**SECTION 3 GUIDELINES**

**(FOR RECIPIENTS OF HUD HOUSING & COMMUNITY DEVELOPMENT FUNDING)**

**Why HUD Enforces Section 3?**

Each year the U.S. Department of Housing and Urban Development invests billions of federal dollars into distressed communities for projects that build and rehabilitate housing; improve roads and community centers; and help families achieve the American Dream.

The Section 3 regulation acknowledges that HUD funding typically results in projects/activities that generate new contracting, employment, and other economic opportunities that not only impact bricks and mortar, but also create a multiplier effect for local housing providers and businesses that provide goods and services.

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] represents HUD’s policy for providing preference for new employment, training, and contracting opportunities created from the usage of covered HUD funds to low- and very low-income residents of the community where certain funds are spent (regardless of race or gender), and the businesses that substantially employ these persons.

**Applicability of Section 3 to Housing and Community Development Assistance**

The requirements of Section 3 apply to recipients of HUD Housing and Community Development funding exceeding **$100,000**.

Section 3 does not apply on a “per-project” basis, whenever any portion of HUD funding is invested into projects involving **housing construction, demolition, rehabilitation, or other public construction (i.e., roads, sewers, community centers, etc.),** the requirements of Section 3 apply.

Further, contractors or subcontractors that receive contracts in excess of $100,000 for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as direct recipients. If the recipient agency receives Section 3 covered projects/activities, but no individual contract exceeds $100,000, the requirements of Section 3 only apply to the recipient. Accordingly, the recipient must attempt to meet the Section 3 minimum numerical goals found at 24 CFR Part 135.30 by awarding 10 percent of the total dollar amount of all covered construction contracts to Section 3 businesses.

**State and County agencies** that distribute covered funds to units of local government, nonprofit organizations, or other subrecipients, must attempt to reach the minimum numerical goals set forth at 24 CFR Part 135.30, regardless of the number of subrecipients that receive covered funding. The state or county must inform its subrecipients about the requirements of Section 3; assist them and their contractors with achieving compliance; and monitor their performance with respect to the objectives and requirements of Section 3.

**Some Types of Section 3 Covered Housing and Community Development Funding**

* + - * Community Development Block Grants (CDBG)
      * Home Investment Partnership Assistance
      * Housing Opportunities for Persons with Aids (HOPWA)
      * Economic Development Initiative (EDI)
      * Brownfield Economic Development Initiative (BEDI)
      * Emergency Shelter Grants
      * Homeless Assistance
      * University Partnership Grants
      * Neighborhood Stimulus Program (NSP)
      * Certain Grants Awarded Under HUD Notices of Funding Availability (NOFAs)
      * Section 202 Supportive Housing for the Elderly
      * Section 811 Supportive Housing for the Disabled
      * Project Based Section 8 Vouchers

**NOTE**: The requirements of Section 3 only apply to the portion(s) of covered funding that were used for project/activities involving housing construction, rehabilitation, demolition, or other public construction.

Section 3 applies to the **entire** covered project or activity regardless of whether the activity was fully or partially funded with covered assistance.

**Section 3 Purpose and New Rule**

Section 3 of the Housing and Urban Development Act of 1968 (codified at 12 U.S.C. 1701u and implemented at 24 CFR Part 75, hereinafter, "Section 3"), as amended, requires that economic opportunities, most importantly employment, generated by certain U.S. Department of Housing and Urban Development (“HUD”) financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, or residents of the community in which the Federal assistance is spent.

**Section 3 Covered Recipient Agencies**

“Recipient” refers to any entity that receives Section 3 covered financial assistance directly from HUD or from another recipient and includes, but is not limited to any of the following:

* + - * States; Units of Local Government; Native American Tribes; or other Public Bodies
      * Public or Private Nonprofit Organizations
      * Private Agencies or Institutions
      * Recipients do **NOT** include any ultimate beneficiary under the HUD program that Section 3 applies (i.e., residents or laborers); and does **NOT** refer to contractors.

**Recipient Responsibilities Pursuant to Section 3**

Each recipient (and their covered contractors, subcontractors, or subrecipients) are required to comply with the requirements of Section 3 for **new** employment, training, or contracting opportunities resulting from the expenditure of covered funding. This responsibility includes:

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;

2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;

3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];

4. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;

5. Assisting and actively cooperating with the Department in making contractors and subcontractors comply;

6. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations; 7. Documenting actions taken to comply with Section 3; and

8. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

**24 CFR Part 75: Section 3 New Rule**

* + - * 30% new hire requirement eliminated and replaced with 25% and 5% Labor Hour Benchmark Goals.
      * New definitions of Section 3 Residents (now referred to as Section 3 Workers), created a subcategory of Targeted Section 3 Workers
      * New definition of Section 3 Business Concerns
      * Section 3 Worker income qualifying criteria changed from household to individual income limits

**NEW DEFINITIONS - Section 3 Business Concerns Defined**

**Section 3 Business Concern** **Are One of the following**:

1. At least 51% owned and controlled by low or very low-income persons

2. Over 75% of labor hours performed for the business over the prior three-month period are performed by Section 3 workers

3. At least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing. (See the Section 3 Business Certification Form below)

**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:

* + - The worker’s income for the previous or annualized calendar year is below the income limit established by HUD whose income do not exceed the local income criteria of low- or very low-income;
    - The worker is employed by a Section 3 Business Concern;
    - Residents of Public and Indian Housing; or
    - The worker is a Youth Build participant

In accordance with the regulation, residents and businesses concerns seeking Section 3 preference shall certify, or submit evidence to the recipient, contractor, subcontractor or subrecipient (if requested) verifying that they meet the definitions provided above.

Recipients can use their discretion for determining the type of verification that is required by prospective Section 3 residents and business concerns. Some examples include: proof of residency in a public housing authority; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

**Targeted Section 3 Worker Defined**

**A Targeted Section 3 Worker for public housing financial assistance (PH**) means a Section 3 Worker who is:

1. A worker employed by a Section 3 Business Concern; or

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

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

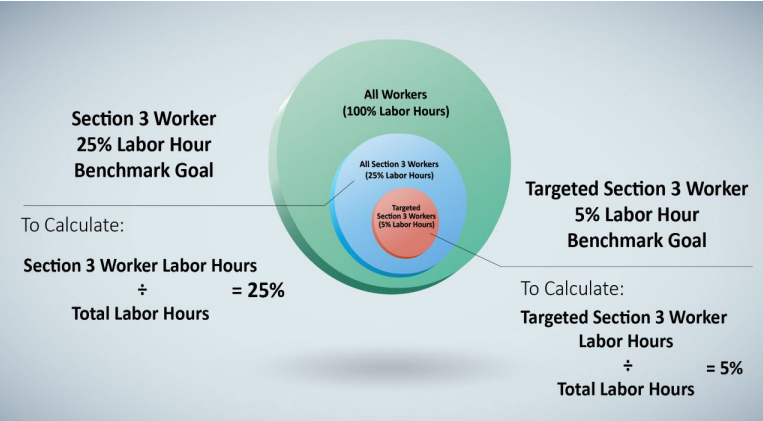
iii. A Youth Build participant.

**Labor Hour Benchmarks,**

**New Hires and Order of Hiring Priority**

♣ 25% or more of the total number of labor hours worked by all workers in the recipient’s fiscal year are Section 3 Workers and

♣ 5% or more of the total number of labor hours worked by all workers in the recipient’s fiscal year are Targeted Section 3 Workers

****

**New Hire Commitments and Hiring Priorities**

**New Hire Commitments:**

* + - If applicable, at the time of your bids/quotes you may be required to make new hire commitments.
    - These commitments will be memorialized in your Economic Opportunity Plan (EOP) and will be attached to the contract.

**Order of Hiring Priority for PH funded programs:**

**P1:** To residents of the public housing projects for which the public housing financial assistance is expended;

**P2:** To residents of other public housing projects managed by HACLA or for residents of Section 8-assisted housing managed by HACLA;

**P3**: To participants in Youth Build programs; and

**P4:** To low- and very low-income persons residing within the metropolitan area in which the assistance is expended.

**Good Faith Efforts (GFE) Examples**

Examples of Good Faith Efforts include, but are not limited to the following

(see 24 CFR Part 75.15 for more):

* + - Outreach efforts to identify Section 3 Workers and Targeted Section 3 Workers
    - Provided training or apprenticeship opportunities
    - Connected S3 Workers with job placement services, assisted with resume preparation, interview techniques, etc.
    - Held job fair, posted job openings at worksite, on HUD Opportunity Portal, notified HACLA of job openings and requested referrals from HACLA Database
    - Provided assistance to apply for or attend community college, vocational/technical school
    - Engaged in outreach to identify and contract with Section 3 Businesses
    - Engaged in outreach efforts to identify and secure bids from **Section 3 Business Concerns** and providing them technical assistance to bid on contracts
    - Providing **Section 3 Business Concerns** bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.

**Resources to Assist with GFEs and Numerical Goals**

In addition to vendor independent outreach efforts, HUD have developed the following resources:

Identifying Section 3 Workers / Targeted Section 3 Workers for hiring

A. HUD Section 3 Opportunity Portal ([**https://hudapps.hud.gov/OpportunityPortal/**](https://hudapps.hud.gov/OpportunityPortal/)**)**

B. Partnership with Local HUD Youth Build

Identifying Section 3 Businesses for subcontracting:

* HUD has its own Registry as well which can be accessed from the Opportunity Portal [**https://hudapps.hud.gov/OpportunityPortal/**](https://hudapps.hud.gov/OpportunityPortal/)

**Additional Section 3 Guidance and Technical Assistance**

The Economic Opportunity Division is committed to providing recipient’s guidance and technical assistance for compliance with the requirements of Section 3.

For additional information, please visit the Section 3 website at: **www.hud.gov/section3**. This webpage provides the following tools and information:

* + - Section 3 Statute—12 U.S.C. 1701u
    - Section 3 Regulation—24 CFR Part 135
    - Frequently Asked Questions
    - Section 3 Model Programs
    - Guidance on Section 3 and Economic Stimulus Funding
    - Guidance on Section 3 and the Neighborhood Stimulus Program (NSP)
    - Sample Section 3 Certification Forms (residents and business concerns)
    - Link to HUD’s Local Income Eligibility Calculator
    - Link to Section 3 Annual Reporting System (form HUD-60002)
    - Downloadable Forms
    - Contact Information for Economic Opportunity Division staff
    - Email inquiries on Section 3 can be sent to **section3@hud.gov**