

Public & Indian Housing

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

WELCOME!

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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

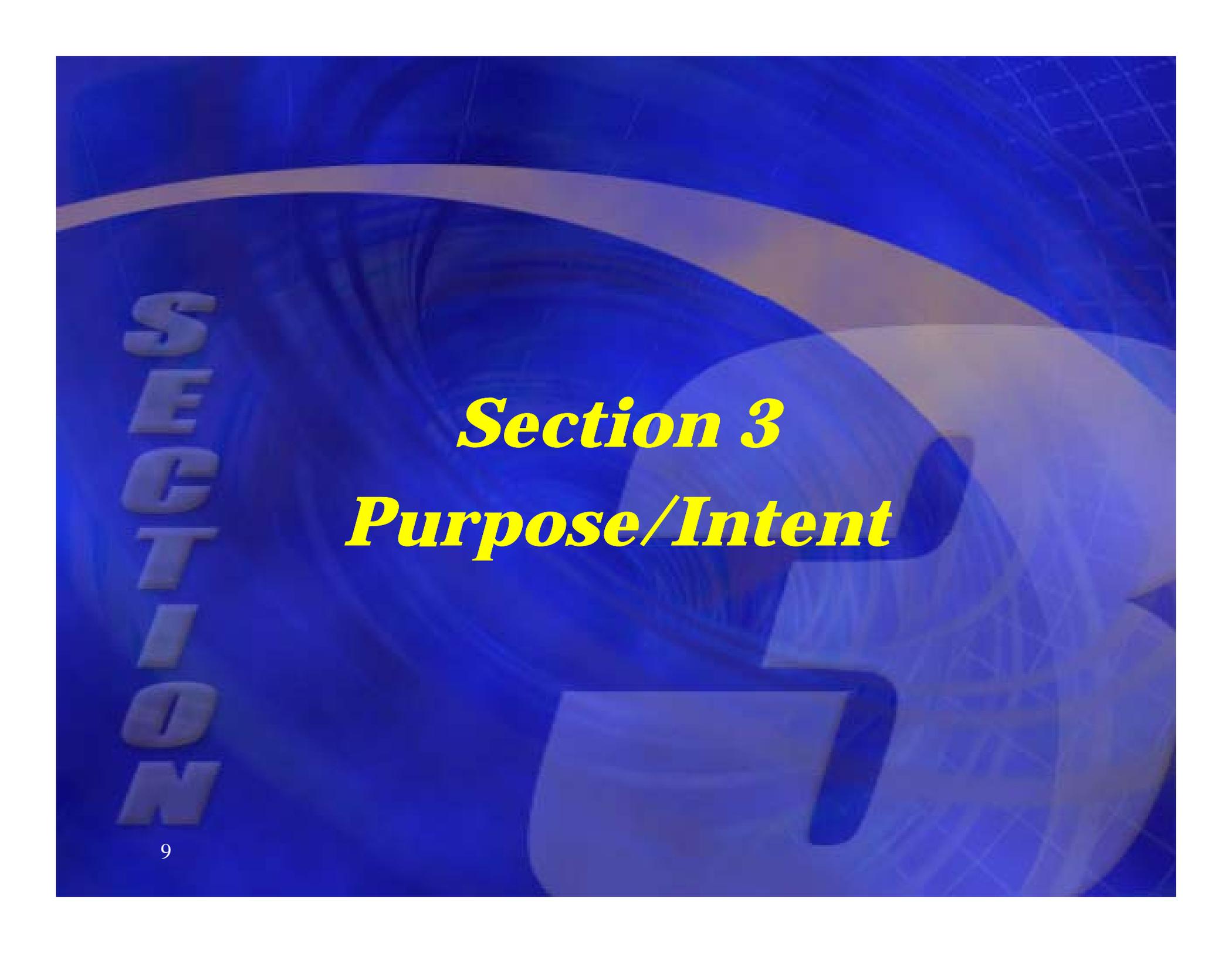
Kerner Commission—1968

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...

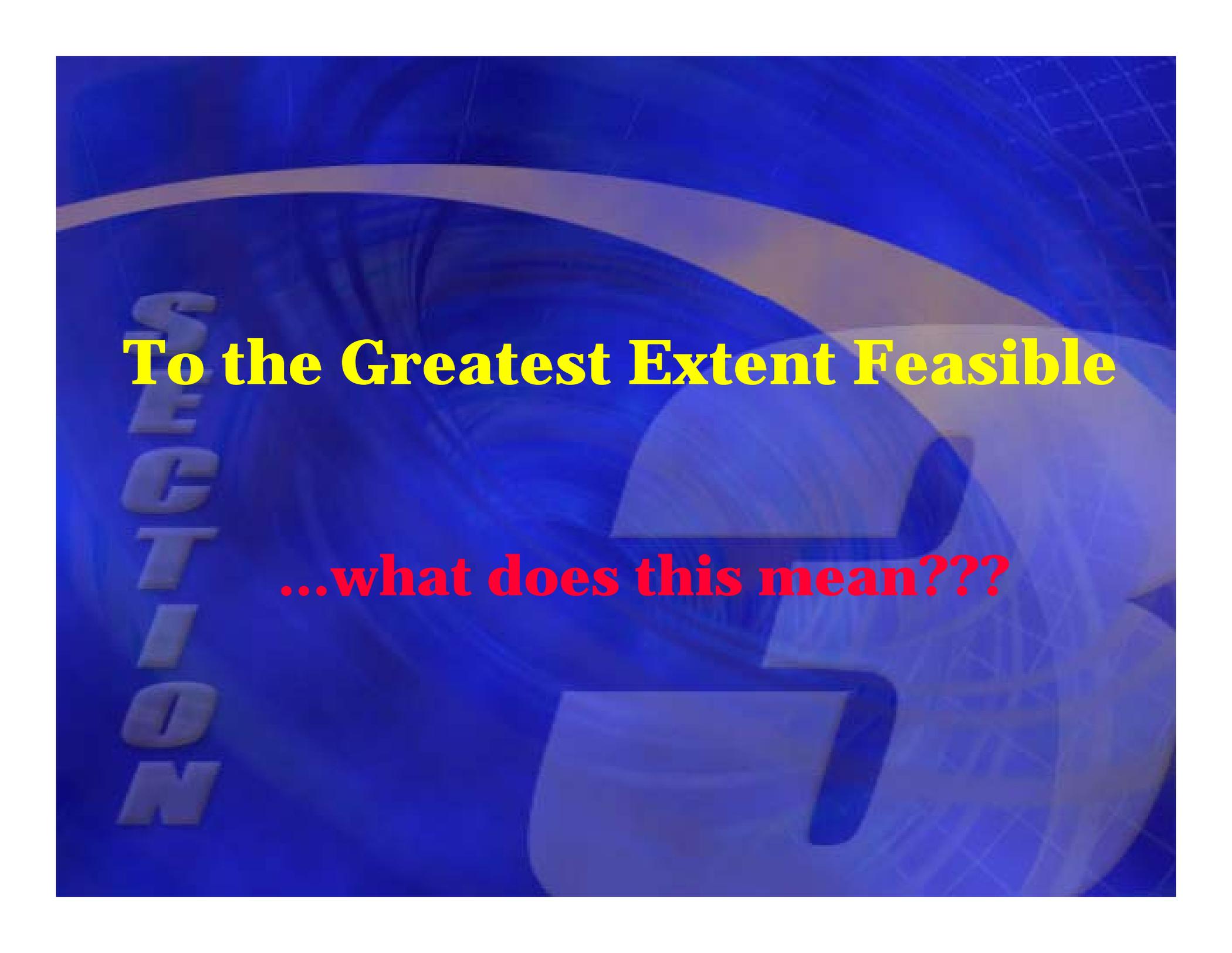
- **HUD funds are one of the largest sources of federal investment in distressed communities.**
- **These funds typically result in new employment, training and contracting opportunities.**
- **Section 3 is designed to direct HUD-funded economic opportunities to local low-income residents and eligible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

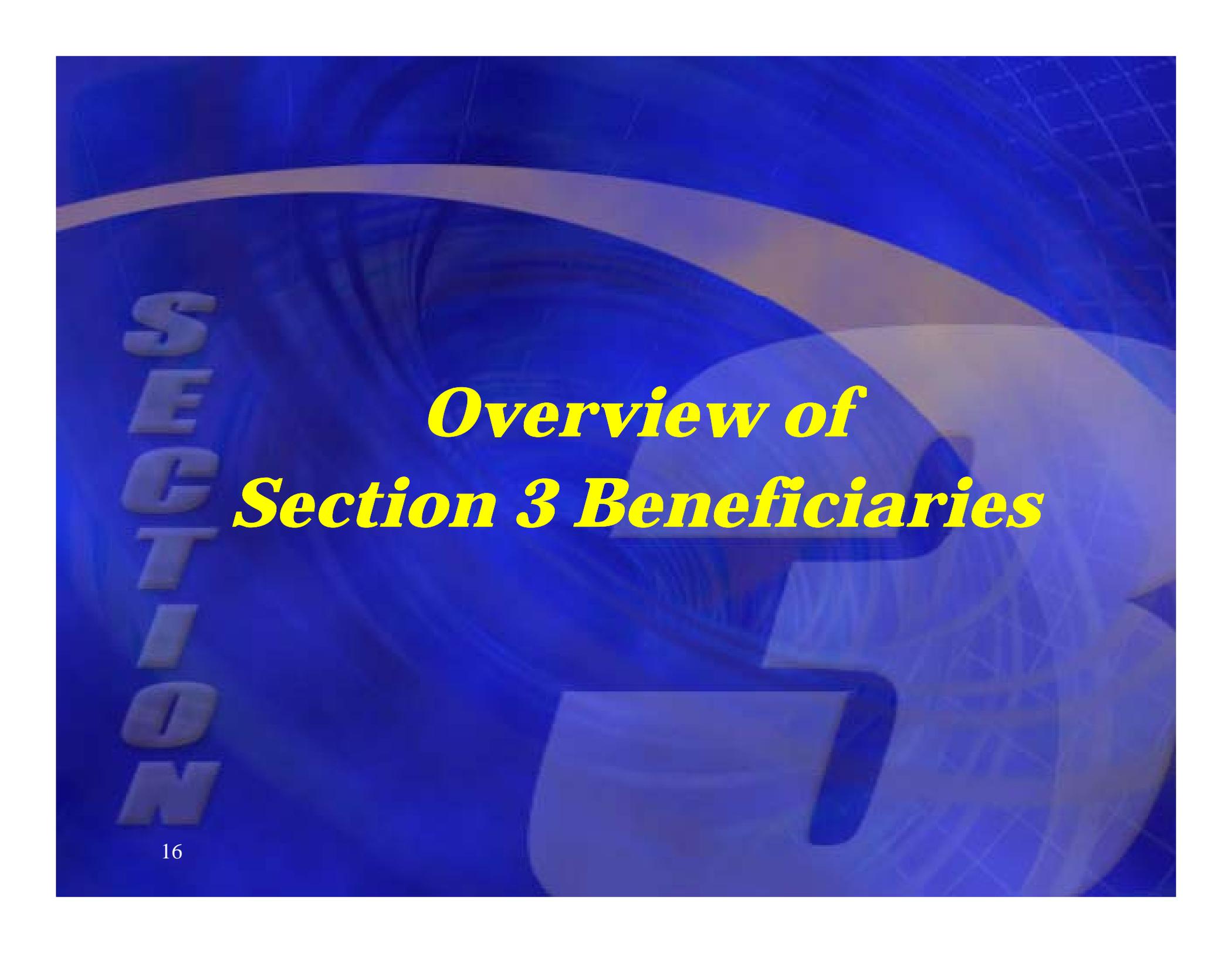


To the Greatest Extent Feasible

...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**

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**

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 (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:

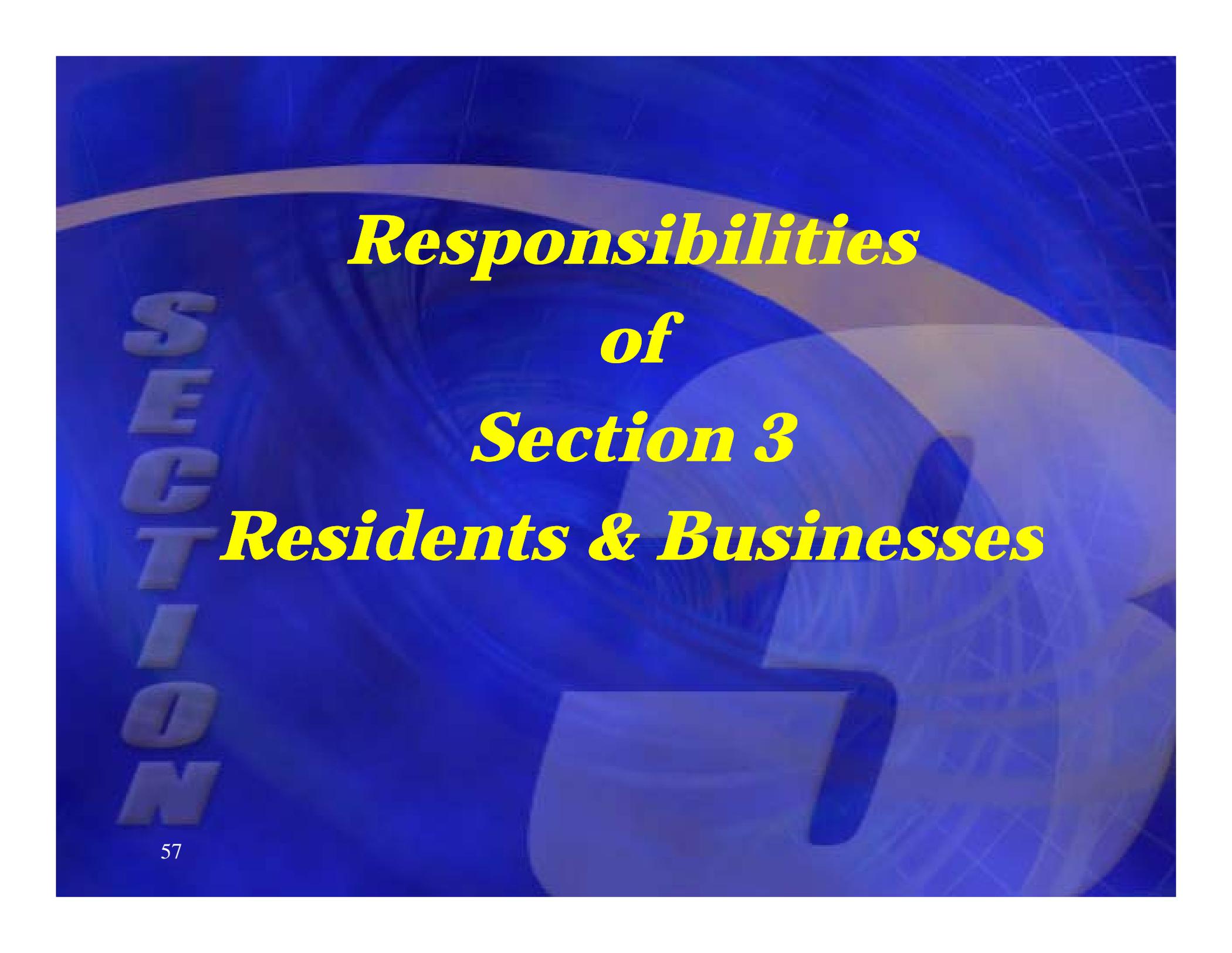
- **Determine appropriate timeframe for suspensions (i.e., 90 days, 1 year, 3 years)**
- **Be Consistent!!!**
- **Publicize actions taken**

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**

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

- **Development**
- **Operation**
- **Modernization**

Covered PIH Funding

- **PIH Operating Assistance**
- **PIH Development Assistance**
- **PIH Modernization/Rehab Assistance**
- **HOPE VI funding**
- **Economic Stimulus Funds**
- **ROSS Grants**
- **FSS Grants**

Funding Thresholds

- There are **no thresholds** for Public and Indian Housing assistance.
- Section 3 applies to all activities regardless of the dollar amount.

Applicability to Entire Project

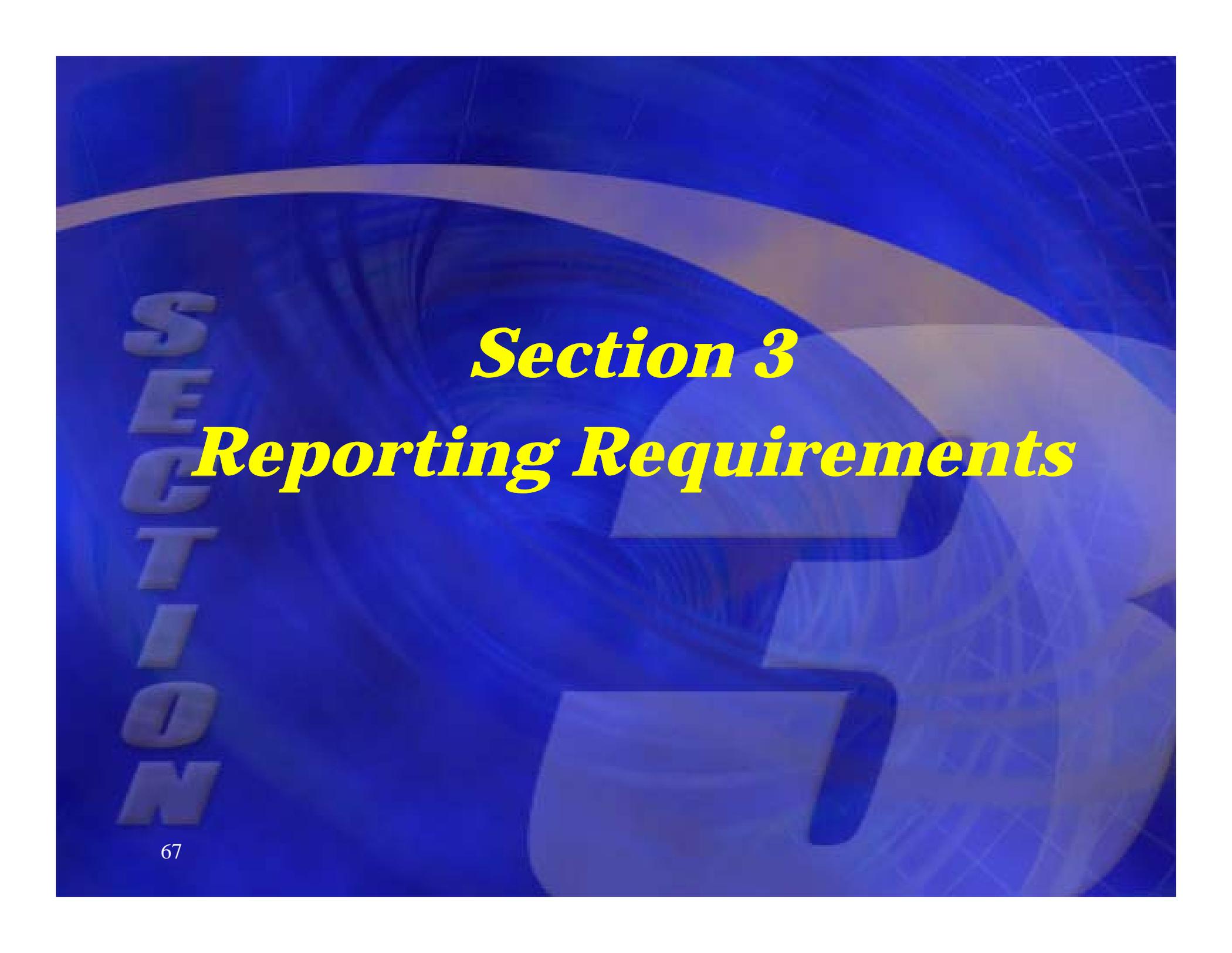
- **Section 3 requirements apply to the entire project or activity, regardless of whether it is fully or partially funded by HUD.**
- **If \$1 of covered HUD funding is invested into an activity-Section 3 applies.**

Covered Public Housing Authorities

- **Section 3 applies to all PHAs including Tribal Housing Authorities.**
- **Section 8-only PHAs are exempt.**

PHAs & Covered Contractors

- **PHAs are required to ensure their compliance and the compliance of their contractors.**
- **Section 3 applies to all contracts regardless of the type of contract or dollar amount.**



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

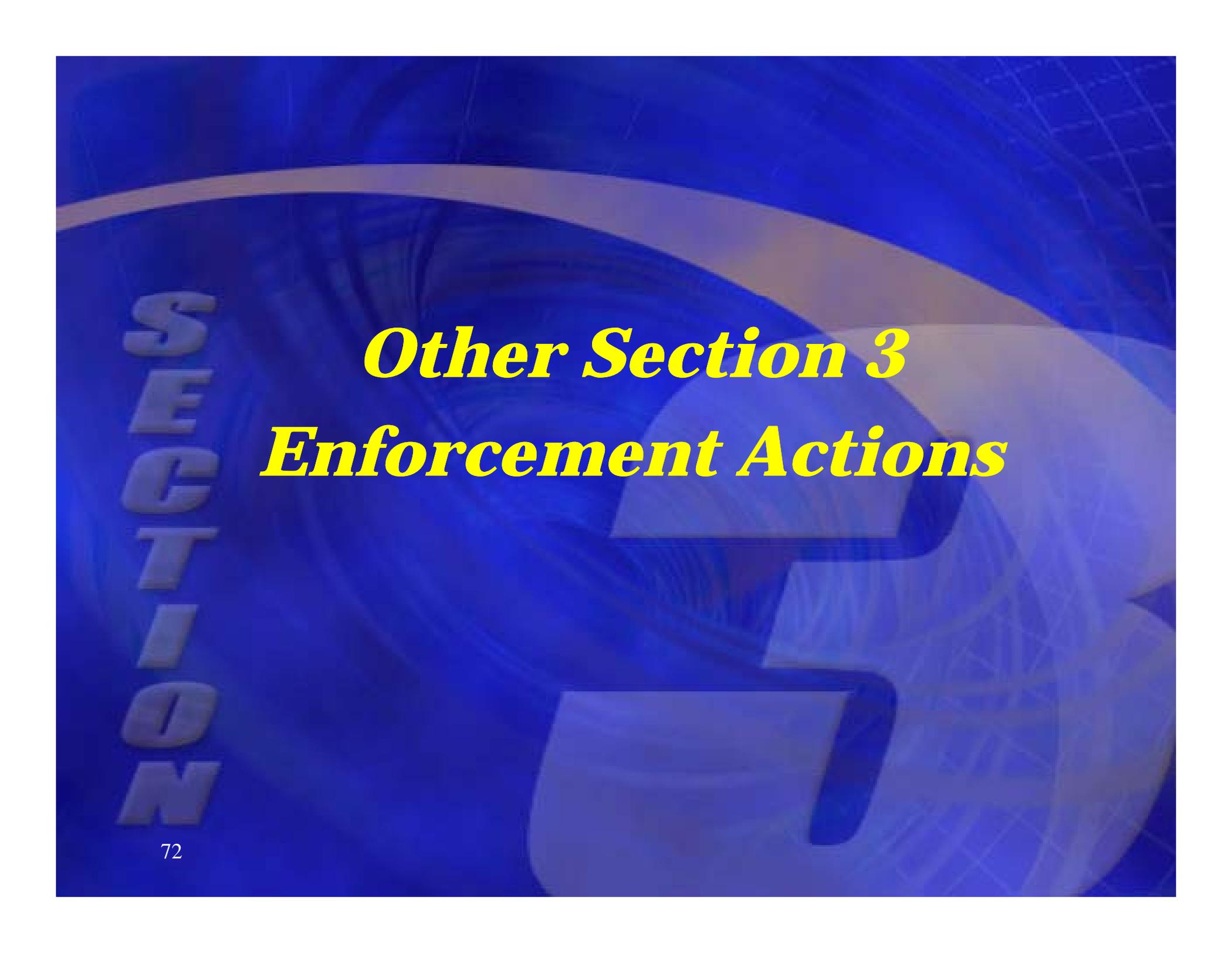
- **Form HUD-60002**
- **Online Reporting System**
- **No additional paperwork needed**

Section 3 Reporting Due Dates

- **January 10th of each year; 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**
- **section3@hud.gov**
- **FHEO Regional/Field Offices**
- **Economic Opportunity Division
202-708-3633**