



# ***OTHER MONITORING CONSIDERATIONS***

**Section 3, Fair Housing, Limited English Proficiency (LEP), Energy Efficiency, Regulatory Barriers, Healthy Homes & Lead Hazard Control**



# Section 3

## What is Section 3?

- ❖ **Section 3 is a provision of the HUD Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency.**
- ❖ **The Act requires that economic opportunities generated by certain HUD financial assistance for housing and community development program shall, to the greatest extent feasible, be given to low and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.**



# Section 3 Applicability

- ❖ **Section 3 is applicable to all HUD funded Public and Indian Housing programs, assistance for development, operating and modernization expenditures;**
- AND***
- ❖ **HUD funded Housing and Community development projects that complete housing construction, housing rehabilitation and other public construction, where the amount of assistance exceeds \$200,000 for the recipient's project or the contractor/subcontractor assistance exceeds \$100,000.**



# Section 3 Residents

- ❖ **Residents in government-assisted housing, or with household income below HUD's income limits, may qualify as Section 3 residents.**
  - ✓ **Public Housing Residents or Persons who live in the area where a HUD-assisted project is located and who have a household income of 80% area median income (AMI) or below.**
  - ✓ **Very low-income persons who have income at or below 50% AMI**



# **Section 3 Business Concern**

- ❖ **Small businesses that may qualify as Section 3 Business Concerns:**
  - ✓ **51% or more owned by Section 3 Residents;**
  - ✓ **Employs Section 3 residents for at least 30 percent of its full-time, permanent staff;**
  - ✓ **Provides evidence of a commitment to subcontract to Section 3 business concerns 25 percent or more of the dollar amount of the award contract.**



# **Economic Opportunities**

## **Section 3 Economic Opportunities include:**

- ✓ **Job training**
- ✓ **Employment**
- ✓ **Contracts**

## **Priorities for training and employment:**

- ✓ **Persons in public and assisted housing**
- ✓ **Persons in the area where the HUD financial assistance is spent**
- ✓ **Homeless persons**

## **Priorities for contracting:**

- ✓ **Section 3 business concerns**



# Compliance

**HUD monitors the compliance of contractors, reviews annual reports and investigates complaints. HUD also examines employment and contract records for evidence that recipients are training and employing Section 3 residents and awarding contracts to Section 3 businesses. HUD may accept the certification of compliance submitted by the grantee in response to the NOFA unless there is evidence challenging the certification. Form for evaluating Section 3 compliance:**

**<http://www5.hud.gov:63001/apps/po/e/srs/Public/form.cfm>**



# Fair Housing

- **Fair Housing and Equal Opportunity implements and enforces the Fair Housing Act and other civil rights laws, including Title VI of the Civil Rights Act of 1964, Section 109 of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Title IX of the Education Amendments Act of 1972, and the Architectural Barriers Act of 1968.**



# Fair Housing

- ❖ **Federal Funding Grantees must maintain compliance with Fair Housing and Equal Opportunity requirements, and will be monitored**
- ❖ **Federally Protection extends to “Protected Classes:”**
  - ✓ **Race**
  - ✓ **Color**
  - ✓ **National Origin**
  - ✓ **Religion**
  - ✓ **Disability**
  - ✓ **Familial Status**
- ❖ **Virginia Fair Housing also covers Elderliness**



# Limited English Proficiency

**LEP (limited English proficient) persons are those who, as a result of national origin, do not speak English as their primary language and have a limited ability to speak, read, write, or understand English.**

**§ 601 of Title VI of the Civil Rights Act provides that no persons shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.**



# Who's Covered?

- ❖ **HUD funding recipients include state and local governments, public housing agencies, assisted living providers, FHIP participants, FHAP participants, sub recipients, and other entities receiving funds directly or indirectly from HUD**
- ❖ **Coverage extends to all parts of a funding recipient's operations, even if only one part receives federal funding.**



# Official Language

**Some recipients operate in areas where English has been declared the official language. Nonetheless, these recipients are still subject to federal nondiscrimination requirements, including those applicable to the provision of federally assisted services to persons with limited English proficiency.**



# 4-Factor Test

**An individualized assessment conducted by the recipient determines the actions necessary for compliance. The intent is to ensure meaningful access by LEP persons to critical services while not imposing undue burdens on small businesses, small local government or small nonprofits.**



# Factor # 1

**Number or proportion of LEP persons served or encountered *sources for identifying LEP populations include:***

- ❖ **Recipient's prior experiences with LEP encounters**
- ❖ **Census data**
- ❖ **Data from schools, community organizations**
- ❖ **Faith based and community based programs**
- ❖ **State and local government data**



## **Factor #2**

### **Frequency of Contacts with LEP Persons**

- ❖ Level of assistance will depend upon the frequency of contacts with persons of a language group. Frequent contact may require extensive assistance; less frequent contact may require a different, less intensive solution.**
- ❖ Even recipients that serve LEP persons on an unpredictable or infrequent basis should use this analysis to determine what to do if an LEP individual seeks services.**



## **Factor #3**

### **Nature and importance of the program, activity, or service provided**

- ❖ The more important the activity, information, service, or program, the more likely the need for language services.**
- ❖ The greater the possible consequences of the contact to the LEP persons (e.g., eviction), the more likely the need for language services.**



## **Factor #4**

### **Resources available and costs to recipient**

- ❖ Small recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets.**
- ❖ “Reasonable steps” may cease to be reasonable where the costs substantially exceed the benefits.**



# Self Evaluation

- ❖ **After applying the 4-Part Test, a recipient may conclude that different language assistance measures are sufficient for the different types of program or activities in which it engages.**
- ❖ **Some activities may be more important than others or have a great impact on or contact with LEP persons, and require more language assistance.**



# Vital Documents

**While documents generated by a recipient may be helpful in understanding a program or activity, the more vital documents are those that insure meaningful access by beneficiaries. These documents:**

- ❖ Create or define legally enforceable rights or responsibilities on the part of beneficiaries (as individuals)**
- ❖ Solicit important information required to establish or maintain eligibility to participate in federally assisted programs or activities**



# Vital Documents

- ❖ **Intake forms**
- ❖ **Applications**
- ❖ **Consent forms**
- ❖ **Leases**
- ❖ **Rules of conduct**
- ❖ **Complaint forms**
- ❖ **Certification forms**
- ❖ **Notices of public hearings**
- ❖ **Eviction notices**
- ❖ **Etc.**



# Outreach

**Providing effective outreach to the LEP community can include –**

- ❖ Outreach materials state that language services are available**
- ❖ Presenting at community meetings, faith organizations and other events to inform LEP people about services**
- ❖ Posting notices and using non-English media**
- ❖ Posting signs in common areas**





# Evidence of Compliance

**HUD will collect and evaluate evidence about whether the recipient has:**

- ❖ Addressed LEP needs in an official plan such as the PHA or Consolidated Plan**
- ❖ Adopted and implemented a Language Access Plan (LAP)**
- ❖ Maintained Title VI compliance records that demonstrate services were provided to LEP persons.**



# **HUD's Energy Action Plan**

- **HUD's Energy Action Plan consists of 21 separate activities that HUD is undertaking to support the energy efficiency and conservation goals of the President's National Energy Policy.**
- **One primary goal is to improve energy efficiency in some five million housing units that are assisted, insured or subsidized through HUD's programs.**



# HUD's Energy Action Plan

- ❖ **Among the 21 Energy Plan activities, these have direct impact on grantees:**
  - ✓ **Simplify regulatory requirements for Energy-Efficient Mortgages**
  - ✓ ***Award priority rating points for energy-efficient housing in HUD's competitive grant programs.***
  - ✓ **Performance measures that set goals and gauge improvements in energy efficiency to be incorporated in HUD's Annual Performance Plan and individual program Management Plans.**



# HUD's Energy Action Plan

- ✓ **Public housing authorities would be required to buy Energy Star when result is energy savings sufficient to repay initial higher costs over the expected life of the equipment; when the equipment is cost effective to maintain; when purchase does not limit housing authorities' ability to address emergency, accessibility or lead paint mitigation priorities.**
- ✓ **Enhance data collection to facilitate tracking and monitoring of energy efficiency in HUD assisted Housing.**



# HUD's Energy Action Plan

**HUD spends more than 10% of its annual budget - approx. \$4 billion - on energy through**

- ✓ **utility allowances to renters,**
- ✓ **housing assistance payments to private building owners,**
- ✓ **operating grants to public housing authorities.**

**HUD estimates installing basic efficiency measures in public housing can save taxpayers at least \$800 million over the next 10 years.**



# Energy Efficiency

**Proof of energy efficiency measures incorporated into programs or projects, if they were included in funding application.**

**Documentation could include:**

- ❖ Bulk purchase agreement for energy star appliances**
- ❖ Energy star certification for new construction and major rehabilitation**
- ❖ Information materials distributed to clients**



# **America's Affordable Communities Initiative**

- **Removal of regulatory barriers to affordable housing can reduce development costs by as much as 35 percent – making housing available to millions of American families who want to buy or rent in the same communities where they work – but have not been able to afford housing costs.**



# **America's Affordable Communities Initiative**

## **Regulatory Barriers**

**❖ Regulatory Barriers are local requirements incorporated into building or zoning codes that can result in:**

- ✓ increased cost of construction**
- ✓ production delays**
- ✓ limited development of multi-family projects**

**The targeted regulatory requirements have little relationship to health or safety standards.**



# America's Affordable Communities Initiative

## **Examples of Regulatory Barriers:**

- ❖ **Out-of-date building codes,**
- ❖ **Duplicative or time-consuming design review or approval processes,**
- ❖ **Burdensome rehabilitation codes,**
- ❖ **restrictive or exclusionary zoning ordinances,**
- ❖ **unnecessary or excessive fees or taxes,**
- ❖ **extreme environmental restrictions, and**
- ❖ **excessive or "gold-plated" land development standards**



# **America's Affordable Communities Initiative**

**❖ HUD discretionary programs include point incentives for efforts to limit Regulatory Barriers.**

**Applicant must:**

**❖ Document local action(s) to limit or eliminate Regulatory Barriers in program target area.**

**❖ Document their own (applicant's) role in that effort**



# Healthy Homes and Lead Hazard Control

- **Protect children and families from dangerous lead-based paint and other home health and safety hazards.**
- **Lead is a highly toxic metal that may cause a range of health problems, especially in young children. When lead is absorbed into the body, it can cause damage to the brain and other vital organs, like the kidneys, nerves and blood.**



# Healthy Homes and Lead Hazard Control

- **Lead may also cause behavioral problems, learning disabilities, seizures and in extreme cases, death. Some physical symptoms of lead poisoning may include headaches, stomachaches, nausea, tiredness and irritability. Children who are lead poisoned may show no physical symptoms.**



# Healthy Homes and Lead Hazard Control

- **If program involves construction or rehab, monitoring will include evaluation of compliance with Lead Based Paint Hazard Reduction Act of 1992:**
- **The HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing**



# Healthy Homes and Lead Hazard Control

- **Grant Programs:**
  - **Lead-based Paint Hazard Control Program (LHC)**
  - **Lead Hazard Reduction Demonstration Program (LHRD)**
  - **Operation Lead Elimination Action Program (LEAP)**
  - **Lead Outreach Program (LOR)**
  - **Lead Technical Studies Program (LTS)**
  - **Healthy Homes Technical Studies Program (HHTS)**
  - **Healthy Homes Demonstration Program (HHD)**