

NEW SECTION THREE (3) PLAN

45-DAY COMMENT PERIOD

MAY 11, 2023 TO JUNE 24, 2023

PUBLIC HEARING

A public hearing will be held on Monday, June 26, 2023 at 12 noon

1A Lowndes Avenue, Huntington Station, NY 11746 Board Room

<https://us02web.zoom.us/j/86976033542?pwd=TEZHd3RGTHExai9yUTVxZnZUb1h2UT09>

Meeting ID: 869 7603 3542 Passcode: 381838.

SECTION 3 STATEMENT OF PURPOSE

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

BACKGROUND ON THE SECTION 3 PROGRAM

The final rule on Section 3 regulations, at 24 CFR Part 75 (the new rule), was published on September 29, 2020, and became effective as of November 30, 2020. The new rule updated HUD's Section 3 regulations by reducing regulatory burden and by incentivizing employers to retain and invest in low- and very low-income workers. The new rule streamlined reporting requirements and provided program-specific oversight while simplifying the administrative burden by:

- Aligning with standard business practice of reporting labor hours (instead of total number of new hires under the previous rule) to promote sustained employment and career development for low- and very low-income workers;
- Establishing a \$200,000 threshold for Section 3 rehabilitation, construction and other public construction projects funded with housing and community development financial assistance, and establishing a \$100,000 threshold where the assistance is from HUD's Lead Hazard Control and Healthy Homes programs (LHCHH), as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970, the Lead-Based Paint Poisoning Prevention Act³, and the Residential Lead-Based Paint Hazard Reduction Act of 1992⁴;
- Identifying "Targeted Section 3 Workers" as described in the key terms of this notice, which also includes information on benchmarking and prioritization in Section VI (Reporting);
- Allowing small PHAs the option of qualitatively reporting and measuring Section 3 efforts toward benchmarks; and
- Integrating Section 3 into HUD's ongoing program enforcement by adding compliance and oversight to regular program oversight activities.

HUD also published a companion Benchmark Notice, 85 FR 60907, titled "Section 3 Benchmarks for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses." The Benchmark Notice establishes the current numeric goals for compliance with Section 3 requirements. HUD may adjust funding thresholds or establish new benchmarks (either a single nationwide benchmark or multiple benchmarks based on geography, type of assistance, or other variables) periodically as new information becomes available pursuant to the regulation at 24 CFR section 75.23(b)(1)(2) (24 CFR Sections 75.23(b)(1) and (b)(2) p. 61565). HUD must publish all updates in the Federal Register and all updates are subject to public comment.

If a recipient complies with the regulatory priorities regarding effort and meets the established outcome benchmarks, HUD will presume the recipient is following Section 3 requirements, absent evidence to the contrary.

HOW DOES SECTION 3 APPLY TO PIH PROGRAMS?

The Section 3 final rule apply in whole, or in part, to Public and Indian Housing programs (PIH) including the Public Housing (PH) Operating and Capital Fund programs, Rental Assistance Demonstration (RAD), Choice Neighborhoods (CN), and mixed-finance developments under 24 CFR Section 905.604 (24 CFR Section 905.604 p. 359). Section 3 requirements also apply to properties that are recipients of Section 8 rental assistance if they are recipients of other Federal funding covered by the Section 3 statute, e.g., Community Development Block Grant (CDBG) funds and exceed the funding threshold set by HUD.

Applicable	Not Applicable
<ul style="list-style-type: none">• Public Housing Capital Funds• Public Housing Operating Funds• Choice Neighborhoods• Public Housing Mixed-Finance Development• Rental Assistance Demonstration (RAD) – <i>Construction and Rehabilitation</i><ul style="list-style-type: none">◦ Predevelopment Costs for RAD pre-conversion work using covered PH funds◦ RAD Post-Conversion contractually obligated activities• Section 8 assisted properties or projects that also receive more than \$200,000 of other Section 3 covered funding, e.g., CDBG, HOME.	<ul style="list-style-type: none">• Section 8 Housing Choice Vouchers (HCV)• Section 8 Monthly Rental Assistance Payments including those under PBV and PBRA Contracts• RAD– <i>Section 8 Rental Assistance ONLY</i>• Material Supplies Contracts• Indian and Tribal Preferences

Public Housing (PH) (Capital and Operating Funds) means public housing financial assistance as defined in the Section 3 final rule. This includes public housing development assistance under Section 5 of the U.S. Housing Act of 1937 (“the 1937 Act”), public housing Operating funds for operations and management under Section 9(e) of the 1937 Act, and Capital Funds for development, modernization, and management assistance under Section 9(d) of the 1937 Act.

Public Housing Mixed-Finance Development is subject to the same requirements as housing developed by PHAs solely with public housing funds – and thus are subject to Section 3 requirements. This means the entirety of the development by the mixed-finance method of a project, regardless of whether the project is fully or partially assisted with public housing. Development is the process of constructing a project. Mixed-finance housing is the development or modernization of public housing (low-income) units defined under 24 CFR Section 905.6045— and owned in whole or in part by entities other than PHAs. Unlike multiple HUD-only funding sources noted in Subpart D of the Section 3 regulation, mixed-finance housing may be financed from public housing funds, private funding sources, or a combination of public housing assistance funds and private financing. Mixed-finance development may include 100 percent public housing units owned by an entity other than a PHA or may include both public housing and non-public housing units.

SECTION 3 RECIPIENT RESPONSIBILITIES

- Recipients are required to ensure their own compliance and the compliance of their contractors/subcontractors with the Section 3 regulations, as outlined at 24 CFR part 75.
- These responsibilities include but are not limited to the following:
- Designing and implementing procedures to comply with the requirements of Section 3: Recipient agencies must take an active role in ensuring Section 3 compliance and maintain records verifying that compliance.
- The recipient agency must act as a facilitator, connecting Section 3 workers to training and employment opportunities.
- The recipient agency must also work to link developers and contractors with capable Section 3 business concerns.
- The recipient agency is responsible for ensuring that contractors and subcontractors are aware of, and in compliance with, Section 3 requirements.
- Recipient agencies shall ensure compliance with Section 3 by assessing the hiring and subcontracting needs of contractors; regularly monitoring contractor compliance; assisting and actively cooperating with the Secretary of HUD in obtaining the compliance of contractors; penalizing non-compliance; providing incentives for good performance; and refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3.
- Recipient agencies must document all actions taken to comply with the requirements of Section 3 and document these activities.

I. DEFINITIONS (If any conflicts exist, definitions found in 24 CFR 135.5 shall prevail)

Labor hours are paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low-income person is a person with an income that meets the definition for low-income as defined in Section 3(b)(2) of the 1937 Act, typically established as 80 percent of the area median individual income and conforming to HUD Income limits.

Professional services are non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance funds include development assistance pursuant to Section 5 of the 1937 Act, Operating Funds⁹, Capital Funds¹⁰, public housing grant funds such as Resident Opportunities and Self-Sufficiency (ROSS) or Jobs Plus programs and the full extent of mixed-finance development as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance.

Section 3 refers to Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern is a business that meets at least one of the following criteria, documented within the last six-month period:

- It is at least 51 percent owned and controlled by low- or very low-income persons;

- Over 75 percent of the labor hours performed for the business over the prior
- It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently reside in housing assisted by Section 8.

***Section 3 business concerns are not exempt from meeting the specifications of the contract and may include non-profit organizations if they meet the criteria of the new rule. The Section 3 final rule does not require the contracting or subcontracting of a Section 3 business concern. Once a business is certified as a Section 3 business concern, it will retain that status if it continues to meet the definition. Status is determined at the time of hiring for each contract and is no different from any other definition. Currently, Section 3 business concerns self-certify their status to the funding recipient at the time of contracting. The timing is on a project-by-project basis.

Section 3 projects are housing rehabilitation and construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance (e.g., CDBG and HOME) when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from HUD's Lead Hazard Control and Healthy Homes programs (LHCHH), as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970¹², the Lead-Based Paint Poisoning Prevention Act¹³, and the Residential Lead-Based Paint Hazard Reduction Act of 1992¹⁴. The project is the 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 worker is any worker, for both public housing financial assistance and housing and community development assistance,¹⁵ who currently fits, or when hired within the past five years fit, at least one of the following categories, as documented:

- The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant.

Targeted Section 3 worker is, in the context of public housing financial assistance means a Section 3 worker who is:

- A worker employed by a Section 3 business concern; or
- A worker who currently fits, or when hired fit, at least one of the following categories, as documented within the past five years¹⁶:
- A resident of public housing or Section 8-assisted housing.
- A resident of other projects managed by the PHA that is providing the assistance; or
- A YouthBuild participant.

An employer may choose whether the worker is defined as a Section 3 worker for a five-year period at the time of the worker's hire, or when the worker is first certified as meeting the Section 3 worker definition.

For reference (and by contrast), a Targeted Section 3 worker in the context of housing and community development financial assistance programs is a Section 3 worker who is:

- ❖ A worker who is employed by a Section 3 business concern; or
- ❖ A worker who 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
- ❖ As defined in 24 CFR section 75.5; or

- ❖ A YouthBuild participant.

Very low-income person is a person with an income that meets the definition for very low income as defined in Section 3(b)(2) of the 1937 Act, as established at HUD Income limits.

Please refer to www.huduser.org/portal/datasets/il.html for current, local Income Limit information.

- Select current year.
- Select “Access Individual Income Limit area”
- Select “click here for FY xxxx IL Documentation” (where xxxx is the current fiscal year)
- Select State & County

II. REPORTING

PHAs and other grantees are required to report Section 3 activities to HUD. The first Section 3 reports are due 60 days after the end of the first full fiscal year.

In addition to reporting, pursuant to 24 CFR section 75.31, PHAs must also retain on-site records of Section 3 activities during each reporting period and must produce such records if HUD requests that information at a future date.

Under the new rule, funding recipients will track and report total labor hours worked for all workers and for Section 3 Workers and Targeted Section 3 Workers for the applicable reporting fiscal year.

PHAs that do not meet quantitative benchmarks for labor hours are required to report qualitative efforts and activities to comply with Section 3 objectives. Pursuant to 24 CFR 75.15(d), small PHAs with fewer than 250 public housing units may opt to report qualitative efforts as a first option.

Labor Hour Reporting

PHAs report annually:

- The total number of labor hours worked;
- The total number of labor hours worked by Section 3 workers; and
- The total number of labor hours worked by Targeted Section 3 workers.

Labor hours for Section 3 workers and Targeted Section 3 workers may be counted for five years from when their Section 3 status is established by the employer, given that employment is maintained with the same employer.

1. **Section 3 Workers including PHA Staff.** Section 3 or Targeted Section 3 workers may be employed by a contractor or subcontractor to work on PHA projects funded by public housing financial assistance or Section 3 projects funded by housing and community development financial assistance. In addition, PHA employees who meet the definition for Section 3 or Targeted Section 3 workers at the time they are hired or certified as Section 3 or Targeted Section 3 eligible workers will also count toward the Section 3 or Targeted Section 3 worker labor hours. The certification date must be on or after the effective date of the new rule, November 30, 2020.

2. **Duration for Counting Labor Hours.** The Section 3 and Targeted Section 3 worker

labor hours may be counted by the PHA for up to five-years from the certification or hire date. An employer may choose whether the workers are defined as Section 3 workers for a five-year period at the time of the workers' hire, or when the workers are first certified as meeting the Section 3 worker definition.

Labor hours must be counted as follows depending on the funding source:

- The labor performed on a Section 3 project for housing and community development financial assistance, or
- For all labor hours performed within the fiscal year for public housing financial assistance.

3. Qualification of Section 3 Workers. Section 3 worker takes place at either the date of the Section 3 covered activity or the date of initial hire by the employer, if hired within the past five years. Labor hours of an employee who is low- or very low-income at hire will continue to count for five years even if that person moves into a new, more advanced position with the same employer. HUD anticipates that employees with five years of experience with that same employer would be advancing in the business and would eventually need to be replaced by a new, presumably low- or very low-income entry-level employee.

Section 3 worker for both public housing financial assistance and housing and community development assistance means any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant.

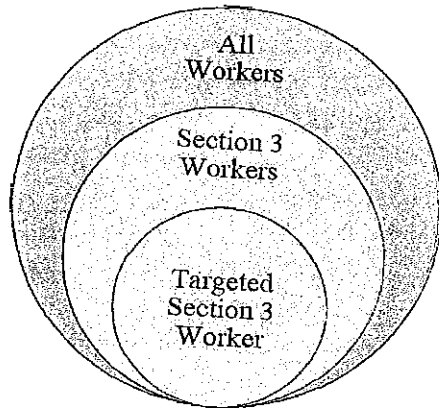
4. Professional Services. Labor hours for Section 3 and Targeted Section 3 workers may include hours from professional services that require specialized and advanced degrees and licensing, i.e., architects and engineers. However, pursuant to 24 CFR 75.15(a)(4), it is not required for PHAs to include the labor hours worked for professional services jobs in the total labor hours worked on the project. Other professional service categories may include, but are not limited to, financial managers, accountants, and auditors. Professional service firms may employ Section 3 qualified workers

5. Good Faith Assessment of Labor Hours. The rule at 24 CFR section 75.15(a)(5) permits a temporary exception for contractors and sub-contractors that have not been subject to reporting for labor hours and are not currently operationally set-up for this tracking to submit good faith assessment of the labor hours for full-time and part-time Section 3 workers based on time and attendance records.

6. Benchmark Ratios for Section 3 Compliance.

This three-circle graphic below represents a construct for measuring workers. The largest outer circle represents all workers. The next smaller inner circle represents Section 3 workers, and the smallest innermost circle represents Targeted Section 3 workers

Figure 1: Measuring Workers for Section 3



There are two benchmark ratios.

Ratio 1: Section 3 Workers to All Workers. The first ratio shows the relationship of labor hours between Section 3 workers and all workers funded by public housing financial assistance (Section 3 worker labor hours ÷ Total of all worker labor hours).

Ratio 2: Targeted Section 3 Workers to All Workers. The second ratio shows the relationship of Targeted Section 3 workers and all workers funded by public housing financial assistance (Targeted Section 3 worker labor hours ÷ Total of all worker labor hours).

For both benchmarks and per 24 CFR section 75.15(a)(4), the total of all worker labor hours (denominator) is the "total number of labor hours worked by all workers funded by public housing financial assistance" during the PHA or recipient fiscal year and excludes hours from professional services. All workers funded by public housing financial assistance include all PHA positions funded with capital and operating funds.

III. GOALS OF THE SECTION 3 PROGRAM

The HHA's Section 3 program seeks to aid Section 3 residents to the greatest extent feasible in three ways, listed in order of preference:

A. Hiring low- and very low-income workers

Attempt to hire at least 25% of the aggregate number of full-time new hires by the TOHHA and its contractors must be Section 3 residents, with a preference for residents at the development where the work is being performed.

B. Awarding contracts to Section 3 business concerns

Attempt to award at least 10% of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction, and other public construction, must be awarded to Section 3 business concerns. Attempt to award at least 3% of the total dollar amount of all other Section 3 covered contracts.

C. Providing other economic opportunities

If the two goals above cannot be met by the TOHHA or its contractors, other training and employment opportunities can be provided to substitute for goals A and B. Firms may provide other economic opportunities and will be responsible

for soliciting and contracting a qualified firm experienced in providing a Department of Labor Approved curriculum consistent with Section 3 requirements in the area of resident training in the following areas:

- Employment Readiness and Professional Development
- Section 3 Small Business Concern Development Training
- Building Construction Trades Classroom Training

These are described further in section VII below.

IV. TOWN OF HUNTINGTON HOUSING AUTHORITY RESPONSIBILITIES

The HHA, as the recipient of Public and Indian Housing funding, accepts the responsibility of not only enforcing the Section 3 requirements, but also pro-actively facilitating compliance with Section 3. The TOHHA fulfills this responsibility in the following ways:

- A) Notifying Section 3 residents of opportunities through posting job openings on the website, resident meetings, and Callmax.
- B) Notifying contractors in each pre-bid meeting of the Section 3 requirements;
- C) Incorporating the HUD mandated Section 3 clauses in all contracts;
- D) Providing pre-applications for employment at the TOHHA offices and allowing applications to be submitted at same locations;
- E) Encouraging the training of Section 3 residents through support of the TOHHA resident meetings.;
- F) Providing a pre-employment application to interested Section 3 residents (upon admittance to public or section 8 housing) which is kept on file as a resource for the TOHHA and contractors when seeking to hire Section 3 workers;
- G) Documenting actions taken to comply with Section 3 requirements;
- H) Reporting as required;
- I) Refusing to award contracts to businesses or persons in prior documented violation of Section 3 requirements.
- J) Posting any Section 3 employment opportunities received from TOHHA contractors/sub-contractors.

V. CONTRACTOR RESPONSIBILITIES

1. Developers and contractors are linked with capable Section 3 business concerns and, when necessary, directed to capacity-building training;
3. Procedures are designed to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3 requirements and maintain records documenting that compliance;
4. Contractors and subcontractors are aware of, and are in compliance with Section 3 requirements;
5. The hiring and subcontracting needs of contractors are assessed;
6. Regular monitoring of contractor compliance occurs;
7. There is active cooperation with the HUD Secretary to obtain contractor compliance which includes penalizing non-compliance;
8. Entering contracts with any contractor that previously failed to comply with Section 3 requirements is avoided.

VI. PREFERENCES AND ELIGIBILITY

- A) Regarding the hiring of Section 3 residents, preference shall be given to those residents who live in the complex where the covered assistance is expended.
- B) Regarding the contracting opportunities for Section 3 business concerns, preference shall be given to business concerns owned at least 51% by residents of the complex where the covered assistance is expended. If no Section 3 business concern is available from the complex, the TOHHA and the contractors shall give preference to any Section 3 business concern.
- C) Regarding eligibility, a Section 3 resident seeking employment must fulfill the requirements of the sought position and, if asked, must provide evidence of their Section 3 status (e.g., receipt of public assistance, tax return). A Section 3 business concern seeking to win a contract must fulfill the requirements of the contract and, if asked, provide evidence of their Section 3 status.

VII. COMPLAINTS AND COMPLIANCE

Any Section 3 resident or business concern that feels that the Section 3 regulations were not complied with may file a complaint directly to the Assistant Secretary for Fair Housing and Equal Opportunity at the following address:

**Assistant Secretary for Fair Housing and Equal Opportunity
Department of Housing and Urban Development
Washington, D.C. 20410**

The complaint must be in writing and be received within 180 days from the date of the action upon which the complaint is based. It should include the complainant's name and address, the TOHHA or contractor's name and address, and a description of the acts in question. The complainant will receive a response from HUD within 10 days in which further investigation will be explained.

VIII. SECTION 3 OPERATING PROCEDURES

This operating procedure is tied to the Operating Policy on Section 3 designed to achieve and maintain compliance with the HUD Act of 1968.

The procedures contained within are relative to the Section 3 daily operations in:

- Hiring
- Procurement
- Contracting
- Compliance Management

SECTION A – HIRING

This procedure encompasses all employment types including full time, part time, long term, short term, temporary and special assignments. In the process of seeking new employees for TOHHA, the following procedures should be followed in an effort to create as many employment opportunities for low and/or very-low income HUD direct recipients (subject to NYS Civil Service rules & regulations and/or collective bargaining agreements):

Step 1: Refer to any list of graduates from any employment readiness training programs sponsored by TOHHA. Notify those low and/or very-low income persons first of any employment opportunities and invite them to apply for the position. Only make direct contact with Tier II or beyond persons when no low and/or very low income residents can be secured through any other means listed below.

Step 2: The TOHHA will post the position in common areas such as website, mail box areas, Callmax and other areas where residents normally gather on property.

Step 3: When timing allows, the TOHHA will place a notice of the position(s) in any resident newsletters, notices or bulletins.

Step 4: The TOHHA will place a notice on our website of any open position. Be certain to list that the position is a “**Section 3 Covered Position and that HUD Recipients are encouraged to apply**”.

Step 5: In reviewing all applicants, the TOHHA will be certain to first select candidates that best fit the position requirements, if a low and/or very-low income resident is identified as a qualified candidate all things being equal with others in consideration, a preference should be given to TOHHA residents for employment.

SECTION B – PROCUREMENT

This policy on procurement procedures is relative only to Section 3 and is not designed to re-write the approved procurement policy for the TOHHA.

Whenever a service and/or service contract is solicited, these steps must be followed to provide priority in contracting to a Section 3 Resident Owned Business Concern (ROB) in line with the authorities Section 3 Policy approved.

ROB Verification: Whenever ROB status is sought, the TOHHA staff shall request address and ownership verification of the 51% Owner/Operator rule as stated in the HUD Act of 1968. Use of the **“Section 3 Self-Certification Form”** attached to this policy is an acceptable statement of address and business data, when presented along with all other required incorporation documents including any Letter of Issuance of a Federal Employer Identification Number (FEIN) and state Articles of Incorporation.

Step 1: During the development process of any solicitation or work project, there should be a determination as to whether or not the work can be and/or should be isolated to Resident Owned Businesses (ROB's) under the **24CFR Part 963.12 Alternative Procurement Method**. If so, then Steps 2-8 should be followed with respect for **ROB's ONLY**. Keep in mind, a qualified ROB can be one that is a Joint Venture Partnership where a non-ROB can participate at no more than 49% ownership, operations and profit. A statement where both parties have committed to these terms is required as validation of ROB status.

Step 2: Refer to any list of graduates from any small business development training programs recognized by the TOHHA (i.e. NYS Labor Department, Suffolk County Labor Department or local not-for-profit job training programs). Notify any of those persons that are known to have a small business of any contract opportunities first and invite them to pick up a bid package. Though the work being solicited is not directly in line with their capabilities or line of work, they may be able to secure some sub-contracting opportunities. Encourage them to attend any pre-bid meetings to meet and introduce themselves and business concern to other contractors.

Step 3: Post notice of the solicitation in common areas such as websites, mail box areas, management offices and other areas where residents normally gather on property.

Step 4: The TOHHA must place a notice of the contracting opportunity(ies) in any resident newsletters, notices or bulletins.

Step 5: The TOHHA must place an advertisement in the local newspaper of the contract opportunity(ies). The ad must include a notice that the contract opportunity is a **“Section 3 Covered Contract and that HUD Resident Owned Business Concerns are encouraged to apply”**. The TOHHA will also place a similar notice on its website www.huntingtonha.org.

Step 6: All procurements must include the attached **“Section 3 Action Plan and Certification”** for contractors to complete and return with their responses. Any response that is received without the completed form, signed and notarized should be considered non-responsive and the response rejected.

Step 7: In reviewing the solicitation responses, any contractors that are identified as qualified Section 3 Concerns should be reviewed and if legitimate, granted a preference in contracting according to the HUD example on the policy attachment titled, **“Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns”**.

Step 8: When procurements require point scores as part of the award process, there should always be bonus awards of **15 Points awarded to Qualified ROB's and 10 points awarded for non-ROB Section 3 Business Concerns**.

Step 9: All solicitations shall require that respondents convey prior compliance with Section 3 on any HUD funded contract.

Step 10: Solicitations must include a Certification of prior compliance with HUD Section 3 as a requirement for participation in the current solicitation. The respondent should be required to list any HUD funded contracts they worked on in the past three years and list how they complied with Section 3. See the attached form titled: “Previous Compliance Certification”.

There should be no contracts awarded if the respondent has performed work on HUD funded projects and failed to previously meet compliance as agreed to in their contract. This determination must be based on their statement and verification by the previous HUD funded entity.

SECTION C – CONTRACTING

Step 1: The following language is to be added to all new contracts effective immediately:

All contractors claiming a preference in contracting by meeting any of the three qualifications including; a Resident Owned Business, Hiring 25% of New Hires and/or Sub-contracting at least 3% of total award to a Section 3 Concern shall maintain that status throughout the life of the contract. Failure to meet this requirement will result in penalties up to and including contract termination. The TOHHA shall execute these remedies to achieve compliance in this order:

- A. Based on the first observation or report of non-compliance with Section 3, the contractor will be sent an e-mail by the compliance management contractor notifying them of their non-compliance issue. The contractor will have until the next payroll or 14 days, whichever is lesser to bring the contract into compliance.
- B. If at any time a contractor fails to bring the contract into compliance, the TOHHA must withhold all future payments until the contract is in compliance.
- C. The contractor shall have up to 15 days from the most recent notice of non-compliance to meet compliance as a final cure period or justify in writing to the TOHHA why it cannot meet compliance. The TOHHA must render a response to the contractor within 24 hours of receipt of its letter of reason for non-compliance. If the TOHHA deems the cause to be unacceptable it, at its option, can extend the cause period one time for up to 10 days to allow the contractor to identify and secure other compliance options, or
- D. If the contractor fails to take any corrective action to bring the contract into compliance within 20 days from the most recent notice of non-compliance, or the TOHHA does not accept any of their corrective plans or justifications for non-compliance, the TOHHA must terminate the contract immediately. All funds due to the contractor shall be held and a financial workout of the agreement shall proceed within 72 hours of termination. All remaining funds can be paid out based on work satisfactorily completed per the agreement.

Step 2: Any contractor claiming to meet Section 3 compliance by committing to hire residents or by funding a registered training program itself, shall meet compliance within seven (7) days of contract start or TOHHA shall halt all work related to the agreement and the actions listed in steps 1-2 in this section shall apply.

SECTION D COMPLIANCE MANAGEMENT

The TOHHA may hire an outside consultant to assist them in monitoring all its contracts for compliance with HUD Section 3, or it may choose to do in-house contract monitoring. If the TOHHA chooses to utilize the services of an outside consultant, the TOHHA shall provide the necessary contract data for management to the consultant. That data is to be provided on a form appropriate for the collection and transmittal of said data.

The consultant will provide immediate notice to TOHHA, and its respective contractors via e-mail of any non-compliance issues for any contract it manages. It will provide follow-up notice with each successive payroll of non-compliance. Phone calls to both the TOHHA and the contractor will begin with the second non-compliant payroll. The phone calls will be polite reminders of non-compliance with any recommendations the contractor can employ to meet compliance immediately. Those suggestions will be in-line with the TOHHA's Section 3 policy.

Once the contract is closed out, the TOHHA shall provide e-mail written notice to the consultant so the final compliance data can be verified and the contract closed in its data base.

Upon request or annually, TOHHA shall receive a complete HUD FORM 60002 accurately identifying all the contract data from contracts it managed during the annual period to date.

IX. LIST OF ATTACHMENTS

- A) Section 3 Worker Request Form
- B) Employer Attestation of Worker Section 3 Status
- C) Section 3 Overview
- D) Section 3 Employers workers certification 4736B
- E) PIH 2022-10
- F) 24 CFR Part 135 – Section 3 Regulations
- B) HUD Section 3 Required Contract Clause
- C) TOHHA Section 3 Resident/Person Self Certification Form
- D) TOHHA Business Self Certification Form
- E) Assurance of Compliance Certification Section 3 Action Plan
- F) TOHHA Certification of Previous Section 3 Compliance Form
- G) TOHHA Required Section 3 Action Plan and/or Certification
- H) HUD Form 60002 – Section 3 Summary Report
- I) HUD 958 – Complaint Register Form – Section 3
- J) Governor's Office of Storm Recovery, Office of Diversity & Civil Rights "SECTION 3 – Greatest Extent Feasible Guidebook"

RESOURCES

Income limits Low & Very Low Income Listed by MSA

<https://www.huduser.gov/portal/datasets/il.html>

HUD Opportunity Portal (For helping eligible residents and businesses self-certify)

<https://hudapps.hud.gov/OpportunityPortal/>

FAQ (Published by HUD 3/25/21)

<https://www.hud.gov/sites/dfiles/FPM/documents/Section-3-FAQs.pdf>

Final Rule 24 CFR Part 75

https://www.hud.gov/sites/dfiles/documents/rad_section3_guidance.pdf

List of YouthBuild Programs in NY State, (As mentioned in our conversation there are only a few.)

https://www.nysenate.gov/sites/default/files/article/attachment/senator_montgomerys_youthbuild_directory.pdf

24CFR part 75

<https://www.ecfr.gov/current/title-24/subtitle-A/part-75>

TOWN OF HUNTINGTON HOUSING AUTHORITY

Bidder/Offeror/Proposer – Exhibit _____

Required Section 3 Action Plan and/or Certification

Name of Business _____

Address of Business _____

Type of Business (Circle One): Corporation Partnership Sole Proprietorship Other

Business Activity: _____

All firms and individuals intending to do business with the Town of Huntington Housing Authority MUST complete and submit this Action Plan with their bid, offer, or proposal. Any solicitation response that does not include this document completed, signed, and notarized will be considered non-responsive and not eligible for award.

I AM CERTIFYING AS:

1. A business claiming status as a Section 3 Resident-Owned Business Concern (ROB) entity:

Initial here to select this option _____

Provide Certification for Section 3 Residents and proof that they own a minimum 51% of the business

2. A business claiming Section 3 status, because at least 30 percent of the newly hired workforce for this specific contract will be Section 3 residents throughout the entire contract period:

Initial here to select this option _____

Check all methods you will employ to secure Section 3 Residents/Persons

- ☐ Distribute Flyers door-to-door to ALL public housing apartments
- ☐ Run multiple advertisements in the local paper announcing the hiring opportunities
- ☐ Post signs at the entrance to the job site that it is a Section 3 covered project
- ☐ Notify residents and local community organizations including shelters and churches
- ☐ Defer to any list of Employment Readiness trained residents provided by the authority
- ☐ Other: _____

I anticipate my total number of employees for this contract to be ____ and ____ will be Section 3.

3. A business claiming Section 3 status by subcontracting 3% of the dollar award to qualified Section 3 Business:

Initial here to select this option _____

Provide a list of intended subcontract Section 3 business(es) with subcontract amount

Provide certification & all supporting documentation for each planned subcontract Section 3 Business

I AM NOT CERTIFYING AS A QUALIFIED SECTION 3 BUSINESS CONCERN but will comply by:

4. I commit to hiring and maintaining throughout the life of any contract awarded as part of this solicitation (Including and changes or modifications) at least ____ low and/or very-low income Section 3 Residents from the housing authorities lease holders or housing choice voucher holders administered by this authority. Only if no low and/or very-low income Resident can be secured, the contractor may hire from Tiers II or III in that order. Sufficient justification will be required as to why no Tier I Resident could be hired.
5. Check all methods you will employ to secure Section 3 Residents/Persons
 - ☐ Distribute Flyers door-to-door to ALL public housing apartments
 - ☐ Run multiple advertisements in the local paper announcing the hiring opportunities
 - ☐ Post signs at the entrance to the job site that it is a Section 3 covered project
 - ☐ Notify residents and local community organizations including shelters and churches
 - ☐ Defer to any list of Employment Readiness trained residents provided by the authority
 - ☐ Other: _____
6. I will commit to funding, from my contract, a qualified, registered Section 3 training program in place of Employment or Contracting. That training will be commenced within ten (10) days of my contract start. My training will be:
 - ☐ Employment Readiness Related Training 40 hours Classroom for up to 50 people
 - ☐ Employment Skills w/Readiness-Classroom Only 80 hours Classroom for up to 50 people
 - ☐ Employment Skills w/Readiness-Classroom and Job Site for a minimum of five (5) people
(Contractor understands that if Job Site training is completed by having the trainee complete work comparable to HUD defined employment categories, then the trainees must be paid Davis-Bacon wages and covered under their workers compensation insurance)

My selected method of compliance is # ____ from above options #4 - #6.

I attest that the above information is true and correct.

Print Name

Title

Date

Signature

Acknowledgement Page to Follow

STATE OF NEW YORK)

_____ COUNTY)

I, the undersigned authority, a Notary Public in and for said County and in said State, hereby certify that, _____, whose name as _____ of _____ is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of the foregoing conveyance, he/she, in his/her capability as _____, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the _____ day of _____, 202__.

Notary Public

My Commission Expires

TOWN OF HUNTINGTON HOUSING AUTHORITY

Bidder/Offeree/Proposer – Exhibit _____

Certification of Previous Section 3 Compliance

Name of Business _____

Address of Business _____

Type of Business (Circle): Corporation Partnership Sole Proprietorship Other _____

Business Activity:

All firms and individuals intending to do business with the Town of Huntington Housing Authority **MUST** complete and submit this certification of prior compliance with their bid, offer, or proposal. Any solicitation response that does not include this document completed, signed, and notarized will be considered non-responsive and not eligible for award.

I am certifying that I have complied with the HUD Section 3 Regulations in my past contracts by employing the following:

1. I was a Section 3 Resident-Owned Business (ROB). List the Contracts Work and HUD Funded Entity:

2. I complied with Section 3 by employing at least 25 percent of the newly hired workforce for these contracts and maintained them throughout the entire contract period:

Check all methods you employed to secure Section 3 Residents/Persons

- ☐ Distribute Flyers door-to-door to ALL public housing apartments
- ☐ Run multiple advertisements in the local paper announcing the hiring opportunities
- ☐ Post signs at the entrance to the job site that it is a Section 3 covered project
- ☐ Notify residents and local community organizations including shelters and churches
- ☐ Refer to any list of Employment Readiness trained residents provided by the authority
- ☐ Other: _____

List the Contracts Work and HUD Funded Entity:

3. I complied with Section 3 by subcontracting 3% of the total dollar award to a qualified Section 3 Business:

List the Contracts Work and HUD Funded Entity and Section 3 Concern you Subcontracted to:

I attest that the above information is true and correct.

Print Name Title Date

Signature

STATE OF NEW YORK)

_____ COUNTY)

I, the undersigned authority, a Notary Public in and for said County and in said State, hereby certify that, _____, whose name as _____ of _____ is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of the foregoing conveyance, he/she, in his/her capability as _____, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the ____ day of _____, 202_.

Notary Public

My Commission Expires

ASSURANCE OF COMPLIANCE CERTIFICATION
SECTION 3 ACTION PLAN

Housing and Urban Development Act of 1968
(12 U.S.C. 1701 U)

RE: TOWN OF HUNTINGTON HOUSING AUTHORITY

Contract: _____

Purpose:

To ensure that regulations promulgated under 24 CFR Part 135 Employment Opportunities for Businesses and Lower Income Persons in Connection with Assisted Projects and the Section 3 Plan and Policy of Town of Huntington Housing Authority to the greatest extent feasible is adhered to, and to serve as the 'assurance of compliance' certification and action plan as required in the bid documents, supplemental general conditions, and HUD Form 5370 for the contract for any work with the Town of Huntington Housing Authority.

Description of the project's work detail:

The project work will be as listed in the final scope of work in the contract with the authority including any change orders.

Contractor: _____

Subcontractor(s): _____

Preliminary Statement for Work Force Needs:

Though employment readiness training is our preferred method of Section 3 compliance, it is our intent to identify any short-term and long-term employment or contracting opportunities for qualified Section 3 persons and concerns during the course of our contract with this housing authority.

Category

Position

Status of Position

Skilled

Semi Skilled Labor

Trainees

Good Faith Effort:

The Contractor has identified ___ positions with respect to this contract. The positions are filled by the ___ of the Contractor.

Should the scope of work or duties of the contractor change to a degree requiring a modification of the work force needs, the contractor shall put forth a good faith effort to fill vacant positions with the Town Huntington Housing Authority resident applicants and/or very low-income area residents.

Documentation of Good Faith Effort:

The contractor will work with the housing authority property managers and staff to notify residents of any opportunities afforded under our contract. The contractor will partner with the housing authority by giving preference of any employment opportunities to the Section 3 persons or concerns that have successfully completed the authorities most recent or previous employment readiness type training. It is the contractor's intent to partner with the housing authority in selecting new employees or businesses from the list they provide, or to execute its own company sponsored training. The contractor will seek to have the housing authority provide a referral for a qualified training firm that can also provide technical assistance in working with the Section 3 covered persons and/or businesses to advise the contractor on how best to comply with the HUD regulations.

The contractor shall recruit or attempt to recruit from the Section 3 area the necessary number of low-income and very low-income residents through documentation of the following:

1. Local media advertising
2. Signs placed at the proposed site for the project and the Authority's Property Management offices and flyers hand delivered to all Public Housing Apartments
3. Maintain a list of all low-income area residents who have applied, either on their own or on referral from any source, and employ such person if otherwise eligible and if a trainee vacancy exists.
4. Provide evidence that the contractor has not filled vacant employment positions in its workforce immediately prior to undertaking work in an attempt to circumvent Section 3 regulations.
5. Review and determine if low-income and very low-income residents meet minimum hiring qualifications. Applicants meeting such minimum qualifications, but not hired due to lack of job openings or for other operations reasons, will be placed on a priority hiring list and offered positions upon the occurrence of the first available appropriate job opening.

Utilization of Businesses Located or Owned in Substantial Part by Persons Residing in the Area:

The contractor does ___ does not ___ intend to subcontract any of the work indentified in the scope of work cited in the bid specifications, scope of work or General Conditions.

Should the scope of work or needs of the contractor change, the contractor shall, to the greatest extent feasible, assure that subcontracts be awarded to business concerns within the Section 3 covered area, or to business concerns owned in the substantial part (at least 51%) by persons residing in the Section 3 covered area.

Record Keeping:

The contractor shall maintain on file all records related to employment and job training of low-income and very low-income residents or other such records, advertisements, legal notices,

brochures, flyers, publications, assurances of compliance from subcontractors, etc, in connection with this contract. There is a bi-weekly and monthly report that is needed as part of the submission. The contractor shall, upon request, provide such records or copies of records Huntington Housing Authority, its staff, or agents.

Reports:

The contractor shall provide bi-weekly and monthly reports as required in connection with the contractor specifications. All certified payrolls shall clearly detail which employees qualify under Section 3.

Certification:

The contractor will certify that any vacant employment positions, including training positions that filled:

- 1) After the contractor is selected but before the contract is executed, and
- 2) With persons other than those to who the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the subcontractor's obligations under 24 CFR Part 135.

Grievance and Compliance:

The contractor or subcontractor hereby acknowledges that they understand that any low-income and very low-income resident of the project area, for him/her or as representatives of persons similarly situated, seeking employment or job training opportunities in the project area, or any eligible business concerns seeking contract opportunities may file a grievance if a good faith effort was not followed. The grievance must be filed with HUD not later than ninety (90) calendar days from the date of the action (or omission) upon which the grievance is based.

I attest that the above information is true and correct.

Print Name Title Date

Signature

SECTION 3 – Greatest Extent Feasible Guidebook

Governor's Office of Storm Recovery Office of Diversity & Civil Rights

OVERVIEW

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) purpose is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons. Recipients of covered funding are in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30. Specifically: (i) 30% of the aggregate number of new hires shall be Section 3 residents; (ii) 10% of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns; and (iii) 3% of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns.

All entities must notify GOSR's Office of Diversity and Civil Rights (DCR) of any considerations or concerns preventing Section 3 participation and provide documentation supporting their concerns. Failure to comply with the requirement to make Good Faith Efforts may include but are not limited to the following consequences: (i) An onsite integrity monitor may be assigned to evaluate and document subrecipients and their contractors Good Faith Efforts and any deficiencies in implementation; (ii) Some or all costs for the integrity monitor may be withdrawn from the grant award; (iii) A monetary penalty may be imposed in an amount between the contractually stated goal or GOSR-approved utilization plan goal, and the utilization actually achieved by the contractor; (iv) Future payments/awards may be tolled until compliance is achieved; and (v) Future projects may be fully or partially defunded depending on the magnitude of non-compliance. Vendors and subrecipients will receive written notice prior to the issuance of any of the above-stated consequences, and will receive a reasonable period to make corrective actions.

This guidance booklet is a tool that Contractors can use to document greatest extent feasible the term of their contract. As part of today's training, the Training Facilitator will guide participants through the booklet, discuss different scenarios, facilitate discussions on best practices and acceptable greatest extent efforts.

SECTION 3 - GREATEST EXTENT FEASIBLE GUIDELINES

Overview: Recipients that fail to meet the minimum numerical goals, bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the “*efforts*” that were taken, barriers encountered, and other relevant information that will enable making a compliance determination. Recipients that submit Section 3 reports containing all zeroes, without a sufficient explanation to justify their submission, are in noncompliance with the requirements of Section 3. The *comprehensive list below describes the “efforts”* that should be made by recipients in order to meet their Section 3 goals.

I. Efforts to Offer Training and Employment Opportunities to Section 3 Residents

1. Entering into “First Source” hiring agreements with Section 3 residents

**[First source agreement entails that if a contractor or subcontractor that works on a Section 3 covered project has a job opening during the time of construction, they must notify the Section 3 coordinator prior to interviewing or hiring. The Section 3 coordinator will find possible workers residing in that neighborhood/target project area for this open position and the contractor will be obligated to interview these candidates and document these conversations]

Strategies for “First Source” hiring agreements-

i. Sponsor or establish training and employment programs for Section 3 residents.

ii. Advertise employment and training positions in the project service area or neighborhood by distributing flyers (positions to be filled/qualifications/resource for information about the application process)

- a) to every occupied dwelling unit in the housing development or developments
- b) in the common areas or other prominent areas of the housing development

iii. Contact resident councils, community organizations, state-local agencies, probation-parole agencies, unemployment compensation programs, and other applicable officials or organizations to assist with recruiting Section 3 residents.

iv. Sponsor a job fair or informational meeting for residents.

2. Provide assistance in job-seeking skills to Section 3 residents

- i. Provide on-site applications and interviews; arrange assistance in conducting job interviews and completing job applications for residents.
- ii. Contacting resident councils/management corporations, or other resident organizations, in the housing development, and/or community organizations in HUD-assisted neighborhoods - to request their assistance in notifying residents of the positions to be filled.
- iii. Consult with local employment service providers.
- iv. Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.
- v. Employ section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance.
- vi. Employ a job coordinator or contract with a licensed job placement agency that will undertake, on your behalf, the efforts to match eligible and qualified section 3 residents with the positions that you intend to fill.
- vii. Coordinate activities with local educational institutions.
- viii. Maintain file of eligible, interested applicants.

II. Efforts to Award Contracts to Section 3 Businesses Concerns

- 1. Contact business assistance agencies, minority contracting associations and community organizations to inform them of opportunities and seek assistance in identifying eligible businesses.

2. Bid and solicitations

- i. Provide bid notices to all known Section 3 businesses.
- ii. Develop a Section 3 business communication network.
- iii. Emphasize Section 3 at pre-bid conferences.
- iv. Coordinate pre-bid meetings at which section 3 business concerns can be informed of upcoming contracting and subcontracting opportunities.

3. Conduct contractor workshops, informing section 3 business concerns of upcoming contracting opportunities, make information available in languages other than English where appropriate.

4. Provide small business technical assistance.

- i. Provide section 3 business concerns with resources for seeking assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.

5. Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

6. Notify Youthbuild agencies of contracting opportunities.

7. Establish numerical goals for award of contracts to Section 3 businesses.

8. Encourage financial institutions to comply with their CRA requirements by making loans to Section 3 businesses.

9. Actively support joint ventures with Section 3 businesses.

10. Support business incubators which assist Section 3 businesses.

11. In determining the responsibility of potential contractors, consider their past record of section 3 compliance and their current plans for the pending contract.

12. Providing written notice to all known section 3 business concerns of the contracting opportunities.

i. Following up with section 3 business concerns that have expressed interest in the contracting opportunities.

13. Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.

14. Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.

ATTACHMENT I: GOSR SECTION 3 GREATEST EXTENT FEASIBLE GUIDELINES

GOSR SECTION 3 GREATEST EXTENT FEASIBLE GUIDELINES

The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3)

is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

Recipients of covered funding are in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30. Specifically: (i) 30% of the aggregate number of new hires shall be Section 3 residents; (ii) 10% of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns; and; (iii) 3% of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns.

Enforcement

Failure to comply with the requirement to make Greatest Extent Feasible Efforts may include but are not limited to the following consequences:

1. An onsite integrity monitor may be assigned to evaluate and document subrecipients and their contractors Greatest Extent Feasible Efforts and any deficiencies in implementation.
2. Some or all costs for the integrity monitor may be withdrawn from the grant award.
3. A monetary penalty may be imposed in an amount between the legally applicable Section 3 goals and the actual achieved Section 3 participation.
4. Future payments/awards may be tolled until compliance is achieved.
5. Future projects may be fully or partially defunded depending on the magnitude of non-compliance.

Vendors and subrecipients will receive written notice prior to the issuance of any of the above-stated consequences, and will receive a reasonable period to make corrective actions.

Documenting Greatest Extent Feasible Efforts

Recipients that fail to meet the minimum numerical goals, bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the “*efforts*” that were taken, barriers encountered, and other relevant information that will enable making a compliance determination.

Recipients that submit Section 3 reports containing all zeroes, without a sufficient explanation to justify their submission, are in noncompliance with the requirements of Section 3. The *comprehensive list below describes the “efforts”* that should be made by recipients in order to meet their Section 3 goals.

GREATEST EXTENT FEASIBLE EFFORTS LIST

I. Efforts to Offer Training and Employment Opportunities to Section 3 Residents

1. Entering into “First Source” hiring agreements with Section 3 residents

****[First source agreement entails that if a contractor or subcontractor that works on a Section 3 covered project has a job opening during the time of construction, they must notify the Section 3 coordinator prior to interviewing or hiring. The Section 3 coordinator will find possible workers residing in that neighborhood/target project area for this open position and the contractor will be obligated to interview these candidates and document these conversations]**

Strategies for “First Source” hiring agreements-

- i. Sponsor or establish training and employment programs for Section 3 residents.
- ii. Advertise employment and training positions in the project service area or neighborhood by distributing flyers (positions to be filled/qualifications/resource for information about the application process)
 - a) to every occupied dwelling unit in the housing development or developments
 - b) in the common areas or other prominent areas of the housing development
- iii. Contact resident councils, community organizations, state-local agencies, probation-parole agencies, unemployment compensation programs, and other applicable officials or organizations to assist with recruiting Section 3 residents.
- iv. Sponsor a job fair or informational meeting for residents.

2. Provide assistance in job-seeking skills to Section 3 residents

- i. Provide on-site applications and interviews; arrange assistance in conducting job interviews and completing job applications for residents.
- ii. Contacting resident councils/management corporations, or other resident organizations, in the housing development, and/or community organizations in HUD-assisted neighborhoods - to request their assistance in notifying residents of the positions to be filled.
- iii. Consult with local employment service providers.
- iv. Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.
- v. Employ section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance.
- vi. Employ a job coordinator or contract with a licensed job placement agency that will undertake, on your behalf, the efforts to match eligible and qualified section 3 residents with the positions that you intend to fill.
- vii. Coordinate activities with local educational institutions.
- viii. Maintain file of eligible, interested applicants.

II. Efforts to Award Contracts to Section 3 Businesses Concerns

1. Contact business assistance agencies, minority contracting associations and community organizations to inform them of opportunities and seek assistance in identifying eligible businesses.
2. Bid and solicitations
 - i. Provide bid notices to all known Section 3 businesses.
 - ii. Develop a Section 3 business communication network.
 - iii. Emphasize Section 3 at pre-bid conferences.
 - iv. Coordinate pre-bid meetings at which section 3 business concerns can be informed of upcoming contracting and subcontracting opportunities.
3. Conduct contractor workshops, informing section 3 business concerns of upcoming contracting opportunities, make information available in languages other than English where appropriate.
4. Provide small business technical assistance.
 - i. Provide section 3 business concerns with resources for seeking assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
5. Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
6. Notify Youthbuild agencies of contracting opportunities.
7. Establish numerical goals for award of contracts to Section 3 businesses.
8. Encourage financial institutions to comply with their CRA requirements by making loans to Section 3 businesses.
9. Actively support joint ventures with Section 3 businesses.
10. Support business incubators which assist Section 3 businesses.
11. In determining the responsibility of potential contractors, consider their past record of section 3 compliance and their current plans for the pending contract.
12. Providing written notice to all known section 3 business concerns of the contracting opportunities.
 - i. Following up with section 3 business concerns that have expressed interest in the contracting opportunities.
13. Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.
14. Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

Special Attention of:
Public Housing Agencies (PHAs)
Directors of HUD Regional and
Field Offices of Public Housing
Public Housing Directors
Resident Management Corporations

Notice PIH 2022-10

Issued: April 18, 2022

Expires: This notice remains in effect
until amended, superseded, or rescinded.

Cross Reference: Pub. L. 90-448,
approved August 1, 1968; FR-6085-F-03,
FR-6085-N-02, FR-6231-D-01, FR-5121-
N-12, PIH Notice 2007-09 issued April
10, 2007

SUBJECT: Implementation of the Final Rule on Section 3 Regulations - 24 CFR Part 75

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I. PURPOSE

This notice provides guidance to public housing agencies and authorities (PHAs) on tracking and reporting compliance with the new requirements for Public Housing Financial Assistance as defined in the Section 3 Final Rule (“Enhancing and Streamlining the Implementation of Section 3 Requirements for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses”) published in the Federal Register on September 29, 2020. There may be limited instances where the applicability of Section 3 to Housing and Community Development Financial Assistance impacts Public and Indian Housing (PIH) projects as discussed within this notice.

II. BACKGROUND

Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992 (the Act), requires PHAs, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons training, employment, and economic opportunities generated by development assistance provided pursuant to section 1437c of Title 42, operating assistance provided pursuant to section 1437g of Title 42, and modernization grants provided pursuant to section 1437l of Title 42.¹ HUD must implement and enforce Section 3 in accordance with the Act.

The final rule on Section 3 regulations, at 24 CFR Part 75 (the new rule), was published on September 29, 2020, and became effective as of November 30, 2020. The new rule updated HUD’s Section 3 regulations by reducing regulatory burden and by incentivizing employers to retain and invest in low- and very low-income workers. The new rule streamlined reporting requirements and provided program-specific oversight while simplifying the administrative burden by:

- Aligning with standard business practice of reporting labor hours (instead of total number of new hires under the previous rule) to promote sustained employment and career development for low- and very low-income workers;
- Establishing a \$200,000 threshold for Section 3 rehabilitation, construction and other public construction projects funded with housing and community development financial assistance, and establishing a \$100,000 threshold where the assistance is from HUD’s Lead Hazard Control and Healthy Homes programs (LHCHH), as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970², the Lead-Based Paint Poisoning Prevention Act³, and the Residential Lead-Based Paint Hazard Reduction Act of 1992⁴;
- Identifying “Targeted Section 3 Workers” as described in the key terms of this notice, which also includes information on benchmarking and prioritization in Section VI (Reporting);

¹ 42 USC 1437 (c); 42 USC 1437g; 42 USC 1437l (repealed)

² 12 U.S.C. 1701z-1 or 1701z-2

³ 42 U.S.C 4801 et seq.

⁴ 42 U.S.C. 4851 et seq.

- Allowing small PHAs the option of qualitatively reporting and measuring Section 3 efforts toward benchmarks; and
- Integrating Section 3 into HUD's ongoing program enforcement by adding compliance and oversight to regular program oversight activities.

HUD also published a companion Benchmark Notice, 85 FR 60907, titled "Section 3 Benchmarks for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses." The Benchmark Notice establishes the current numeric goals for compliance with Section 3 requirements. HUD may adjust funding thresholds or establish new benchmarks (either a single nationwide benchmark or multiple benchmarks based on geography, type of assistance, or other variables) periodically as new information becomes available pursuant to the regulation at 24 CFR section 75.23(b)(1)(2) (24 CFR Sections 75.23(b)(1) and (b)(2) p. 61565). HUD must publish all updates in the Federal Register and all updates are subject to public comment.

If a recipient complies with the regulatory priorities regarding effort and meets the established outcome benchmarks, HUD will presume the recipient is following Section 3 requirements, absent evidence to the contrary.

III. APPLICABILITY

The Section 3 final rule and this implementation notice apply in whole, or in part, to Public and Indian Housing programs (PIH) including the Public Housing (PH) Operating and Capital Fund programs, Rental Assistance Demonstration (RAD), Choice Neighborhoods (CN), and mixed-finance developments under 24 CFR Section 905.604 (24 CFR Section 905.604 p. 359). Section 3 requirements also apply to properties that are recipients of Section 8 rental assistance if they are recipients of other Federal funding covered by the Section 3 statute, e.g., Community Development Block Grant (CDBG) funds and exceed the funding threshold set by HUD. Pre-development work conducted prior to a RAD conversion using pre-conversion public housing financial assistance is subject to Section 3 requirements.

The Section 3 final rule also applies to other HUD-funded projects receiving more than \$200,000 in housing and community development financial assistance, including but not limited to CDBG, Housing Opportunities for Persons with AIDS (HOPWA), HOME Investment Partnerships (HOME), Housing Trust Fund (HTF), Section 202 Direct Loans for the Elderly, and Section 811 Supportive Housing for Persons with Disabilities.

The following chart indicates how Section 3 applies or does not apply to PIH programs:

Table 1 – Applicability of Section 3 to PIH Programs

Applicable	Not Applicable
<ul style="list-style-type: none"> • Public Housing Capital Funds • Public Housing Operating Funds • Choice Neighborhoods • Public Housing Mixed-Finance Development • Rental Assistance Demonstration (RAD) – <i>Construction and Rehabilitation</i> <ul style="list-style-type: none"> ○ Predevelopment Costs for RAD pre-conversion work using covered PH funds ○ RAD Post-Conversion contractually obligated activities • Section 8 assisted properties or projects that also receive more than \$200,000 of other Section 3 covered funding, e.g., CDBG, HOME. 	<ul style="list-style-type: none"> • Section 8 Housing Choice Vouchers (HCV) • Section 8 Monthly Rental Assistance Payments including those under PBV and PBRA Contracts • RAD– <i>Section 8 Rental Assistance ONLY</i> • Material Supplies Contracts • Indian and Tribal Preferences

As indicated above, the following are descriptions for the PIH programs that are subject to Section 3 requirements:

Public Housing (PH) (Capital and Operating Funds) means public housing financial assistance as defined in the Section 3 final rule. This includes public housing development assistance under Section 5 of the U.S. Housing Act of 1937 (“the 1937 Act”), public housing Operating funds for operations and management under Section 9(e) of the 1937 Act, and Capital Funds for development, modernization, and management assistance under Section 9(d) of the 1937 Act.

Choice Neighborhoods (CN) programs have required grantees to comply with Section 3 requirements since Fiscal Year (FY) 2011. All projects, phases, or activities that receive HUD housing and community development financial assistance (HCD) exceeding the threshold of \$200,000, including but not limited to CN and CDBG, are subject to Section 3 requirements. Phases and activities unfunded by HUD financial assistance that are part of the CN Transformation Plan are not subject to Section 3 requirements.

On an annual basis, CN Grantees are required to report on projects, phases, or activities in the CNInform data reporting system. This tool contains Section 3 FAQs and guidance on which activities are subject to Section 3 metrics reporting via CNInform. CN Grantees and vendors were not required to amend grants already engaged in revitalization when the rule was published but were and are required to review draft contracts on or after November 30, 2020, to align with the new rule. Further information on CN reporting requirements is provided on the [CNInform Resource Page](#).

Public Housing Mixed-Finance Development is subject to the same requirements as housing developed by PHAs solely with public housing funds – and thus are subject to Section 3 requirements. This means the entirety of the development by the mixed-finance method of a project, regardless of whether the project is fully or partially assisted with public housing. Development is the process of constructing a project. Mixed-finance housing is the development or modernization of public housing (low-income) units defined under 24 CFR Section 905.604⁵— and owned in whole or in part by entities other than PHAs. Unlike multiple HUD-only funding sources noted in Subpart D of the Section 3 regulation, mixed-finance housing may be financed from public housing funds, private funding sources, or a combination of public housing assistance funds and private financing. Mixed-finance development may include 100 percent public housing units owned by an entity other than a PHA or may include both public housing and non-public housing units.

Rental Assistance Demonstration (RAD)⁶ means properties converting assistance from public housing to long term project-based Section 8 rental assistance (see Section 1.4.A.15 of the RAD Notice, REV 4 PIH Notice 2019-23). Generally, properties converted to Section 8 rental assistance through RAD are covered by the rules applicable to Section 8. Refer to the preamble and text of the final Section 3 rule at 85 Fed Reg. 61524, 61546, and 61558 (September 29, 2020) for more information. Section 3 does apply to properties that are recipients of Section 8 rental assistance when they are also recipients of housing and community development financial assistance such as CDBG or HOME funds exceeding the \$200,000 threshold for Section 3 projects undergoing housing rehabilitation, housing construction, and other public construction activities.

Work referred to in the RAD Conversion Commitment is subject to Section 3 requirements as it applies to “housing and community development financial assistance”⁷ at or above the \$200,000 threshold. Program participants are not required to amend contracts executed before November 30, 2020. Instead, participants engaged in RAD conversions closing on or after November 30, 2020, are required to review and align drafted contracts with the new rule. Further information is available on the [RAD Resource Desk](#).

Stated differently, a RAD transaction is a conversion at a moment in time, and after the property is converted, it is governed by Section 8 requirements. However, HUD has administratively applied Section 3 requirements for housing and community development activities (e.g., CDBG or HOME funding) and related regulations as an alternative requirement for housing rehabilitation or construction work required by conversion after the RAD Closing (during the RAD related construction period) -- even though not required by the RAD statute or the Section 3 statute.

Pre-development work conducted prior to the RAD conversion using pre-conversion public housing financial assistance⁸ is subject to Section 3 requirements. In addition, the RAD

⁵ 24 CFR 905.604 Mixed-Finance

⁶ Section 1.4.A.15 of H 2019-09 PIH 2019-23 (RAD Notice Rev 4) Issued 2019-09-05.docx ([radresource.net](#)).

⁷ 24 CFR Part 75 Subpart C Housing and Community Development Assistance, p. 61565

⁸ 24 CFR Part 75 Subpart B - PH Financial Assistance, p. 61563

governing notice applies Section 3 requirements to contractually obligated activities that occur after the date of the RAD conversion. This means that RAD participants must undertake appropriate efforts to direct employment, training, and contracting opportunities arising as part of the conversion to low- and very low-income persons in accordance with the RAD governing notice. Priority for employment and other economic opportunities goes to residents of public housing or Section 8 assisted housing, except for transactions involving housing and community development financial assistance (e.g., CDBG or HOME), which provide opportunities to residents within the service area or the neighborhood of the project.

Section 8-assisted properties are those properties or projects that receive Section 8 project-based or tenant-based monthly rental assistance payments (not Section 3 covered). Such properties may also receive other funding such as CDBG or HOME for rehabilitation or construction activities. If a property receives over \$200,000 of CDBG or HOME funding, or other housing and community development financial assistance mentioned in the final rule, Subpart C Section 3 requirements apply.

*The following are descriptions of the PIH Programs in the above table that are **NOT** Subject to Section 3 Requirements*

Housing Choice Vouchers allow very low-income families to choose and lease or purchase safe, decent, and affordable privately-owned rental housing. They provide monthly Section 8 tenant-based rental assistance payments to landlords and are not subject to Section 3 requirements.

Section 8 Monthly Rental Assistance Payments provided under the Project-Based Voucher (PBV) and Project-Based Assistance Housing Assistance Payment (HAP) contracts are subsidy payments HUD makes to landlords and property owners on behalf of tenants and are not subject to Section 3 requirements.

With respect to the Section 8 programs identified above, the preamble to the final rule provides that:

"[t]he final rule applies Section 3 in a manner consistent with the statute. HUD has determined that monthly rental assistance payments, such as those provided under Section 8 project-based voucher or project-based rental assistance housing assistance payment contracts, are not covered by the statute."

Rental Assistance Demonstration (RAD) conversions, generally, do not use housing and community development financial assistance (e.g., CDBG and HOME), and thus would not be subjected to Section 3 requirements. Section 3 applicability is not triggered by receiving Section 8 rental assistance alone. As stated, HUD has not extended Section 3 applicability to properties that only receive Section 8 rental assistance. To do so would go beyond what the Section 3 statute intended.

Material supply contracts are for commodities purchases – meaning contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring,

concrete, pipes, toilets, sinks, carpets, and office supplies. They are not subject to Section 3 requirements.

Indian and Tribal preferences are contracts, subcontracts, grants, or subgrants subject to the Indian Self-Determination and Education Assistance Act or subject to tribal preference requirements as authorized under the Native American Housing Assistance and Self-Determination Act. They must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of Part 75.

Recipients of other HUD assistance and other Federal assistance that are not subject to Section 3 requirements are encouraged to support the objectives of Section 3 pursuant to 24 CFR section 75.3(d).

IV. KEY TERMS

Labor hours are paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low-income person is a person with an income that meets the definition for low-income as defined in Section 3(b)(2) of the 1937 Act, typically established as 80 percent of the area median individual income and conforming to HUD Income limits.

Professional services are non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance funds include development assistance pursuant to Section 5 of the 1937 Act, Operating Funds⁹, Capital Funds¹⁰, public housing grant funds such as Resident Opportunities and Self-Sufficiency (ROSS) or Jobs Plus programs and the full extent of mixed-finance development as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance.

Section 3 refers to Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern is a business that meets at least one of the following criteria, documented within the last six-month period:

- It is at least 51 percent owned and controlled by low- or very low-income persons;
- Over 75 percent of the labor hours performed for the business over the prior three-month period is performed by Section 3 workers; or

⁹ Operations and management assistance provided pursuant to Section 9(e) of the 1937 Act.

¹⁰ Development, modernization, and management assistance provided pursuant to Section 9(d) of the 1937 Act.

- It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently reside in housing assisted by Section 8.

***Section 3 business concerns are not exempt from meeting the specifications of the contract and may include non-profit organizations if they meet the criteria of the new rule. The Section 3 final rule does not require the contracting or subcontracting of a Section 3 business concern. Once a business is certified as a Section 3 business concern, it will retain that status if it continues to meet the definition. Status is determined at the time of hiring for each contract and is no different from any other definition. Section 3 business concern status¹¹ shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees. Currently, Section 3 business concerns self-certify their status to the funding recipient at the time of contracting. The timing is on a project-by-project basis.

Section 3 projects are housing rehabilitation and construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance (e.g., CDBG and HOME) when the total amount of assistance to the project exceeds a threshold of \$200,000. The threshold is \$100,000 where the assistance is from HUD's Lead Hazard Control and Healthy Homes programs (LHCHH), as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970¹², the Lead-Based Paint Poisoning Prevention Act¹³, and the Residential Lead-Based Paint Hazard Reduction Act of 1992¹⁴. The project is the 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 Reporting Platform (S3R) is the successor system to the Section 3 Performance Evaluation and Registration System, or SPEARS formerly used for Section 3 compliance reporting by PHAs. PHAs and other recipients of public housing financial assistance subject to Section 3 requirement will be required to submit compliance reports via S3R when it becomes available for use.

Section 3 worker is any worker, for both public housing financial assistance and housing and community development assistance,¹⁵ who currently fits, or when hired within the past five years fit, at least one of the following categories, as documented:

- The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant.

¹¹ Please note that although a Section 3 business concern may not be negatively affected by a prior arrest or conviction of its owners(s) or employees, a household member may be evicted from his/her federally assisted housing for drug-related criminal activity, pursuant to Subpart I of 24 CFR Part 5. As a result of the employee no longer being a public housing resident or a Section 8 tenant, the business may no longer meet the definition of Section 3 business concern due to the reduced number of employees employed by the Section 3 business concern.

¹² 12 U.S.C. 1701z-1 or 1701z-2

¹³ 42 U.S.C 4801 et seq.

¹⁴ 42 U.S.C. 4851 et seq.

¹⁵ Subpart A, General Provisions of Section 3 Final Rule published September 29, 2020

“Service area” or the **“neighborhood of the project”** is an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, an area within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

Targeted Section 3 worker is, in the context of public housing financial assistance means a Section 3 worker who is:

- A worker employed by a Section 3 business concern; or
- A worker who currently fits, or when hired fit, at least one of the following categories, as documented within the past five years¹⁶:
 - A resident of public housing or Section 8-assisted housing.
 - A resident of other projects managed by the PHA that is providing the assistance; or
 - A YouthBuild participant.

An employer may choose whether the worker is defined as a Section 3 worker for a five-year period at the time of the worker’s hire, or when the worker is first certified as meeting the Section 3 worker definition.

For reference (and by contrast)¹⁷, a Targeted Section 3 worker in the context of housing and community development financial assistance programs is a Section 3 worker who is:

- A worker who is employed by a Section 3 business concern; or
- A worker who 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
 - As defined in 24 CFR section 75.5; or
 - A YouthBuild participant.

NOTE: Individuals who have had a prior arrest or conviction are not excluded from the definition of Section 3 Worker or Targeted Section 3 Worker, whether working on projects or activities funded with public housing financial assistance (e.g., public housing Capital or Operating funds) or housing and community development financial assistance (e.g., CDBG/HOME). The status of Section 3 or Targeted Section 3 workers must not be negatively affected by a prior arrest or conviction. The Section 3 final rule does not require a Section 3 worker with a criminal history to be hired. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.¹⁸

Very low-income person is a person with an income that meets the definition for very

¹⁶ “This provides an option for employers to look back to the worker’s status at the time of original employment but does not require that an employer do so if the employer only wants to reference the employee’s current status.”

¹⁷ Targeted Section 3 Worker definitions for *Public Housing Financial Assistance* (Subpart B) and for *Housing and Community Development Assistance* (Subpart C) in the final Section 3 rule published September 29, 2020, 61563-61565, Section 3 Final Rule Subparts B-C.

¹⁸ 61563, 24 CFR section 75.5 *Definitions*, Section 3 Final Rule Subparts B-C.

low-income as defined in Section 3(b)(2) of the 1937 Act, as established at HUD Income limits.

V. TRANSITION PERIOD ACTIVITIES

The new rule provided for a transition period between its effective date November 30, 2020, and the beginning of the first reporting period, July 1, 2021. First reports are due on August 29, 2022, from PHAs with fiscal years ending (FYE) June 30.

During the transition period, PHAs and employers were expected to have supported Section 3 goals and met statutory requirements, even though reporting was not required. In accordance with the new rule and the Office of Field Policy and Management (FPM) Frequently Asked Questions (FAQs)¹⁹ published on March 25, 2021, this means they should have:

- Made best efforts to direct economic opportunities generated by certain HUD financial assistance to low- and very low-income persons, to tenants of public and assisted housing, and to businesses that provide economic opportunities to low- and very low-income persons.
- Ensured that new grants, commitments, and contracts entered during the transition period demonstrate compliance with the requirements of the new rule; and
- Maintained records on-site, so they are readily available and produced for HUD's review if requested (including for Section 3 projects with commitments made or that were completed during the transition period), showing their statutory regulatory, and contractual compliance with the new rule codified in Section 3 regulations at 24 CFR Part 75.

Additionally, during the transition period, the Department expected that PHAs and employers would have been preparing to report on their compliance with the new rule for funds committed on or after July 1, 2021, by:

- Planning and revising processes, systems, and documents;
- Updating policies and procedures for tracking labor hours;
- Reviewing, to the extent possible, all new and existing contracts to determine the need for modification to report labor hours;
- Updating internal reporting systems, processes, and procedures;
- Retaining documentation showing compliance with the new rule;
- Developing plans to brief tenants and contractors on the final rule; and
- Considering training and technical assistance needs.

VI. REPORTING

¹⁹ Section 3 FAQs

Now that the transition period has concluded, PHAs and other grantees are required to report Section 3 activities to HUD. The first Section 3 reports are due 60 days after the end of the first full fiscal year following the reporting implementation date of July 1, 2021. Thus, PHAs with first full fiscal years ending (FYE) June 30, 2022, will be the first to report, with those reports due no later than August 29, 2022. The table below displays the first Section 3 reporting dates, and the reporting periods those first reports will cover, for each group of PHAs by Fiscal Year End (FYE) date.

Table 1 - Section 3 Compliance Reporting - 1st Full FY After 7/1/21 Reporting Implementation Date

1st FYE prior to 7/1/21 reporting effective date (starts with 6/30 PHAs)	1st Reporting Period Begins (1 st FYB on or after 7/1/21)	1st Reporting Period Ends (1 st full FYE after 7/1/21)	1st Reports are Due (60 days after 1 st full FYE after 7/1/21)
6/30/21	7/1/21	6/30/22	8/29/22
9/30/21	10/1/21	9/30/22	11/29/22
12/31/21	1/1/22	12/31/22	3/1/23
3/31/22	4/1/22	3/31/23	5/30/23

In addition to reporting, pursuant to 24 CFR section 75.31, PHAs must also retain on-site records of Section 3 activities during each reporting period and must produce such records if HUD requests that information at a future date.

Under the new rule, funding recipients will track and report total labor hours worked for all workers and for Section 3 Workers and Targeted Section 3 Workers for the applicable reporting fiscal year. Under the previous rule (24 CFR Part 135), HUD required PHAs to track new hires. Tracking new hires is no longer required. This change enables recipients to measure total actual employment and the proportion of the total employment performed by low- and very low-income workers.

PHAs that do not meet quantitative benchmarks for labor hours are required to report qualitative efforts and activities to comply with Section 3 objectives. Pursuant to 24 CFR 75.15(d), small PHAs with fewer than 250 public housing units may opt to report qualitative efforts as a first option.

A. S3R and Section 3 Compliance Reporting Systems

PHAs and other recipients of public housing financial assistance subject to Section 3 requirements historically submitted Section 3 compliance information through HUD's legacy Section 3 Performance Evaluation and Registration System (SPEARS). SPEARS is no longer used for Section 3 compliance reporting. Instead, PHAs will report under the new rule in a successor system called S3R. The regulation requires each grantee to report on Section 3 compliance per the reporting requirements for each applicable program. In instances where there are multiple funding sources, grantees must collect and report the same data across programs for consistency.

It is HUD's expectation that PHAs (including MTW agencies) and other public housing financial assistance recipients will continue to retain Section 3 compliance records until the reporting system is available. Funding recipients should be prepared to produce those records if HUD requests it. HUD will provide further notification when the S3R system is available for use.

In instances where there are multiple funding sources, grantees must collect and report the same data across programs for consistency. Thus, PIH grantees report Section 3 compliance information related to Housing and Community Development financial assistance for HUD's Community Planning and Development programs to the Integrated Disbursement and Information System (IDIS) or Disaster Recovery Grant Reporting (DRGR) system. Recipients of funding from other HUD programs use their specific reporting systems.

The new rule states that for non-MTW agencies, reporting will initially remain at the grant or individual program level, but HUD may explore agency-level reporting to streamline or simplify the process. PHAs must continue to report by separate funding source or in the aggregate for MTW agencies.

The HUD FPM is authorized²⁰ to manage Section 3 evaluation and reporting. Additionally, FPM will administer Section 3 Technical Assistance funds and coordinate and offer best practices to external stakeholders.

B. Labor Hour Reporting

PHAs report annually:

- The total number of labor hours worked;
- The total number of labor hours worked by Section 3 workers; and
- The total number of labor hours worked by Targeted Section 3 workers.

Labor hours for Section 3 workers and Targeted Section 3 workers may be counted for five years from when their Section 3 status is established by the employer, given that employment is maintained with the same employer.

1. **Section 3 Workers including PHA Staff.** Section 3 or Targeted Section 3 workers may be employed by a contractor or subcontractor to work on PHA projects funded by public housing financial assistance or Section 3 projects funded by housing and community development financial assistance. In addition, PHA employees who meet the definition for Section 3 or Targeted Section 3 workers at the time they are hired or certified as Section 3 or Targeted Section 3 eligible workers will also count toward the Section 3 or Targeted Section 3 worker labor hours. The certification date must be on or after the effective date of the new rule, November 30, 2020.
2. **Duration for Counting Labor Hours.** The Section 3 and Targeted Section 3 worker labor hours may be counted by the PHA for up to five-years from the certification or hire date. An employer may choose whether the workers are defined as Section 3

²⁰ Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and its attendant regulations.

workers for a five-year period at the time of the workers' hire, or when the workers are first certified as meeting the Section 3 worker definition.

Labor hours must be counted as follows depending on the funding source:

- The labor performed on a Section 3 project for housing and community development financial assistance, or
- For all labor hours performed within the fiscal year for public housing financial assistance.

3. **Qualification of Section 3 Workers.** As established in the Section 3 final rule at 24 CFR 75.31 and 24 CFR 75.5, and clarified in the preamble,²¹ the qualification of a Section 3 worker takes place at either the date of the Section 3 covered activity or the date of initial hire by the employer, if hired within the past five years. Labor hours of an employee who is low- or very low-income at hire will continue to count for five years even if that person moves into a new, more advanced position with the same employer. HUD anticipates that employees with five years of experience with that same employer would be advancing in the business and would eventually need to be replaced by a new, presumably low- or very low-income entry-level employee.

Section 3 worker for both public housing financial assistance and housing and community development assistance means any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant.

The definition of Targeted Section 3 Worker for both public housing financial assistance and housing and community development financial assistance has the following common elements:

- A worker employed by a Section 3 business concern; or is
- A YouthBuild participant.

The difference between Targeted Section 3 Worker for public housing financial assistance and housing and community development financial assistance is as indicated on next page:

A worker who currently fits or when hired fit at least one of the following categories, as documented within the past 5 years:

²¹ Federal Register/Vol. 85, No. 189/9-29-2020/p. 61539

- Living within the service area or the neighborhood of the project, as defined in as defined in 24 CFR section 75.5, Subpart C (for housing and community development financial assistance); or
- A resident of public housing or Section 8-assisted housing (for public housing financial assistance);
- A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance (for public housing financial assistance).

Note that the preamble to the new final rule²² clarifies, that consistent with the statute, the Targeted Section 3 worker definition for public housing financial assistance should focus on the categories as listed (public housing projects and Section 8 assisted housing). The preamble states that to be inclusive of residents in other housing assisted by the PHA and residents of housing in the property management portfolio of the PHA, both categories have been included in the regulation in place of the term “managed by the PHA.” Both types of residents would count as Section 3 workers for purposes of Targeted Section 3 workers for public housing financial assistance.

The language in 24 CFR section 75.11(a)(2)(ii), Subpart B refers to:

“A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance...” In the context of the preamble text, this means the other housing assisted by the PHA (HUD-assisted housing programs) and conversion projects (in the property management portfolio of the PHA).”

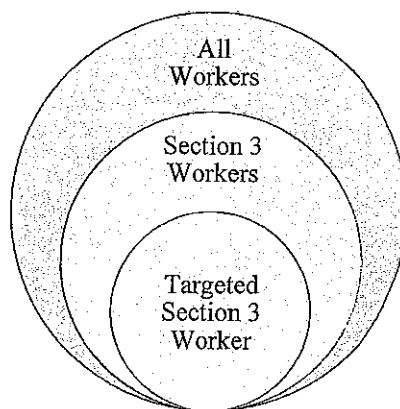
4. **Professional Services.** Labor hours for Section 3 and Targeted Section 3 workers may include hours from professional services that require specialized and advanced degrees and licensing, i.e., architects and engineers. However, pursuant to 24 CFR 75.15(a)(4), it is not required for PHAs to include the labor hours worked for professional services jobs in the total labor hours worked on the project. Other professional service categories may include, but are not limited to, financial managers, accountants, and auditors. Professional service firms may employ Section 3 qualified workers. As noted in the preamble to the final Section 3 rule:

“Recipients may count as Section 3 labor and as Targeted Section 3 labor hours any work performed by a Section 3 worker or a Targeted Section 3 worker (i.e., in the numerator of the calculation), even when the professional services as a whole are not counted in the baseline reporting (i.e., in the denominator of the calculation). The effect of this reporting structure is to give a recipient a bonus if they are able to report Section 3 hours in the professional services context. As referenced in the comments, vendors can sometimes create opportunities in the professional services context, and HUD seeks to reward this behavior.”

²² Federal Register/Vol. 85/No. 189/9-29-2020/p. 61536

5. **Good Faith Assessment of Labor Hours.** The rule at 24 CFR section 75.15(a)(5) permits a temporary exception for contractors and sub-contractors that have not been subject to reporting for labor hours and are not currently operationally set-up for this tracking to submit good faith assessment of the labor hours for full-time and part-time Section 3 workers based on time and attendance records.²³
6. **Benchmark Ratios for Section 3 Compliance.** This three-circle graphic below represents a construct for measuring workers. The largest outer circle represents all workers. The next smaller inner circle represents Section 3 workers, and the smallest innermost circle represents Targeted Section 3 workers.

Figure 1: Measuring Workers for Section 3



There are two benchmark ratios.

Ratio 1: Section 3 Workers to All Workers. The first ratio shows the relationship of labor hours between Section 3 workers and all workers funded by public housing financial assistance (Section 3 worker labor hours ÷ Total of all worker labor hours).

Ratio 2: Targeted Section 3 Workers to All Workers. The second ratio shows the relationship of Targeted Section 3 workers and all workers funded by public housing financial assistance (Targeted Section 3 worker labor hours ÷ Total of all worker labor hours).

PHAs adopting a Central Office Cost Center (COCC) model²⁴ may include labor hours of Section 3 and Targeted Section 3 workers in the numerator of the benchmark calculations when their wages are paid from COCC revenues and where the labor hours are attributable to public housing financial assistance. If necessary, HUD may provide additional guidance at a future date on counting labor hours from positions funded out of a COCC.

²³ Federal Register/Vol. 85/No. 189/9-29-2020/p. 61559

²⁴ PIH Notice 2007-9 Updated Changes to Financial Management and Reporting for PHAs under Operating Rule and Supplement; <https://www.federalregister.gov/documents/2007/04/17/E7-7218/public-housing-operating-fund-program-guidance-on-implementation-of-asset-management>.

For both benchmarks and per 24 CFR section 75.15(a)(4), the total of all worker labor hours (denominator) is the “total number of labor hours worked by all workers funded by public housing financial assistance” during the PHA or recipient fiscal year and excludes hours from professional services. All workers funded by public housing financial assistance include all PHA positions funded with capital and operating funds.

The safe harbor for achieving the first ratio is 25 percent or $\text{Section 3 worker labor hours} \div \text{PH worker labor hours} = 25 \text{ percent or more}$. The safe harbor for achieving the second ratio is five percent or $\text{Targeted Section 3 worker labor hours} \div \text{PH worker labor hours} = \text{five percent or more}$.

Table 3 - Safe Harbor Calculations to Meet Section 3 Benchmarks

Example for First Ratio <i>(Section 3 worker hours ÷ by Total worker hours)</i>	Below Benchmark	Achieved Benchmark
Section 3 worker hours	10,400	12,800
Total worker hours	52,000	52,000
	20%	25%

Example for Second Ratio <i>(Targeted Section 3 worker hours ÷ by Total worker hours)</i>	Below Benchmark	Achieved Benchmark
Targeted Section 3 worker hours	520	2,800
Total worker hours	52,000	52,000
	1%	5%

The benchmarks’ safe harbor provision permits PHAs and other recipients to certify to the prioritization of effort in 24 CFR section 75.9 and HUD will consider a PHA in compliance with Section 3 requirements if it meets or exceeds the Section 3 benchmarks described above, absent evidence to the contrary. The prioritization of effort requires that PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers. The order of priority is:

1. To residents of the public housing projects where public housing financial assistance is expended,
 2. To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA
 3. To participants in YouthBuild programs, and
 4. To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.
- In addition, PHAs and other recipients, and their contractors and subcontractors, must make their best efforts in the following order of priority:

1. To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided,
2. To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance,
3. To YouthBuild programs, and
4. To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

NOTE: The same benchmark metrics also apply for Section 3 projects. The 25 percent threshold for Section 3 labor hours includes the five percent of labor hours worked by Targeted Section 3 workers.

B. Qualitative Reporting

1. **Qualitative Reporting for Unmet Section 3 Benchmarks.** PHAs, including small PHAs, that do not meet the Section 3 benchmarks for reporting labor hours, as described in 24 CFR section 75.13, must instead submit qualitative reports of their efforts to comply with Section 3 requirements. In these instances, PHAs or other recipients must report in a form prescribed by HUD on the qualitative nature of their Section 3 compliance activities, along with those of their contractors and subcontractors. Records of Section 3 compliance must be retained and made available to HUD upon request.
2. **Qualitative Reporting for Small PHAs.** The new rule provides administrative relief for PHAs with fewer than 250 public housing units. These PHAs have the option to: 1) only report on Section 3 qualitative efforts, foregoing the requirement to track labor hours for Section 3 Workers and Targeted Section 3 Workers, or 2) report labor hours normally like larger PHAs but then still be required to, as previously indicated, report qualitative efforts if benchmarks are not met as described in 24 CFR section 75.13 for labor hours reporting.

PHAs are not required to submit documentation to substantiate qualitative efforts. However, PHAs must maintain records of Section 3 statutory, regulatory, and contractual compliance on-site and provide them to HUD, if requested. Examples of qualitative Section 3 activities to be reported may include the following: 1) outreach, 2) technical assistance, 3) job or work readiness and training, and 4) coordination activities. The following list is not exhaustive:

- Outreach
 - To generate job applicants who are Targeted Section 3 Workers.
 - To identify and secure bids from Section 3 business concerns.
 - Engagement, or referrals with the State one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.
 - One or more job fairs conducted.

- Technical Assistance
 - To help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
 - To apply for or attend community college, a four-year educational institution, or vocational and technical training.
 - To obtain financial literacy training or coaching.
 - To help Section 3 business concerns understand and bid on contracts.
- Readiness and training
 - Assistance in seeking employment such as resume drafting, interview preparation and finding job opportunities connecting residents to job placement services.
 - Referrals or provision of services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
 - Training or apprenticeship opportunities provided.
- Coordination
 - Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
 - Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
 - Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

VII. CONTRACTING AND PROCUREMENT

As of November 30, 2020, the Section 3 regulations codified at 24 CFR Part 135 (the previous rule) were no longer in effect and no longer applicable to new grants, commitments, contracts, or projects.

Existing contracts for public housing financial assistance executed (or projects with assistance or fund commitments) prior to November 30, 2020, were (and, if applicable, still are) required to adhere to the requirements of the previous rule. PHAs and other recipients were not required to change or alter contracts in place prior to the new rule's effective date. PHAs were to continue to maintain records demonstrating statutory, regulatory, and contractual compliance with Section 3 (as defined by the previous rule) during the transition period of the new rule but were not required during that period to report Section 3 compliance to HUD in the SPEARS. If any such contracts still exist, PHAs are to report them in accordance with the compliance reporting schedule in Table 2 on page 11 using the Section 3 Reporting platform "S3R" as it becomes available, or any other method required by HUD.

PHAs and other recipients of public housing financial assistance must include a "Section 3 clause" or language that apply the Section 3 requirements to contractors and subcontractors in contracts awarded after November 30, 2020. Contractors and subcontractors must also meet the requirements of either 24 CFR sections 75.9, 75.17 or 75.27 as applicable. These are

requirements under *Additional Provisions for Public Housing and Housing and Community Development Financial Assistance*.²⁵

If the new rule requirement for reporting labor hours was missing from the original bid package and the package was issued before November 30, 2020, PHAs and other recipients were not required to re-bid the contract. Contracts executed after November 30, 2020, were to comply with the new rule even when the bid package may not have included the new Section 3 requirements. Additionally, all recipients, as part of their transition activities, were to correct any information that was not up to date in post-December 1, 2020, bid packages and inform bidders of the latest changes to Section 3 requirements and provide guidance to all recipients that bid packages communicated after December 1, 2020, must reference the new requirements.

Public Housing Example of Section 3 Contract Clauses. Sample Section 3 contracting language is provided in the Appendix. The final rule indicates that contract language must be customized based on the contract and program and further states that recipients of federal financial assistance are in the best position to know what language is appropriate to include in contracts based on each context. HUD believes that recipients are in the best position to determine what contract language is appropriate. However, the rule and HUD's response to commenters' requests for standard contract language state that HUD would undertake discussions of what constitute contracting best practices.

General Conditions for Construction Contracts found in form HUD-5370 Series.

Notwithstanding the Section 3 final rule's position that recipients of public housing or community development assistance must customize their contracts, HUD continues to make the form HUD-5370 form series – *General Conditions for Construction Contracts for Public Housing* available for PHAs to use in providing language and clauses for contracts.

These forms set forth general contract clauses to be inserted into contracts in accordance with the Office of Management and Budget's (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* and Section 3 requirements under the sub-heading *Training and Employment Opportunities for Residents in the Project Area* (Section 3, HUD Act of 1968; 24 CFR 75). The Section 3 clauses under this sub-heading are essentially the same as the Section 3 clauses in the sample contract language that appears in the Appendix to this notice. The only differences are that the Appendix adds the following:

- Section 3 final rule contracting provision requirements in 24 CFR sections 75.9, 75.1, 75.27.
- The prioritization of best efforts as applicable to Section 3 business concerns.
- The prioritization of best efforts as applicable to Section 3 Workers.
- Certifications that vacant positions were not filled by persons other than those persons such opportunities are to be directed to as required by the Section 3 regulations.

²⁵ Federal Register/Vol. 85/No. 189/9-29-2020/pp. 61563 and 61565

Section 3 clauses must be written into forms containing other general conditions for public housing contracts. The type of 5370 form used depends on the size and type of the contract. Public Housing forms containing general contract conditions and provisions are given in the following table and may be revised and subsequently approved by OMB under the Paperwork Reduction Act of 1995²⁶:

Table 4 – Form HUD-5370 Series – Contract Provisions

Form	Name	Section 3 Requirements
5370 EZ	General Contract Conditions for Small Construction/Development Contracts	Item 13
5370	General Conditions for Construction Contracts – Public Housing Programs	Item 40
5370 C	General Contract Conditions for Non-Construction Contracts	Item 22

PIH Procurement Handbook. This section notes that Section 3 requirements and 2 CFR part 200 requirements, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (last amended in 2020) apply for procurements. Section 5.10 of the procurement handbook (7460.8, REV-2) identifies the form HUD-5370 series which contains the mandatory clauses, including Section 3 requirements, for inclusion in contract-related documents for construction and maintenance contracts as discussed elsewhere in this notice. These clauses can be incorporated by attachment, reference, or through other documents.

Prohibitions on Use of Funds to Charge Compliance Fees. There is no provision within the Section 3 regulations to support collection of funds from developers or contractors for them to maintain Section 3 compliance. In fact, PHAs and recipients are prohibited from soliciting, requiring, accepting, or using funds obtained from developers or contractors as a form of Section 3 compliance, training, or implementation.²⁷

For example, it is prohibited for a PHA to take three percent of total contract proceeds from every agency contractor, regardless of related hiring, contracting, or labor hours. This prohibition exists because collecting funds from contractors may create a situation where contractors are given an unfair advantage to win contracts based on the amount of funds they have provided and may violate contract rules. Requiring PHA staff to obtain funds in this manner is prohibited, especially when it is a requirement for a contractor to keep its contracts.

²⁶ 44 U.S.C. 3501 et. Seq.

²⁷ Section 75.9 contracting order of prioritization under "Economic Opportunities" does not support collecting or using funds for Section 3 compliance, training, or implementation.

VIII. MONITORING AND COMPLIANCE

Recipients, contractors, and subcontractors of public housing financial assistance must comply with both Section 3 regulations at 24 CFR Part 75, and with *public housing financial assistance* program regulations and requirements that include Section 3 compliance. PIH staff will review a recipient's fulfillment of these responsibilities using existing monitoring processes which may include remote and on-site monitoring. Additionally, PIH will review a PHA's annual Section 3 report for adherence to submission timelines and compliance with Section 3. PIH may also initiate a compliance review if a pattern of complaints implies systemic problems. HUD reserves the right to undertake further compliance reviews at its discretion.

When undertaking reviews, HUD will look for evidence of compliance that includes, but is not limited to the following:

1. Section 3 and Targeted Section 3 workers are connected to training and employment opportunities;
2. Developers and contractors are linked with capable Section 3 business concerns and, when necessary, directed to capacity-building training;
3. Procedures are designed to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3 requirements and maintain records documenting that compliance;
4. Contractors and subcontractors are aware of, and are in compliance with Section 3 requirements;
5. The hiring and subcontracting needs of contractors are assessed;
6. Regular monitoring of contractor compliance occurs;
7. There is active cooperation with the HUD Secretary to obtain contractor compliance which includes penalizing non-compliance;
8. Good performance is incentivized; and
9. Entering contracts with any contractor that previously failed to comply with Section 3 requirements is avoided.

Records recipients must maintain for programmatic and Section 3 compliance reviews include, but are not limited to:

1. Copies of signed Consolidated Plan, Public Housing Five-Year Plan, or Annual Plan certifications/ assurances.
2. Procurement records to identify the dollar amount of each covered contract awarded during the time span under review.
3. Copies of bid solicitations that reference Section 3 applicability.
4. Contract documents that include a "Section 3 clause" or language that applies the Section 3 requirements to contractors and subcontractors in the contracts awarded. (See Appendix)
5. Minutes, sign-in sheets, agendas, or other relevant evidence from pre-construction meetings, to determine if Section 3 requirements were discussed with prospective bidders.

6. Labor hour records of recipients and contractors, to determine the percentage of Section 3 workers and Targeted Section 3 workers in comparison to total labor hours.
7. Descriptions of procedures used by the recipient, subrecipients, developers and contractors to verify the eligibility of Section 3 workers and businesses.
8. Lists of Section 3 workers and businesses maintained by the recipient.
9. Evidence of outreach efforts to determine how Section 3 workers or businesses were targeted or recruited for employment, training, or contracting opportunities.
10. Lists of Section 3 business concerns that received contracts/subcontracts during the period under review. This information should include name of contractor, address, telephone number, email address, contract amount, date awarded, and services provided.
11. Lists of Section 3 workers or Targeted Section 3 workers employed by the recipient and its contractors during the period under review. This information should include the name of each low- or very low-income individual, address, telephone number, date hired, position, and status (employed, terminated, etc.).
12. Evidence that developers, contractors, or subcontractors notified local labor unions about their Section 3 obligations.
13. Evidence that developers, contractors, or subcontractors posted signs regarding job vacancies and subcontracting opportunities at the job site.
14. Recipient procedures for monitoring subrecipients, developers, contractors, and subcontractors for compliance.
15. Correspondence or other records from Section 3 workers and businesses regarding training, employment, or contracting opportunities to determine how those inquiries were addressed or resolved.

Noncompliance is triggered when a PHA or other funding recipient does not report timely or submits a report that does not demonstrate qualitative efforts or fails to show that required benchmarks were met. It could also be triggered by a lack of records retained during a remote or on-site monitoring review or by HUD's investigation of a complaint that shows a recipient did not meet requirements of the new rule.

Remedies for noncompliance. If, after written notice of noncompliance from HUD to a funding recipient of noncompliance, and following a time for remediation, the recipient does not come into compliance, HUD may take appropriate remedies or impose sanctions, consistent with the laws and regulations of the program relating to the violation. Remedies for noncompliance may include contract amendment, a procurement review threshold to ensure Section 3 requirements are adequately applied, or by requiring a corrective action plan that would lead the PHA to comply with Section 3 requirements.

IX. RECORDKEEPING

PHAs must follow recordkeeping requirements in accordance with the Section 3 final rule at 24 CFR section 75.31.²⁸ These Section 3 compliance recordkeeping requirements can be found at 24 CFR section 75.31(a) and (b) as follows (slightly reformatted, but regulatory text retained):

²⁸ Federal Register/Vol. 85/No. 189/9-29-2020/pp. 61566 and 61567

“(a) HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program by which the Section 3 project is governed, or the public housing financial assistance is provided or otherwise made available to the recipient, subrecipient, contractor, or subcontractor.

Documentation Verifying Section 3 and Targeted Section 3 Worker Qualifications

(b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

1. For Section 3 worker qualifications, one of the following must be maintained:

Worker Self-Certifications

- A worker’s self-certification that their income is below the income limit from the prior calendar year;
- A worker’s self-certification²⁹ of participation in a means-tested program such as public housing or Section 8- assisted housing;

PHA/Owner Certifications

- Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8- assisted housing that the worker is a participant in one of their programs;
- An employer’s certification that the worker’s income is below the income limit when based on an employer’s calculation of what the worker’s wage rate would be if annualized on a full-time basis; or
- An employer’s certification that the worker is employed by a Section 3 business concern.

2. For Targeted Section 3 worker qualifications under subpart B (Public Housing Financial Assistance), one of the following must be maintained:

Worker Self-Certifications

- A worker’s self-certification of participation in public housing or Section 8-assisted housing programs;
- A worker’s certification that the worker is a YouthBuild participant.

²⁹ See FPM Section 3 guidebook for sample self-certification form. [Section-3-and-Targeted-Section-3-Worker-Self-Certification-Sample-Form.docx \(live.com\)](#)

PHA/Owner Certifications

- Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8- assisted housing that the worker is a participant in one of their programs;
 - An employer's certification that the worker is employed by a Section 3 business concern; or
3. For Targeted Section 3 worker qualifications under subpart C (Housing and Community Development Financial Assistance), one of the following must be maintained:

Worker Self-Certifications

- A worker's self-certification that the worker is a YouthBuild participant.

Employer Certifications

- An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;
- An employer's certification that the worker is employed by a Section 3 business concern; or
- A worker's certification that the worker is a YouthBuild participant.”

Documentation must be maintained for as long as specified by record retention requirements in applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR Part 200.

A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when the certification as a Section 3 worker or Targeted Section 3 worker is established.

X. COMPLAINTS

Section 3 complaints alleging failure of compliance with 24 CFR Part 75 regarding public housing financial assistance must be submitted to the local HUD field office or directly to the responsible program office. Local offices can be found through the following link:

Public Housing Field Offices

When a complaint is received, staff in the appropriate field office will gather facts. If the facts indicate that a Section 3 violation may have occurred, the field office will notify the involved PHA, request a written response, and work with the PHA or other recipient toward a resolution. Field office staff must provide PIH's Section 3 Coordinator, in the Office of Field Operations (OFO), a copy of any complaints received. OFO will track complaints and outcomes.

XI. TRAINING

HUD's Office of Field Policy and Management has training materials which includes the differences between the previous rule (24 CFR Part 135) and current final rule (24 CFR Part 75). These materials are available online:

- [Section 3 FAQs](#)
- [Understanding Section 3 Training](#)
- [Section 3 Guidebook: Welcome - HUD Exchange](#)

Additional training material may be provided relating to the PHAs' responsibilities under the final rule, including data and documentation to ensure compliance.

XII. PAPERWORK REDUCTION ACT

The information collection requirements contained in this notice are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et. Seq.). In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. The active information collections contained in this notice, including 2577-0157 for the form HUD-5370 series are OMB-approved or pending under the PRA.

XIII. ADDITIONAL SECTION 3 INFORMATION

- [Section 3 Final Rule](#)
- [Section 3 Benchmark Notice](#)
- [Section 3 Program](#)
- [Section 3 Opportunity Portal](#)
- [Section 3 Business Registry](#)
- [Section 3 FAQs](#)
- [Understanding Section 3 Training](#)
- [HUD Income Limits](#)
- [NOFO Requirements 24 CFR Part 75.7, p. 61563](#)

Any questions concerning this notice should be directed to Hector D. Garza, (Hector.D.Garza@hud.gov), Program Analyst, HUD Office of Public and Indian Housing, Office of Policy, Program, and Legislative Initiatives.

_____/s/_____
Dominique Blom
General Deputy Assistant Secretary for
Public and Indian Housing

Sample Section 3 Contract Clause (“Section 3 Clause”)

Section 3 contract language must be customized depending upon the contract and the program. HUD provides this sample language but has determined that the PHA or Recipient is in the best position to determine what contract language is appropriate for each context. A *Section 3 Clause* needs to be included in all contracts subject to Section 3 of the Housing and Urban Development Act of 1937, as amended and 24 CFR Part 75. See especially regulatory contracting provision requirements in 24 CFR sections 75.9, 75.17 and 5.27, as applicable. Please note this sample may only be used for public housing contracts.

A. Authority. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3) and 24 CFR Part 75. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. Contracting, Contract Certification and Compliance. The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations. Specifically, contracts must be:

(1) Consistent with existing Federal, state, and local laws and regulations, PHAs and other recipients of public housing financial assistance, and their contractors and subcontractors, must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers.

(2) PHAs and other recipients, and their contractors and subcontractors, must make their best efforts in the following order of priority:

(a) To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;

(b) To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance;

(c) To YouthBuild programs; and

(d) To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

C. Notice. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the

contractor's commitments under this **Section 3 Clause** and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. Subcontracts. The contractor agrees to include this **Section 3 Clause** in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this **Section 3 Clause** upon finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

E. Employment and Training Opportunities. The contractor will certify that any vacant employment positions, including training positions, that are filled: after the contractor is selected but before the contract is executed, and with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

Specifically, the contract shall be consistent with existing Federal, State, and local laws and regulations. PHAs or other recipients receiving public housing financial assistance, as well as their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers. These best efforts must apply to the Section 3 workers in the following order of priority:

- (1) To residents of the public housing projects for which the public housing financial assistance is expended;
- (2) To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;
- (3) To participants in YouthBuild programs; and
- (4) To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

F. Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

HUNTINGTON Housing Authority

Section 3 Worker

Request Form

For: Businesses seeking to employ Section 3 Workers

(Businesses who are seeking to hire Section 3 Residents may use this form to give details of the position available, duration, pay rate and the qualification necessary to fill it. Please use one form per open title.)

Business Name _____

Contact Person & Title _____

Address _____ City _____ State _____ Zip _____

Phone(s) (____) _____ Fax (____) _____

Email address _____ Website _____

Business activity (i.e. masonry, painting, supplies etc.): _____

EIN# _____ or, Owner's Soc. # _____

Type of business entity: ☐ Corporation ☐ LLC ☐ Partnership ☐ LLP ☐ Joint Venture ☐ Sole Proprietorship ☐ Other

(Optional) Certifications: ☐ State ☐ City ☐ Minority / ☐ Women - Business Enterprise ☐ Other (specify) _____

Job Info

(Please fill all applicable blank spaces.)

Full Time ☐ Part Time ☐ Permanent ☐ Temporary ☐ Date(s) _____ - _____

If the position is temporary is there a possibility of it becoming permanent? Yes ☐ No ☐

If the position is part time is there a possibility of it becoming fulltime (32+ wkly) Yes ☐ No ☐

Pay Rate \$ _____ hourly. Is this the prevailing wage for this project? Yes ☐ No ☐ (If no please explain.) _____

Please describe the duties of the position? _____

What are the qualifications for the position? _____

(Please check box and/or describe below all certifications and/or licenses required for the position.)

HS Dip or GED ☐ NYSDL ☐ Lead ☐ OSHA ☐ Asbestos ☐ Other _____

Is position openly advertised? Yes ☐ No ☐ Where? _____ Dates _____ - _____

Signature _____ Company Official _____ Date _____

HUNTINGTON *Housing Authority*

(This contractor maintains nondiscriminatory hiring and employment practices and takes affirmative action to ensure that applicants are employed and that employees are placed, trained, upgraded, promoted, and otherwise treated during employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.)

HUNTINGTON Housing Authority

Employer's Attestation of Worker's Section 3/Targeted Section 3 Status (Pg.1)

A.) What is 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:

1. The worker's income for the previous or annualized calendar year is below the income limit established by HUD (\$49,800 Individual Low-income Syracuse MSA 2022)
2. The worker is employed by a Section 3 business concern: or
3. The worker is a YouthBuild participant.

B.) What is a Section 3 Targeted Worker?

A Section 3 targeted worker for public housing financial assistance projects is a Section 3 worker who:

1. Is employed by a Section 3 business concern: or
2. Currently fits, *or when hired within the past five years*, fit at least one of the following categories, as documented:
 - i. A resident of public housing or Section 8-assisted housing.
 - ii. A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
 - iii. A YouthBuild participant.

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 employer certification requirements listed in 24 CFR § 75.31. This form is to be filled out by a representative of an employer of a Section 3 worker.

Please provide the following information about the business/employer:

Name of Business'

Street Address

City

State

Zip

Phone #

Email:

Please provide the following information about the worker/employee:

Printed Name of Worker

Street Address (Not a PO Box) Apt#

City

State

Zip

HUNTINGTON Housing Authority

Phone # _____

Email _____

Employer's Attestation of Worker's Section 3/Targeted Section 3 Status (Pg.2)

Please indicate which of the following is true for the worker listed on page #1: (Select all that apply)

<input type="checkbox"/> Worker's income from your employment is below the income limit based on a calculation of what the worker's wage rate would translate to if annualized on a full-time basis*	Income limit \$49,800
<input type="checkbox"/> Worker is employed by a Section 3 Business Concern (Select if your business qualifies as a Section 3 Business Concern)	

*Currently or at the time of hire if hired within the past 5 years

<https://www.huduser.gov/portal/datasets/il/il2022/2022summary.odn> (List for Onondaga Co)

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct and certifies that the worker identified above meets the definition of a Section 3 worker. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802)

(Note: The authority may ask an employer to provide proving documents which may include but is not limited to; W-2s, tax returns, or other verification of the worker's income.)

Printed Name and Title of Officer

Signature

Date

For Section 3 businesses and workers who would like to certify on HUD Opportunity Portal in addition to using this form: <https://hudapps.hud.gov/OpportunityPortal/>

For official use only: Do not write beneath this line.

HUNTINGTON
Housing Authority

Approved By: _____
Print name Signature Date:

Notes:

Section 3 Overview

What is Section 3

- Section 3 refers to the provisions outlined in Section 3 of the HUD Act 1968. The new rules effective since Nov 30, 2020, can be found at **(24 CFR Part 75)**
- It ensures that economic opportunities, (training, employment and contracting) are *to the greatest extent feasible*, directed towards low very low-income persons on projects in their neighborhoods that are using HUD's funding.
- It gives hierarchical preference to low/very-low-income area-residents, and residents who receive governmental assistance for housing (**Section 3/Targeted Section 3 Workers**), and to the businesses that are owned by or substantially employ them, (**Section 3 Business Concerns**).

What is Section 3 Workers (25% work hours goal)

- Any worker who currently fits, or when hired within the past five years fit, at least one of the following categories, as documented:
 1. The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
 2. The worker is employed by a Section 3 Business Concern.
 3. The worker is a Youth Build Participant
 - Note: Youth build programs are located mostly downstate. There are however two in the Albany area, two in the Utica area, and one in Rochester and Buffalo each. As there is no Youth Build program in Syracuse, we look at the participants from other city/state run programs that are working to provide similar Youth Build outcomes, as Targeted Section 3 workers.

What is "Targeted" Section 3 Workers (5% work hours)

For Public Housing Financial Assistance.

- Any worker who:
 1. Is employed by a Section 3 Business Concern
 2. Currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - Resident of public housing or Section 8-assisted housing:
 - A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
 - A Youth build participant

Section 3 Overview

What is “Targeted” Section 3 Workers (5% work hours)

For *Housing and Community Development* projects. (Slightly different than public housing.)

- Any worker who:
 1. Is employed by a Section 3 Business Concern: or
 2. Currently fits, or when hired fit at least one of the following categories, as documented within the past five years:
 - Living withing the service area or the neighborhood of the project (within 1 mi radius having a population of 5,000 or residents, per US Census.)
 - Youth Build Participant

What is a Section 3 Business Concern

- A business that meets at least one of the following criteria, as documented within the past five years:
 1. Is at least 51% owned and controlled by a low or very low-income persons; or
 2. Over 75% of the labor hours performed for business over the prior three-month period are performed by Section 3 workers: or
 3. A business at least 51% owned and controlled by current housing residents or residents who currently live in Section 8 assisted housing.

How is Low/Very Low-income Determined

Section 3 Income limits are determined annually by HUD and are established at 80% and 50% of the area median income (AMI).

- A low income person earns less than 80% of the AMI
- A very low-income person earns less than 50% of the AMI

Income limits for your area can be found at: <https://www.huduser.gov/portal/datasets/il.html>

What entity is considered a Recipient of Section 3 Funding

- Any entity that receives public housing financial assistance or housing and community development assistance directly from HUD to fund Section 3 projects. It includes State and local government, instrumentality, PHA or other public/private agency or not for profit organizations. It does not include contractors, Section 3 business or workers.

Which recipient agencies or sources of funding triggers compliance requirements

- Community Development Block Grant (CDBG) • HOME Investment Partnership • Housing Trust Fund (HTF) • Neighborhood Stabilization Program Grants (NSP 1&2) • Housing Opportunities for Person with AIDS (HOPWA) • Emergency Solutions Grants (ESG) • University Partnership • Grants • Economic Stimulus Fund • 202/811 Grants • Lead Hazard Control Grants (100,00 threshold) • Healthy Homes Production Grants (100,000 threshold) • Rental Assistance Demonstration (RD) www.hud.gov/rad/

Section 3 Overview

What is considered a Section 3 Project (Detailed description is provided in the link 10-12)

- Housing rehab, construction and other public construction projects assisted under HUD programs that provide housing and community development assistance where funding assistance exceeds \$200,000.00; or \$100,000.00 for the various lead programs.
- The project is the entire site(s) including any building(s) on them that are under common, ownership, management and financing. This is regardless of whether HUD's programs are fully or partially providing funding.

Record Keeping for reporting

- Section 3 Recipients should be tracking hours worked by Section 3 workers
- Should be keeping documentation of outreach to recruit Section 3 workers and businesses
- Keep records of pre-bid meetings etc

Reporting requirements

- Currently HUD hasn't created a site for Recipients to report however all are responsible for keeping records of what you've done.
- Qualitative vs Quantitative

Best Practices

- Become familiar with Sec 3 rules • Provide tech assistance on Sec 3 rules and requirements • Engage in partnerships with local government to implement Sec 3 • Create Sec 3 action plan • Provide annual training for recipients/businesses • Implement certification process for Sec 3 Residents/Businesses • Give Sec 3 briefings at pre-bid meetings • Require Section 3 plan to be submitted with bids • Recruit Sec 3 residents • Make use of HUD's Section 3 Business Registry • Direct Hiring of Eligible residents and businesses

Section 3 Employer Certification Form-Public Housing	U.S. Department of Housing and Urban Development Office of Field Policy and Management	HUD FORM 4736B OMB Approval Number 2501-0041 (Exp. 04/30/2025)
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(In compliance with Section 3 of the HUD Act of 1968 and 24 CFR Part 75)

Public reporting for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information.

Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992 (Section 3), and 12 U.S.C. § 1701u 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- and very low-income persons, particularly those who receive government assistance for housing. The regulations are found at 24 CFR Part 75. This collection of information is required in order to ensure that a worker can be certified as an eligible Section 3 worker as outlined in 24 C.F.R. § 75.31. The information will be used by the Department to ensure compliance with Section 3 of the HUD Act of 1968 employer certification requirements listed in 24 CFR § 75.31, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients to ensure they are complying with their recordkeeping requirements found in the regulation, and as a self-monitoring tool.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2501-0041. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. No assurances of confidentiality are provided for this information collection.

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 employer certification requirements listed in 24 CFR § 75.31. This form is to be filled out by a representative of an employer of a Section 3 worker.

Please provide the following information about the business/employer:

Name of Business: _____

Street Address _____ City _____ State _____ Zip _____

Phone #: _____ Email: _____

Please provide the following information about the worker/employee:

Printed Name of Worker: _____

Street Address (*Not a PO Box*) _____ Apt# _____ City _____ State _____ Zip _____

Phone #: _____ Email: _____

Please indicate which of the following is true for the worker listed above: (Select all that apply)

<input type="checkbox"/> Worker's income from your employment is below the income limit based on a calculation of what the worker's wage rate would translate to if annualized on a full-time basis*	Income limit https://www.huduser.gov/portal/datasets/home-datasets/files/HOME_IncomeLmts_State_NY_2022.pdf
<input type="checkbox"/> Worker is employed by a Section 3 Business Concern (Select if your business qualifies as a Section 3 Business Concern)	

*Currently or at the time of hire if hired within the past 5 years

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct and certifies that the worker identified above meets the definition of a Section 3 worker. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802)

Signature

Date

Frequently Asked Questions (FAQs)

Section 3 of the Housing & Urban Development Act of 1968

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GENERAL QUESTIONS

1. What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

2. What does "To the Greatest Extent Feasible Mean?

By to the "Greatest Extent Feasible", the Department means the every effort must be made to comply with the regulatory requirements of Section 3. By this, the Department means that recipients of Section 3 covered financial assistance should make every effort within their disposal to meet the regulatory requirements. For instance, this may mean going a step beyond normal notification procedures for employment and contracting procedures by developing strategies that will specifically target Section 3 residents and businesses for these types of economic opportunities.

3. What does the term "Section 3 resident" mean?

A "section 3 resident" is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or non-metropolitan county where the Section 3 covered assistance is expended.

4. What does the term Section 3 Business Concern mean?

Section 3 business concerns are businesses that can provide evidence that they meet one of the following criteria:

- a) 51 percent or more owned by Section 3 residents; or
- b) At least 30 percent of its full time employees include persons that are currently Section 3 residents, or were Section 3 residents within three years of the date of first hire*; or
- c) Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to business concerns that meet one of the first two qualifications above.

*Example: Alysha was an unemployed Section 3 resident that was first hired by ABC Company on January 1, 2011. She received a raise of \$2,500 in March 2012, thereby boosting her household income above the local low income level. ABC Company may continue to count Alysha as one of their Section 3 employees until December 31, 2013 (i.e. within three years of the date of first hire).

5. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?

Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment, training, and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender.

To learn more about the Minority Business Enterprise and Women Business Enterprise programs, please contact HUD's Office of Small and Disadvantaged Business Utilization at 202-708-1428, or visit their website, located at: http://portal.hud.gov/portal/page/portal/HUD/program_offices/sdb.

6. How are "low-income" and very low-income determined?

Low- and very-low-household income limits are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the median income for each locality by household size or the number of people residing in one house. HUD income limits may be obtained from: <http://www.huduser.org/portal/datasets/il.html>

7. What are "metropolitan areas" and "non-metropolitan counties?"

Metropolitan area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget. A non-metropolitan county means any county outside of a metropolitan area.

A current list of MSAs can be found at:

<http://www.census.gov/population/www/metroareas/metrodef.html>

8. What is a “new hire”?

A new hire means a full-time employee for a new permanent, temporary, or seasonal position that is created as a direct result of the expenditure of Section 3 covered financial assistance.

9. Can laid-off workers that are “re-hired” as a result of a HUD-funded project considered new hires?

Yes. Any employee that was not on the payroll of a recipient, developer, or contractor on the day that Section 3 covered assistance was provided can be counted towards the Section 3 minimum numerical goal for employment.

10. What is a Section 3 covered project?

A Section 3 covered project involves the construction or rehabilitation of housing (including reduction of lead-based paint hazards), or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.

11. Who is considered a recipient of Section 3 funding?

A recipient is any entity which receives Section 3 covered assistance, directly from HUD or from another recipient (i.e., a PHA; unit of State or local government; property owner; developer; etc). It does not include contractors or any intended beneficiary under the HUD program to which Section 3 applies, such as a homeowner or a Section 3 resident.

12. Which recipient agencies (or sources of HUD financial assistance) are required to comply with Section 3?

Public Housing Authorities (PHAs) regardless of size or number of units are required to comply with Section 3. One exception is PHAs that only receive or administer tenant-based Housing Choice (Section 8) Vouchers and do not utilize any of the financial assistance described above. Although they are exempt, compliance with Section 3 is encouraged.

Section 3 also applies to recipients of more than \$200,000 from housing and community development programs. The following are a list of examples of such funds:

- Community Development Block Grant (CDBG)
- HOME Investment Partnership
- Neighborhood Stabilization Program Grants (NSP 1, 2 & 3)
- Economic Development Initiative (EDI)/Brownfield Economic Development Initiative Grants
- Housing Opportunities for Persons with AIDS (HOPWA)
- Homeless Assistance Grants (ESG)
- University Partnership Grants
- Economic Stimulus Funds (including CDBG-R and CFP Supplemental)
- 202/811 Grants
- Lead Hazard Control Grants

*Note: The requirements of Section 3 typically apply to recipients of HUD funds that will be used for housing construction, rehabilitation, or other public construction. Contact the Economic Opportunity Division at section3@hud.gov to determine applicability to a particular project/activity.

13. Can a non-profit organization be considered a "business concern" for the purposes of Section 3?

Yes. A non-profit organization can be a legitimate business concern. Non-profit organizations must meet the criteria of a Section 3 business concern as defined at 24 CFR Part 135.5 in order to receive Section 3 preference.

14. What is a Service Area?

The Service area is the geographical area in which the persons benefiting from the Section 3 covered project reside. The Service Area shall not extend beyond the unit of local government in which the Section 3 covered financial assistance is expended.

APPLICABILITY

15. What is Section 3 covered assistance?

Section 3 covered assistance includes:

- Public and Indian Housing Operating Subsidy; Capital Funds; or Modernization assistance; and
- Housing and community development assistance expended for housing rehabilitation, housing construction, or other public construction.

16. What are funding thresholds and how do they apply to Section 3 covered financial assistance?

Funding thresholds are minimum dollar amounts that trigger Section 3 requirements. There are no thresholds for public and Indian housing (PIH) programs. The requirements of Section 3 apply to all PIH programs regardless of the amount of assistance received from HUD.

The Section 3 requirements apply to recipients of Housing and/or Community Development Assistance exceeding \$200,000 combined from all sources in any one year. Section 3 covers the expenditure of any portion of those funds for any activity that involves housing construction, rehabilitation, or other public construction.

For example, a city **receives** \$600,000 for CDBG, \$150,000 in HOME Funding, and \$75,000 in NSP funding. This represents a total of \$825,000 in housing and community development assistance. As such, any construction or rehabilitation activities funded by the city using those funds is covered by Section 3.

17. Do the requirements of Section 3 apply to grantees on a "per project" basis?

No. Any agency that receives covered assistance that exceeds \$200,000 is required to comply with the requirements of Section 3 whenever any projects involving housing construction, rehabilitation, or other public construction are administered, regardless of the actual dollar amount of covered assistance that is invested into the individual project/activity.

18. If a project is funded with non-HUD assistance, do the requirements of Section 3 still apply?

Section 3 applies to projects that are fully or partially funded with HUD financial assistance. Projects that are financed with state, local or private matching or leveraged funds used in conjunction with HUD funds are covered by Section 3.

19. What dollar threshold amounts apply to contractors/subcontractors?

All contracts (or subcontracts) funded with Public and Indian Housing assistance, regardless of dollar amount or type of contract, is subject to the requirements of Section 3.

With respect to recipients of Housing and/or Community Development funding, all contractors or subcontractors that receive covered contracts in excess of \$100,000 for housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3.

20. What responsibilities do contractors/subcontractors have if they receive Section 3 covered contracts?

If the contractor/subcontractor has the need to hire new persons to complete the Section 3 covered contract or needs to subcontract portions of the work to another business, they are required to direct their newly created employment and/or subcontracting opportunities to Section 3 residents and business concerns. The same numerical goals apply to contractors and subcontractors (i.e., 30 percent of new hires, 10 percent of construction contracts, and 3 percent of non-construction contracts). In addition, the contractor/subcontractor must notify the recipient agency about their efforts to comply with Section 3 and submit any required documentation.

21. Do the Section 3 requirements apply to material only contracts?

No. Section 3 does not apply to material only contracts or those that do not require any labor. For example, a contract for office or janitorial supplies would not be covered by Section 3. In this example, Section 3 would be encouraged but not required. However, a contract to replace windows that includes the removal of existing windows and the installation of new windows would be covered.

22. Are maintenance projects covered by Section 3?

Yes, but only for PIH funded programs administered by Public Housing Authorities.

23. Does the reduction and abatement of lead-based paint hazards constitute housing rehabilitation?

Yes, reduction and abatement of lead-based paint hazards does constitute housing rehabilitation and is covered by Section 3.

24. Are demolition projects covered by the requirements of Section 3?

Yes. Recipients of Section 3 covered assistance should make efforts to award a minimum of ten percent of the total dollar amount of all demolition contracts to Section 3 businesses.

25. Are professional service contracts covered under Section 3?

Yes, the term "Section 3 covered contract" includes professional service contracts provided that the work to be performed is generated by the expenditure of Section 3 covered Public and Indian housing assistance, or for work arising in connection with projects involving housing rehabilitation, housing construction, or other public construction.

26. Does Section 3 apply to new hiring by a CDBG-Entitlement recipient?

Yes. If the recipient intends to use its HUD allocation to hire additional staff person(s) to perform work related to housing construction, rehabilitation, or other public construction, then the position(s) is covered by Section 3. However, if the local municipality uses a civil servant applicant process to hire new employees, compliance with the requirements of Section 3 may not be feasible.

27. Does Section 3 apply to new hiring by a Public Housing Authority?

Yes. Section 3 applies to all Public and Indian Housing capital, operating or development funds; therefore, new hiring done by the PHA (regardless of the position) is covered by Section 3.

28. For community development and other housing assistance, do the thresholds apply to the total amount of HUD assistance received or the amount of funds invested into Section 3 covered projects/activities?

The threshold applies to the total amount of HUD assistance received. Example: the City of Mountain View, receives \$210,000 through the State CDBG program. The funds will be used as follows:

- a. Housing rehabilitation- \$180,000;
- b. micro-enterprise revolving loan fund- \$20,000; and
- c. Fair housing counseling- \$10,000.

City of Mountain View is subject to Section 3 requirements because they received over \$200,000 in housing and community development funds. However, only the funds expended for Section 3 covered activities must comply with the requirements of Section 3. Therefore, the expenditure of the \$180,000 is covered by Section 3. The remaining \$30,000 that was used for fair housing counseling and a revolving loan fund is not covered by Section 3.

29. Are contracts cumulative for reaching the Section 3 threshold?

No. Contracts for Section 3 covered projects are not cumulative. The requirements of Section 3 apply to each individual contract that meets the thresholds.

For example, if a recipient agency awards 3 housing rehabilitation contracts (at \$36,000; \$50,000; and \$20,000 for a cumulative total of \$106,000) to one contractor for three different projects within a twelve month period, the contractor is not required to comply with the requirements of Section 3 because none of his contracts met the \$100,000 threshold. Accordingly, the responsibility for meeting the requirements of Section 3 would remain with the recipient agency that awarded the contracts.

CONSISTENCY WITH OTHER LAWS

30. Does Section 3 apply to other State/local laws?

Yes. Compliance with Section 3 shall be achieved, to the greatest extent feasible, consistent with local laws and regulations. Accordingly, recipients of Section 3 covered assistance are required to develop strategies for meeting both the regulatory requirements at 24 CFR Part 135 and any other applicable statutes or regulations.

31. What is the relationship between Section 3 and Davis Bacon requirements?

Compliance with Section 3 must be achieved consistent with the requirements of Davis-Bacon. Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a—276a-7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work.

32. What is the relationship between Section 3 and Minority Business Enterprises (MBEs)?

'Minority business enterprise' (MBE) means a business enterprise that is owned and controlled by one or more minority or socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or other similar causes.

Section 3 preferences are race and gender neutral. A minority and/or woman owned business enterprise must provide evidence that it meets at least one criterion of a Section 3 business outlined above in order to receive preference under Section 3. However, the Department anticipates that Section 3 will serve to support, and not impede, contract opportunities for minority business enterprises.

The MBE designation may provide preferences promoted by other statutes and regulations, such as goals for MBEs, and other socially and economically disadvantaged businesses. Additional information about the MBE program can be obtained by calling the HUD Office of Small and Disadvantaged Business Utilization at 202-708-1428.

RECIPIENT RESPONSIBILITIES

33. What are the responsibilities of recipient agencies under Section 3?

Recipients are required to ensure their own compliance and the compliance of their contractors/subcontractors with the Section 3 regulations, as outlined at 24 CFR § 135.32. These responsibilities include but may not be necessarily limited to the following.

- Designing and implementing procedures to comply with the requirements of Section 3 in order to comply with Section 3: Recipient agencies must take an **active role** in ensuring Section 3 compliance. The first step is designing or planning and implementing procedures to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3.
- Facilitating the training and employment of Section 3 residents: The recipient agency must act as a facilitator, connecting Section 3 residents to training and employment opportunities.
- Facilitating the award of contracts to Section 3 business concerns: The recipient agency must also work to link developers and contractors with capable Section 3 business concerns. Additionally, recipient agencies, when necessary, may direct Section 3 business concerns to organizations that provide capacity building training.
- Ensuring Contractor and Subcontractor Awareness of Section 3 Goals and Responsibilities: The recipient agency is responsible for ensuring that contractors and subcontractors are aware of, and in compliance with, Section 3 requirements.
- Ensuring Compliance and Meeting Numerical Goals: Recipient agencies shall ensure compliance with Section 3 by assessing the hiring and subcontracting needs of contractors; regularly monitoring contractor compliance; assisting and actively cooperating with the Secretary of HUD in obtaining the compliance of contractors; Penalizing non-compliance; Providing incentives for good performance; and Refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3.
- Reporting Requirements: Recipient agencies must document all actions taken to comply with the requirements of Section 3: Recipient agencies must submit a Section 3 Annual Summary Report (Form HUD-60002) for all covered

funding to the Office of Fair Housing and Equal Opportunity. Section 3 reports shall be submitted electronically online at: www.hud.gov/section3.

34. What are good strategies for targeting Section 3 residents and businesses?

In order to target Section 3 residents and businesses, recipients must establish and maintain an effective Section 3 program. HUD has found that hiring a Section 3 coordinator or assigning one individual the responsibility of coordinating all Section 3 related activities to be instrumental for reaching the employment and contracting goals.

It is recommended that recipient agencies establish procedures to certify Section 3 residents and Section 3 business concerns and incorporate some form of preference for employment and contracting opportunities. Thereafter, they should maintain a list of eligible residents and businesses by skill, capacity or interest and contact them on a periodic basis when employment and contracting opportunities are available. Refer to the Section 3 Regulations at 24 CFR Part 135.32 for a listing of responsibilities and the Appendix to the Section 3 regulations for additional examples of effective strategies.

35. Are funds provided to recipients so that they can comply with the requirements of Section 3?

No. Since Section 3 requirements are only triggered when the normal expenditure of covered funds results in employment, training, or contracting opportunities, there is no need for the Department to provide funds to meet the recipient responsibilities set forth in the regulation.

36. Does Section 3 require recipient agencies to create new (or unnecessary) training, employment, and contracting opportunities?

Recipient agencies are not required to create jobs or contracts for Section 3 residents and business concerns simply for the sake of creating them. Section 3 requires that **when** employment or contracting opportunities are generated because a project or activity undertaken by a recipient of covered HUD financial assistance necessitates the employment of additional personnel through individual hiring or the awarding of contracts, the recipient must give preference in hiring to low- and very low- income persons and/or businesses that are owned by these persons or that substantially employ them.

37. Are Section 3 residents or business concerns guaranteed employment or contracting opportunities under Section 3?

Section 3 is not an entitlement program, there are no guarantees. Residents and businesses must be able to demonstrate that they have the ability or capacity to perform the specific job or successfully complete the contract that they are seeking.

Section 3 requirements provide preference to Section 3 residents and business concerns, but not a guarantee.

38. Are recipients, developers, and contractors required to provide long-term employment opportunities, and not simply seasonal or temporary employment?

Recipients, developers, and contractors are required, to the extent feasible, to direct all employment opportunities to low- and very low-income persons- including seasonal and temporary employment opportunities. Employment goals are based on 'new hires,' which are defined as full-time employees for permanent, temporary or seasonal employment opportunities.

Recipients, developers, and contractors are encouraged to provide long-term employment.

39. When might a recipient agency be exempt from the requirements of Section 3?

Typically, the Department does not grant any exemptions or waivers related to Section 3.

40. Are recipients required to request developers or contractors to make payments into Section 3 training or implementation funds?

No. Recipients are not required to request noncompliant contractors make payments into a fund.

Providing employment, training, and subcontracting opportunities to Section 3 residents and businesses must be the primary goal of developers/contractors. However, such a fund can be used in very specific instances as a penalty for noncompliance.

SECTION 3 PREFERENCE

41. How can a prospective Section 3 resident or business certify that they meet the eligibility requirements?

The individual or business must contact the agency or developer that they are seeking employment or contracting opportunities from (i.e., the PHA, city, or local government). They should identify themselves as a Section 3 resident or business and provide whatever documentation that the recipient agency requires under their certification procedures.

42. Who is responsible for certifying that residents and businesses meet the regulatory definitions under Section 3?

The regulation allows recipient agencies to use their discretion for developing specific procedures to meet the requirements of Section 3. This includes establishing their own standards/processes for verifying eligibility of Section 3 residents and businesses (or not). Each recipient is also free to accept or reject the standards/process used by other recipients or pay for the services of a third party vendor to determine eligibility. While HUD does not endorse the services of private, third party vendors, recipient agencies may employ such services at their discretion.

43. What are examples of acceptable evidence to determine eligibility as a Section 3 resident?

HUD does not prescribe that any specific forms of evidence to establish Section 3 eligibility. Sample certification documents can be found on the [Section 3 website](#). Acceptable documentation includes, but is not limited to the following:

- Proof of residency in a public housing development;
- Evidence of participation in a HUD Youth build program operated in the metropolitan area (or non-metropolitan county) where the Section 3 covered assistance is spent;
- Evidence that the individual resides in the Section 3 area and is a low or very low-income person, as determined by local HUD income limits;

44. What are examples of acceptable evidence for determining eligibility as a Section 3 business?

HUD does not prescribe that any specific forms of evidence be required to establish Section 3 eligibility. Sample certification documents can be found on the [Section 3 website](#). The business seeking the preference must be able to demonstrate that they meet one of the following criteria:

- 51 percent or more owned by Section 3 residents; or
- Has permanent, full time employees at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- Has a commitment to sub-contract in excess of 25 percent of the total dollar award of all sub-contracts to be awarded to such businesses described above.

45. Are all public and Indian housing residents considered Section 3 residents regardless of their income?

Yes. Public and Indian housing residents need only show proof of residency in public housing within the metropolitan area (or non-metropolitan county). Other residents of the Section 3 area may need to show proof of residency in the metropolitan area (or non-metropolitan county) and meet the HUD income requirements.

46. Can recipient agencies allow residents or businesses to "self-certify" that they meet the Section 3 eligibility requirements?

As previously mentioned, the regulation allows recipient agencies to use their own discretion to develop specific procedures for meeting the requirements of Section 3. Many recipient agencies choose to allow prospective Section 3 residents or businesses to self-certify their eligibility. The Department recommends that any self-certification should include a statement of penalty for falsifying information.

47. Are Section 3 business concerns only certified to receive preference in the community in which they are located?

No. While certification is locality specific, recipient agencies can count a Section 3 business that is located outside of its immediate jurisdiction towards their efforts to meet the minimum numerical goals. However, recipient agencies should not provide preference to a Section 3 that is not located in their jurisdiction if a local Section 3 business has also submitted a qualified bid for a contract and can complete the work to be done. Refer to the order of priority preference for Section 3 contract opportunities at 24 CFR Part 135.36.

48. Does preference to a Section 3 business mean that the business should be selected if it meets the technical requirements of the bid, regardless of bid price?

No. As provided in 24 CFR 85.36(b) (8), contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. In order to meet the requirements of Section 3 and Federal Procurement laws, recipient agencies must develop procedures that are consistent with all applicable regulations.

49. Can contracting with MBE/WBE businesses count towards Section 3 contracting goals?

Section 3 is race and gender neutral. Only MBEs/WBEs that meet the eligibility criteria set forth in the regulation can they be counted towards the minimum goals for Section 3 contracting opportunities.

50. Does a business have to be incorporated to be considered a Section 3 eligible business?

A Section 3 business concern can be any type of business, such as a sole proprietorship, partnership or a corporation, properly licensed and meeting all legal requirements to perform the contract under consideration.

ECONOMIC OPPORTUNITIES/NUMERICAL GOALS

51. How can residents and businesses locate recipient agencies that are required to comply with Section 3 in their area?

To find local recipients agencies, Section 3 residents or businesses should contact their local HUD office. To find your closest office, visit: www.hud.gov/localoffices

52. How can I find Section 3 businesses in my area?

Contact local recipient agencies to find Section 3 business concerns in your area.

53. What types of new employment opportunities are covered by Section 3?

For public and Indian housing (PIH) programs, all employment opportunities generated by the expenditure of operating, capital, and modernization assistance, including management and administrative jobs, technical, professional, construction and maintenance jobs, at all levels.

For housing and community development programs, all employment opportunities arising in connection with housing rehabilitation (including reduction and abatement of lead-based paint hazards); housing construction; or other public construction, including management and administrative jobs, technical, professional, building trades and non-construction jobs, at all levels.

54. Are recipient agencies required to meet the Section 3 goals, or are they optional?

The Section 3 numerical goals are minimum targets that must be reached in order for the Department to consider a recipient in compliance. Recipient agencies are required to make best efforts to the greatest extent feasible, to achieve the annual numerical goals for employment and contracting. If an agency fails to fully meet the Section 3 numerical goals, they must adequately document the efforts taken to meet the numerical goals (see Question #2 for a discussion of "to the greatest extent feasible").

55. What are the Section 3 minimum numerical goals?

The minimum numerical goal for employment is thirty (30) percent of the aggregate number of new hires shall be Section 3 residents, annually- i.e., 3 out of 10 new employees needed to complete a Section 3 covered project/activity shall be Section 3 residents.

The minimum goals for contracting are:

- Ten (10) percent of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing or building trades work arising in connection with

housing rehabilitation, housing construction and other public construction, shall be awarded to Section 3 businesses; and

- Three (3) percent of the total dollar amount of all non-construction Section 3 covered contracts shall be awarded to Section 3 businesses

56. What is considered a Section 3 covered “non-construction” project?

Section 3 covered non-construction projects include maintenance contracts, including lawn care, re-painting, routine maintenance, HVAC servicing, and professional service contracts associated with construction (ex.: architectural, engineering, legal services, accounting, marketing, etc.).

57. What is considered “other” public construction?

Other public construction includes infrastructure work, such as extending water and sewage lines, sidewalk repairs, site preparation, installing conduits for utility services, etc.

58. Are the numerical goals the same as set-asides and quotas?

No. A set-aside guarantees that a specific portion of funds will be provided to a protected class. Section 3 goals are minimum numerical targets that a recipient of HUD Section 3 covered financial assistance must try to reach to attain compliance with Section 3.

59. What is the meaning of the “safe harbor” determination?

When a recipient agency or contractor meets the numerical goals, the recipient or contractor is considered to be in compliance with Section 3, absent evidence to the contrary (i.e., evidence or findings obtained from a Section 3 compliance review).

60. What should recipient agencies or contractors do if they fail to meet the minimum numerical goals set forth in the regulation?

Recipient agencies and their contractors must adequately document all efforts taken to comply with the requirements of Section 3, and explain why despite their efforts “to the greatest extent feasible”; the minimum numerical goals were not met.

The Department will take each agency’s explanation into consideration when making compliance determinations.

RECORDKEEPING AND REPORTING

61. What are the recordkeeping requirements of Section 3 recipient agencies?

Documentation of actions taken to comply with the employment, training and contracting requirements of Section 3, the results of actions taken and impediments encountered. Recipient agencies should maintain records of job vacancies, solicitation for bids or proposals, selection materials, and contract documents (including scope of work and contract amount), in accordance with Federal or State procurement laws and regulations. The documentation should demonstrate efforts taken towards the achievement of the Section 3 numerical goals.

62. Who is required to submit Section 3 reports?

Each direct recipient of Section 3 covered HUD financial assistance shall submit an annual report for the purpose of determining the effectiveness of Section 3. Section 3 summary reports, form HUD 60002, are required even if the recipient agency did not undertake any activities that triggered the requirements. Subrecipients, developers, and contractors should not submit Section 3 annual reports directly to the Department.

63. Where should Section 3 summary reports (Form HUD 60002) be submitted?

The Department has developed an online reporting system to allow grantees to submit Section 3 reports (form HUD 60002) directly to FHEO. Reports should be submitted online at: www.hud.gov/section3 from the Section 3 website.

64. After an agency submits its Section 3 report online, should a hard copy of the form also be submitted to HUD by fax, email, or mail?

No. Since the Department has an online reporting system, it is not necessary for agencies to submit hard copies (or paper copies) of reports to FHEO. The Department is making an effort to go "paperless" and wants to reduce paper submissions of Section 3 reports.

However, it is recommended that grantees retain a copy of their completed Section 3 reports on file and optionally submit them as an attachment to their annual performance report if applicable (CAPERS report for CDBG, HOME and ESG Programs).

65. Are contractors or developers required to submit Section 3 reports directly to HUD?

No. Contractors and/or developers should not submit Section 3 reports to HUD. Only direct recipients (agencies) are required to submit Section 3 reports to HUD. Contractors should maintain adequate documentation to demonstrate compliance

with Section 3 and forward information to the direct recipient (i.e., the agency that awarded them a covered contract) as directed or upon request.

66. Should recipient agencies establish a reporting system for their contractors and subcontractors?

Yes, reports compiled by contractors and subcontractors will assist the recipient agency in gathering the necessary data for submission to HUD.

67. When are Section 3 annual reports (Form HUD 60002) due?

Depending on the source of funding, annual reports should be submitted at one of three times:

- 1) At the time the recipient submits an annual performance report;
- 2) By January 10 of each year if no program annual performance report is required; or
- 3) Within ten (10) days of project completion, whichever is earlier.

- PHAs should submit form HUD60002 by January 10th.
- Grantees Awarded funding for Section 202/811 should submit form HUD 60002 by January 10th.
- Grantees Awarded funding for CDBG, HOME and/or ESG should submit form HUD 60002 at the same time they submit the CAPER report.
- Grantees Awarded funding for lead abatement activities should submit form HUD 60002 with their annual reports no later than September 30th.

68. Where can I find instructions for completing form HUD 60002?

Instructions for completing form HUD 60002 can be found on the Section 3 website at www.hud.gov/section3. Additional technical assistance for completing form HUD 60002 can be obtained by submitting an email request to: section3@hud.gov.

69. How can a recipient agency request a copy, make corrections, or delete its own Section 3 annual report?

The recipient agency should submit an email request to section3@hud.gov. Requests should contain the agency's name along with the year, grant number, and dollar amount of the report in question.

70. How can I obtain copies of 60002 reports for another local recipient agency?

Copies of 60002 reports for local recipient agencies for which you are not affiliated with can be obtained by completing and submitting a Freedom of Information Act (FOIA) request at: <http://www.hud.gov/offices/ogc/foia/foiarequests.cfm>.

71. Are agencies required to submit Form HUD 2516 to demonstrate compliance with Section 3?

No. Agencies are not required to submit Form HUD 2516 to demonstrate compliance with Section 3. In addition, while Form HUD 2516 does capture some Section 3 data, it is not sufficient to demonstrate overall compliance to the Department. The only form that should be submitted for Section 3 reporting requirements is form HUD 60002.

SECTION 3 COMPLAINTS

72. Who can file a complaint that alleges non-compliance with the requirements of Section 3?

Any Section 3 resident or Section 3 business (or authorized representative) seeking employment, training, or contracting opportunities generated by Section 3 covered assistance may file a complaint using form HUD 958.

73. Where should Section 3 complaints be submitted?

Effective November 2007, Section 3 complaints must be filed at the appropriate FHEO Regional Office where the violation occurred. Please visit www.hud.gov/offices/fheo to obtain the address and telephone number for FHEO regional offices.

74. Where can I find form HUD 958?

Copies of the Section 3 complaint form (HUD 958), filing instructions and mailing addresses may be obtained at: www.hud.gov/section3.

75. Is there a time limit for filing a Section 3 complaint?

Yes. Section 3 complaints must be filed no later than 180 days from the date of the action or omission upon which the complaint is based.

76. What happens during an investigation?

Once a timely complaint has been filed with the appropriate Regional Office, the Department will determine if the complainant has jurisdiction or is covered by Section 3 regulations. An investigator will be assigned the case and will notify the respondent about the complaint. The respondent has the option of resolving the complaint or

contesting it. If the respondent contests or denies the allegations of noncompliance contained in the complaint, the investigator will proceed to gather facts or evidence from both parties. Thereafter, the investigator will prepare a letter of findings and either make a determination of noncompliance or dismiss the complaint.

77. What happens if HUD determines a recipient is in noncompliance?

Pursuant to 24 CFR 135.76, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaint informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures concerning the imposition of sanctions or resolutions as set forth in the regulations governing the HUD program under which the Section 3 covered assistance is provided.

78. Can complainants appeal the initial decision made in a Section 3 complaint?

A complainant can submit a written appeal to the Assistant Secretary for Fair Housing and Equal Opportunity in Washington, DC within 15 days after the Regional Office makes its determination. Requests should be sent to:

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
451 Seventh Street, SW
Room 5100
Washington, DC 20410

79. Where else can I file complaints alleging denied employment and contracting opportunities?

If you are denied employment and/or contracting opportunities, you *may* have standing to bring a complaint at HUD under Title VI of the Civil Rights Act and/or Section 109 of the Housing and Community Development Act of 1974.

You may also be eligible to bring complaints under other federal laws. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about your rights, please contact EEOC at: www.EEOC.gov.

The Department of Labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained at: <http://www.dol.gov/ofccp/>