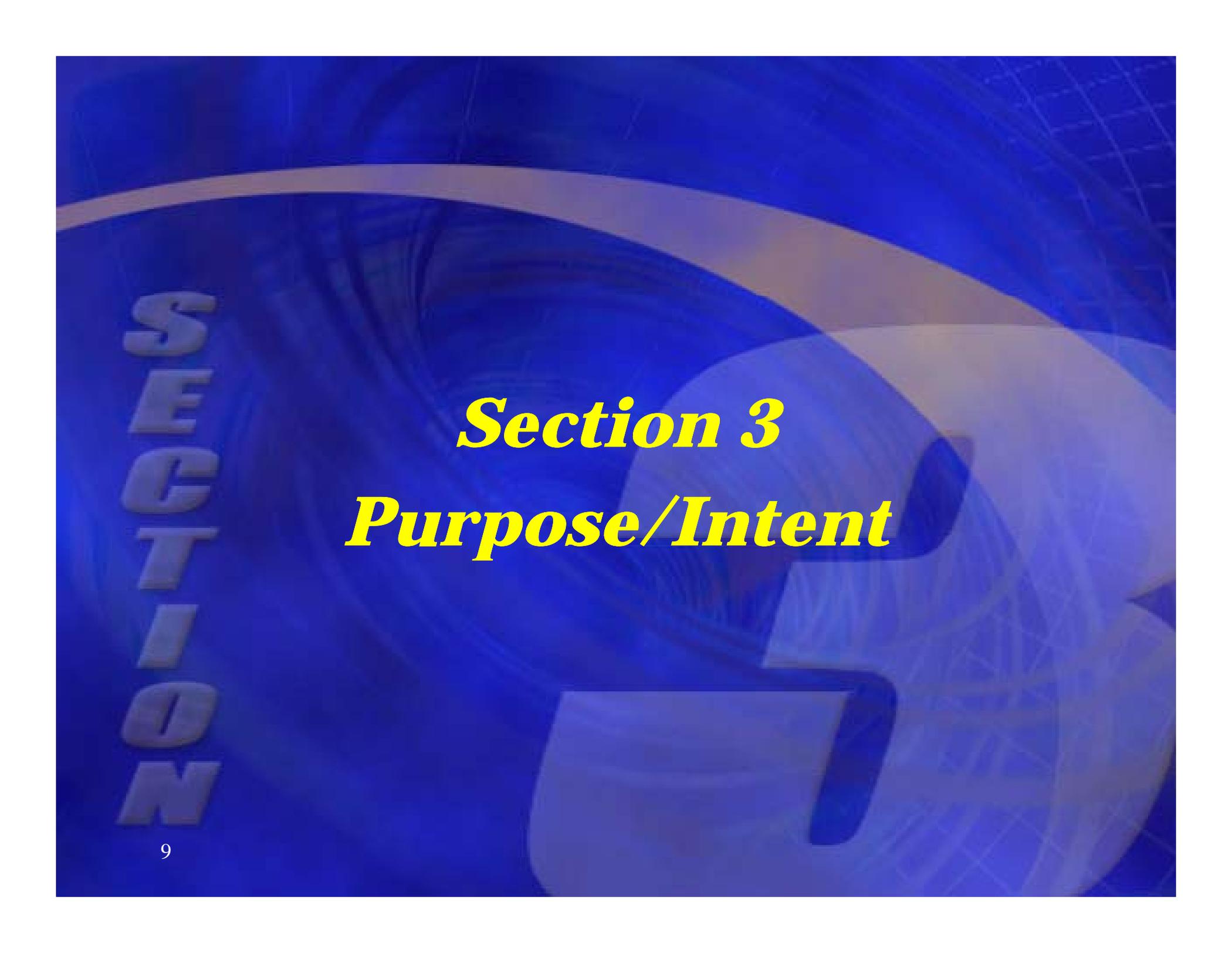
## **Kerner Commission—1968**

### **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 more than 100 cities.**
- **Most of the Commission's recommendations were ultimately adopted.**

# ***Statute and Regulation***

- **Section 3 of the Housing and Urban Development Act of 1968**
  - **12 U.S.C. 1701u**
- **Economic Opportunity Regulation**
  - **24 CFR Part 135**



***Section 3***  
***Purpose/Intent***

# ***Regulatory Description***

To ensure that economic opportunities generated from HUD funded projects, ***to the greatest extent feasible***, will be directed to low and very low-income persons - particularly those receiving assistance for housing, and the businesses that provide economic opportunities to these persons.

## ***Simply Stated...***

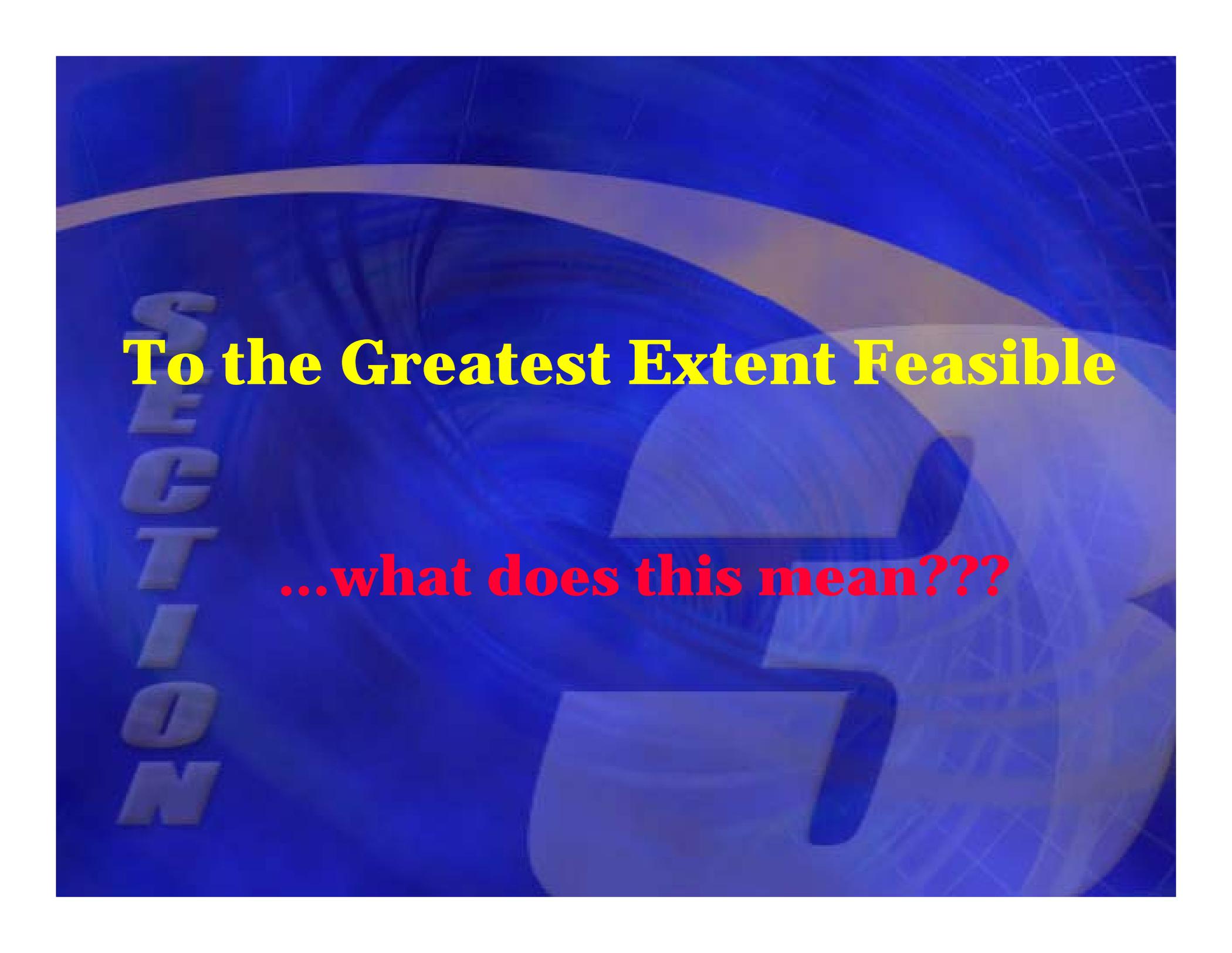
- **HUD funds are one of the largest sources of federal investment in distressed communities.**
- **These funds typically result in new employment, training and contracting opportunities.**
- **Section 3 is designed to direct HUD-funded economic opportunities to local low-income residents and eligible businesses.**

# *Intent*

- **HUD funding creates opportunities “beyond bricks and mortar.”**
- **Promote Self-Sufficiency amongst low-income persons.**
- **Level the playing field for Section 3 residents and businesses.**

# *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.**

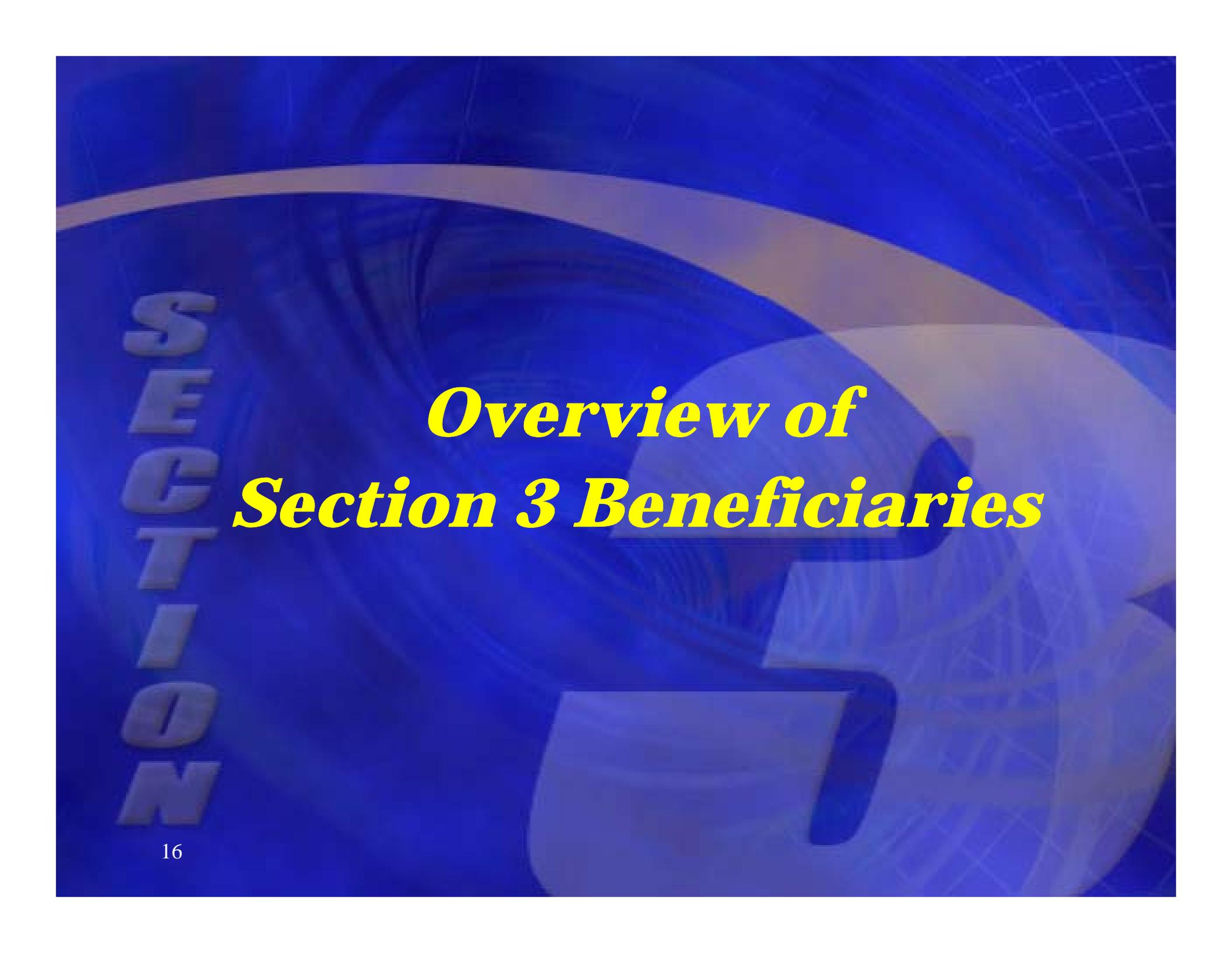


**To the Greatest Extent Feasible**

**...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.**



***Overview of  
Section 3 Beneficiaries***

# ***Section 3 Resident***

- **Public Housing Resident,**  
**or**
- **A resident of the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended, and who qualifies as a low- or very low-income person.**

# ***Low- and Very Low-Income***

*HUD sets the low-income limit at **80%** and very low income limits at **50%** of the median family income for counties or metropolitan areas across the country.*

<http://www.huduser.org/portal/datasets/il.html>

# ***Today Section 3 Residents 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**

# ***Resident Certification***

- **Recipient Responsibility**
- **Determine Eligibility Based on [24 CFR Part 135.5]**
- **Assess Skills or Job Readiness**
- **Self-Certification**
- **Sample Form on Website**
- **Maintain Lists**

## ***Section 3 Preference***

- **Section 3 of the HUD Act is **race and gender neutral.****
- **Not MBE/WBE requirements.**
- **The preference provided by this federal act is based solely on income and location.**

# ***Section 3 Business Concern***

- **51% or more owned by Section 3 Residents, 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.**

# ***Business Concern Certification***

- **Recipient Responsibility**
- **Determine Eligibility Based on Definitions [24 CFR Part 135.5]**
- **Determine Trade/Specialty**
- **Self-Certification**
- **Maintain Lists**
- **Re-Certification Procedures**

# ***Employment Opportunities***

## **Housing and Community Development Programs-**

- **Construction Labor**
- **Management & Administrative Support**
- **Architectural, Engineering and Professional services**
- **Payroll, bookkeeping, etc.**

# ***Eligibility for Employment and Contracting***

- **A Section 3 resident must meet the qualifications of the position to be filled.**
- **A Section 3 business concern must have the ability and capacity to perform.**

# ***Eligibility for Employment and Contracting cont.***

- **Section 3 is not intended to create an “entitlement” for eligible residents and businesses—it creates opportunities.**
- **Simply meeting the definitions does not automatically mean that residents will be given jobs, or businesses contracts.**



***Recipient  
Responsibilities***

***24 CFR Part 135.32***

# ***Section 3 Compliance***

**HUD holds direct recipients of covered funding accountable for their own compliance, and the compliance of their contractors.**

**Sanctions for noncompliance include:**

- **Debarment**
- **Suspension**
- **Limited Denial of Participation**

# ***Annual Section 3 Certification(s)***

- **Annual Section 3 Certification**
- **Signed by Highest-Elected Officials**
- **Failing to comply with Section 3 Certifications could have severe consequences.**

# *Triggering Responsibilities*

- **Section 3 regulations do not require hiring or subcontracting unless it is necessary to complete the project.**
- **Section 3 is triggered when covered projects require “new” hires or contracts/sub-contracts.**

# ***Responsibility #1***

**Design and implement  
procedures to comply with the  
requirements of  
Section 3.**

# ***Practical Tips:***

- **Develop and Publish Official Policies—  
Section 3 Plan**
- **Strategic Planning**
- **Internal/External Meetings**
- **Identify Long and Short Term  
Projects/Activities**
- **Consider Applicable State, Federal and  
Local Laws**

# ***Section 3 Plans***

- **Official Document**
- **Strategies to target Section 3 residents and businesses**
- **Certification/Selection Criteria**
- **Process for informing contractors about responsibilities and assessing hiring/subcontracting needs**

# ***Section 3 Plans cont.***

- **Penalties for Noncompliance**
- **Incentives for Good Performers**
- **Reporting Requirements**
- **Recordkeeping**
- **Updated Regularly**

# ***Responsibility #2***

**Notify Section 3 residents about training and employment opportunities and Section 3 businesses about contracting opportunities.**

# ***Practical Tips:***

- **Establish certification procedures**
- **Maintain lists of certified Section 3 residents & businesses**
- **Personally notify certified residents and businesses**
- **Post notices door-to-door**

# ***Practical Tips:***

- **Community Job Fairs**
- **Online Job Search Vehicles**
- **Community Partnerships**
- **Section 3 Coordinator**

# ***Responsibility #3***

**Notify covered  
developers/contractors about the  
requirements of Section 3.**

# ***Practical Tips:***

- **Pre-Bid Hearings/Meetings**
- **Section 3 Workshops**
- **Provide copies of your agency's Section 3 Plan and have contractors certify receipt**

# ***Practical Tips:***

- **Include compliance with Section 3 as a rating factor when selecting “responsible bidders.”**
- **Assess bidders on their strategy for meeting the requirements of Section 3.**

# ***Responsibility #4***

**Incorporate the Section 3 clause  
into covered solicitations and  
contracts.**

**24 CFR Part 135.38**

# ***Practical Tips:***

- **Refer to Section 3 in bid packages, RFPs, etc.**
- **Review clause with developer and have them certify compliance**
- **Monitor Developers/Contractors regularly**
- **Develop appropriate penalties for noncompliance and/or incentives for those that exceed minimum goals**

# ***Responsibility #5***

**Facilitate training and employment of Section 3 residents, and award contracts to Section 3 businesses, as appropriate to reach the minimum numerical goals.**

# ***Practical Tips:***

- **Assess needs of developers at time of contract award**
- **Match potential employees or subcontractors with developers**
- **Ensure that developers advertise vacancies in accordance with the agency's policies**
- **Conduct local career/business development trainings**

# ***Practical Tips:***

- **Sponsor Job-Fairs**
- **Develop Partnerships with local One-Stop Career Centers**
- **Youthbuild/Apprenticeship Programs**
- **Provide guidance for determining Section 3 eligibility**
- **Have certified residents and businesses provide evidence to contractors**

# ***Responsibility #6***

## **Minimum Numerical Goals:**

- **30% of new hires annually**
- **10% of the total dollar amount of covered construction contracts**
- **3% of the total dollar amount of covered non-construction contracts**

# ***Minimum Numerical Goals***

- **24 CFR Part 135.30**
- **Numerical Targets (may be exceeded)**
- **Safe Harbor Compliance**
- **Other Efforts Taken to Achieve Compliance—To the Greatest Extent Feasible**

# **Order of Priority for Housing and CPD Programs**

- **Category 1 – Section 3 residents residing in the service area or neighborhood in which the covered project is located**
- **Category 2 – Participants in HUD Youthbuild program**
- **Category 3 – Homeless persons residing in the service area or neighborhood (Stewart B. McKinney)**
- **Category 4 – Other Section 3 Residents (low-income persons in metro area)**

# ***Who Can be Counted As a New Hire?***

- **New Workers**
- **Returning Laid-off Workers**
- **Temporary/Seasonal Workers**
- **Full-time Workers**

# ***Practical Tips:***

- **Identify short- and long-term capital improvement projects, job vacancies, training opportunities, contracts, etc.**
- **Implement strategies to target Section 3 residents and businesses**
- **Review Appendix to Regulation**

# ***Practical Tips:***

- **Assess the hiring and subcontracting needs of developers and contractors**
- **Maintain evidence of efforts taken to achieve compliance**
- **Describe efforts taken on Section 3 annual report**

# ***Responsibility #7***

**Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors.**

# ***Practical Tips:***

- **Cooperate with HUD's Section 3 Enforcement Actions**
- **Hold developers/contractors accountable**
- **Develop appropriate penalties and apply them consistently**
- **Withhold Final Payments for "Section 3 Training Fund"**

# ***Responsibility #8***

**Refrain from entering into contracts with contractors that fail to comply.**

# ***Practical Tips:***

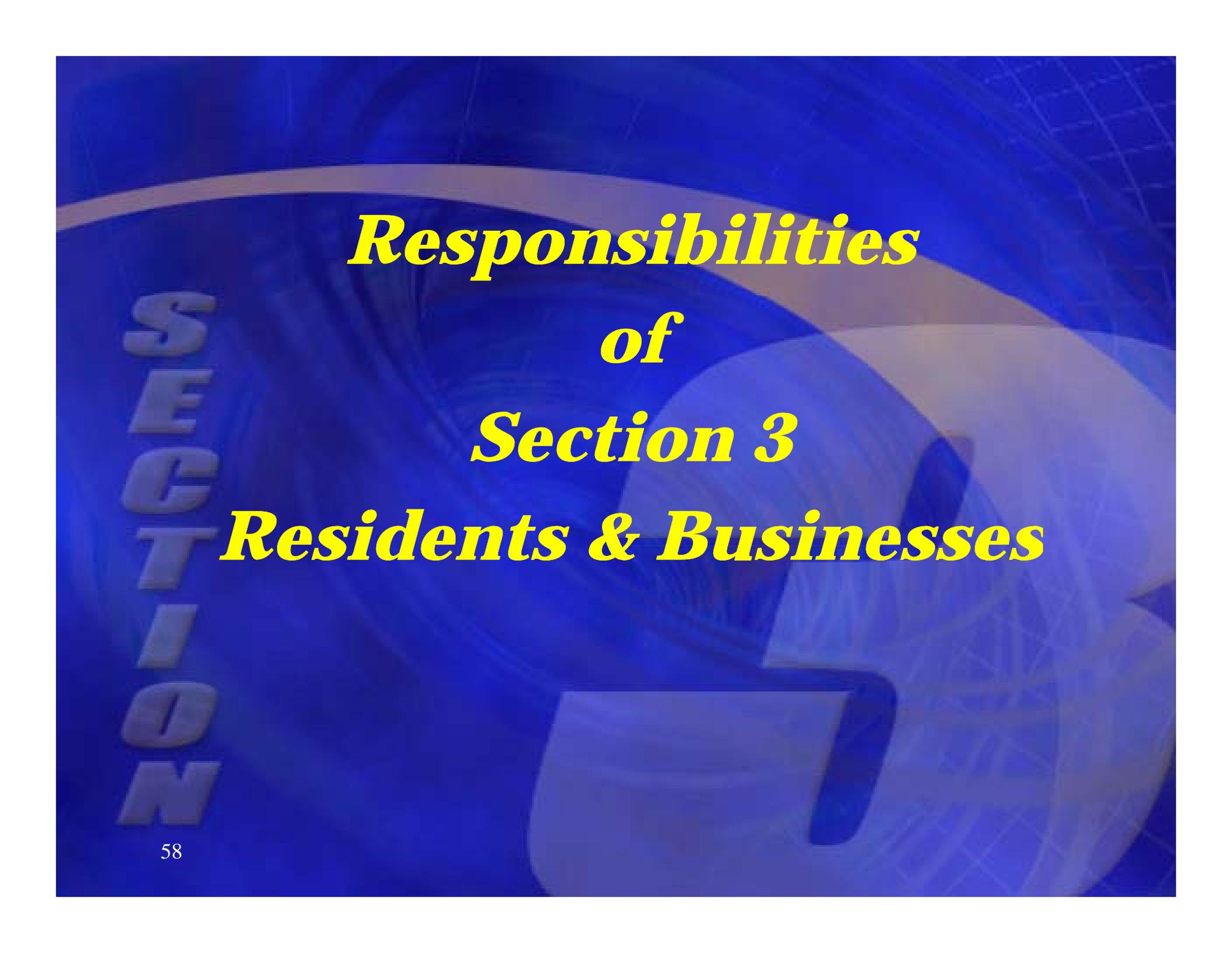
- **Determine appropriate timeframe for suspensions (i.e., 90 days, 1 year, 3 years)**
- **Be Consistent!!!**
- **Publicize actions taken**

# ***Responsibility #9***

**Documenting actions taken to comply with the requirements of Section 3, results of actions taken, and impediments, if any.**

# ***Practical Tips:***

- **Records of notification/ recruiting efforts**
- **Copies of vacancy announcements**
- **Participation in local events**
- **Signed contracts**
- **Penalties imposed**
- **Outcomes produced**
- **Annual 60002 forms**



***Responsibilities  
of  
Section 3  
Residents & Businesses***

# ***Responsibilities***

- **Obtain necessary skills, licenses, or qualifications** <http://www.doleta.gov/>
- **Seek certification(s) from local recipients and/or contractors**
- **Provide updated contact information**
- **Comply with recipient responsibilities if awards exceed \$100,000**

# ***Responsibilities***

- **Share information about economic opportunities with others**
- **Take advantage of tax credits and other benefits**

[http://www.doleta.gov/business/Incentives/opp\\_tax/](http://www.doleta.gov/business/Incentives/opp_tax/)

- **File complaints as necessary**



***Section 3***  
***Applicability***  
***&***  
***Funding Thresholds***

# *Applicability*

- **Housing rehabilitation**
- **Housing construction**
- **Other public construction**

# ***Covered Housing and Community Development Funding***

- **Community Development Block Grants**
- **HOME Investment Partnership funds**
- **202/811 Grants**
- **EDI/BEDI Grants**
- **Economic Stimulus Funds**
- **Homeless Assistance Grants**
- **NSP Grants**
- **University Partnership Grants**
- **Lead Hazard Control Grants**

## *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.**
- **If \$1 of covered HUD funding is invested into an activity-Section 3 applies.**

# ***Housing and Community Development Recipients***

- **Entitlement Communities**
- **HOME Participating Jurisdictions**
- **State, County, or Local Units of Government**
- **Non-Profit Organizations**
- **Developers**
- **Property Managers**
- **CHDOs**
- **Private Agency or Institution**

# ***Housing & Community Development Covered Activities***

**HUD Housing and/or Community  
Development Assistance that is used  
for:**

- **Housing Construction**
- **Housing Rehabilitation (including  
demolition)**
- **Other Public Construction**

# ***Some Exempt Activities***

- **Acquisition**
- **Disposition**
- **Down payment Assistance**
- **Rental assistance**

# ***Funding Thresholds***

- **The requirements apply to recipients of Housing and Community Development Assistance exceeding \$200,000.**
- **The requirements also apply to Contractors/Subcontractors that receive awards exceeding \$100,000.**

# ***Funding Thresholds cont.***

- **The requirements apply to all construction and rehabilitation activities that are funded from covered assistance .**
- **Section 3 does not apply on a per-project basis.**
- **Covered contractors have the same responsibilities as direct recipients.**

## ***Thresholds Met for Recipients but Not Contractors***

**If the threshold of \$200,000 is met for the project/activity but no contract of \$100,000 is awarded, **the requirements only apply to the recipient.****

## ***Thresholds Met for Recipients but Not Contractors cont.***

### **Example:**

**If an entitlement community awards several contracts between \$10,000-\$30,000 for home rehabilitation. It is the entitlement community's responsibility to ensure that 10 percent of the total dollar amount of these contracts are awarded to Section 3 business concerns .**

# ***Thresholds Met for Recipients but Not Contractors cont.***

## **Example:**

**If the homeowner is given money directly to hire a contractor of their choice to complete housing rehabilitation. The entitlement community should still attempt to facilitate awards to Section 3 businesses, **to the greatest extent feasible**, by communicating the requirements of Section 3 and providing a list of certified business concerns.**

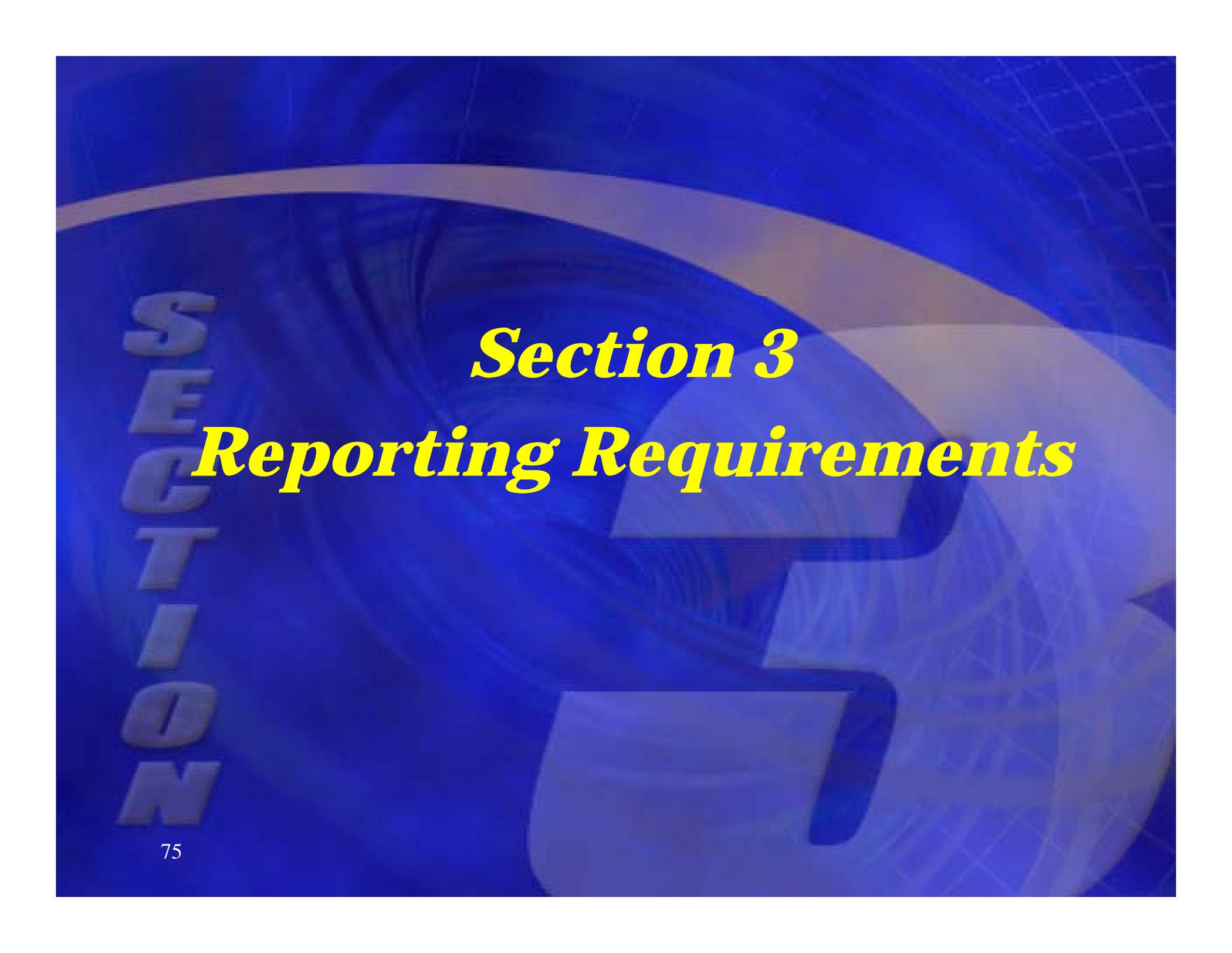
# ***States and Counties***

**States and counties that distribute funds to other units of local government must attempt to achieve compliance regardless of the number of sub-recipients receiving covered funding.**

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# ***States and Counties***

- **Inform sub-recipients of covered funding about their obligations;**
- **Assist with their compliance; and**
- **Monitor their performance and the performance of their covered contractors.**



***Section 3***  
***Reporting Requirements***

# ***Section 3 Reporting***

- **Measures efforts to meet numerical goals**
- **Narrative explanations**
- **Must be submitted even if no covered actions were completed**

# ***Section 3 Reporting***

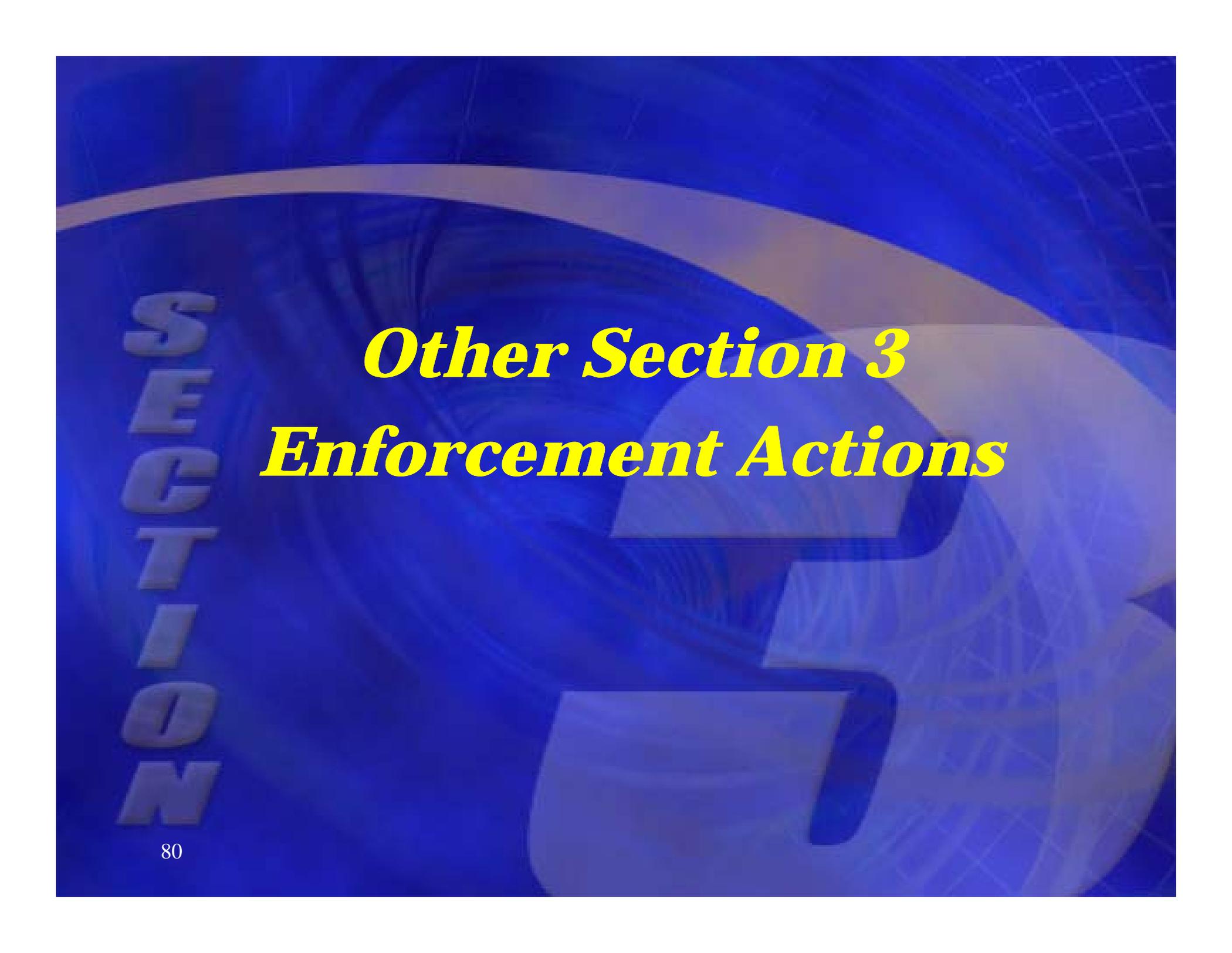
- **Form HUD-60002**
- **Online Reporting System**
- **No additional paperwork needed**

# ***Section 3 Reporting Due Dates***

- **Due at time of HUD annual reports (CAPER); or**
- **Within 10 days of project completion.**

# ***Determining Compliance***

- **Absent Evidence to the Contrary**
- **Meeting Minimum Numerical Goals—Safe Harbor**
- **Narrative Explanations**



***Other Section 3  
Enforcement Actions***

# ***Section 3***

## ***Compliance Reviews***

- **Based on amount of funds received, date of last review, complaints filed, 60002 data**
- **Letter of Findings**
- **Corrective Actions**
- **Technical Assistance**

# ***Section 3***

## ***Limited Monitoring Reviews***

- **Program areas select locations**
- **Revised checklists**
- **Share results with HQ**
- **Develop corrective actions**
- **Monitor implementation**

# ***Voluntary Compliance Agreements***

- **Entered into between HUD and Recipients**
- **Identifies areas of noncompliance with Section 3**
- **Develops strategies for addressing noncompliance within established timeframes**
- **Monitored by Field staff**

# ***Failure to Comply with Section 3***

**HUD holds direct recipients of covered funding accountable for their own compliance, and the compliance of their contractors.**

**Sanctions for noncompliance include:**

- **Debarment**
- **Suspension**
- **Limited Denial of Participation**

# ***Additional Resources***

- **[www.hud.gov/section3](http://www.hud.gov/section3)**
- **[section3@hud.gov](mailto:section3@hud.gov)**
- **FHEO Regional/Field Offices**
- **Economic Opportunity Division  
202-708-3633**