

A graphic consisting of three vertical bars in green, brown, and orange, positioned to the left of the section title.

Section 3

7 Section 3

This subsection outlines the requirements and procedures to be followed to ensure that the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) — colloquially “Section 3” — are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are either grantees or subrecipients of government assistance for housing or residents of the community in which the federal assistance is spent.

Section 3 is not an entitlement program. Therefore, employment and contracts are not guaranteed. Low- and very low-income persons and Section 3 business concerns 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.

This subsection addresses the requirements outlined in 24 CFR Part 75 (the “final rule”), and subrecipients or contractors seeking any further guidance, clarification, or context regarding any topics covered in this subsection should refer to that specific regulation.

7.1 Applicability of Section 3

A **Section 3 project** is any project that involves housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total HUD-funded amount of assistance to the project exceeds a threshold of **\$200,000**. 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. Applicability is determined at the **project level**.

Additional considerations for public housing financial assistance regarding Section 3 applicability are provided in 24 CFR Part 75.3. Section 3 requirements do **not** apply to materials supply contracts (24 CFR Part 75.3(b)) or Indian and Tribal preferences (24 CFR Part 75.3(c)).

7.2 Other Requirements of Section 3

To the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, subrecipients must ensure that within the metropolitan area or nonmetropolitan county in which the project is located, employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers. Additionally, they must ensure that contracts for work awarded in connection with

Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers.

Once their respective plan has been fully developed, subrecipients should formally adopt the resulting Section 3 plan and maintain a signed copy within the project files.

7.2.1 Employment and Training

Where feasible, priority for opportunities and training should be given in the following order:

1. Section 3 workers residing within the service area or neighborhood of the project and employed by a Section 3 business concern
2. Participants in U.S. Department of Labor [YouthBuild programs](#)

7.2.2 Contracting Requirements

Where feasible, priority for contracting opportunities should be given in the following order:

1. Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or neighborhood of the project
2. YouthBuild programs

7.2.3 Labor Hours and Worker Categorizations

One of the principal features rolled out as part of the Section 3 final rule was that tracking and reporting would focus on labor hours rather than new hires. This change was designed to prioritize local employment and promote employee retention. As a result, subrecipients and contractors are expected to track and report the total number of **labor hours worked** by Section 3 workers, Targeted Section 3 workers, and all workers overall.

A **Section 3 worker** is an individual who currently (or at time of hire in the past 5 years) fits at least *one* of the following criteria: low- or very low-income as established by HUD's income limits, employed by a Section 3 business concern, or a YouthBuild participant.

A **Targeted Section 3 worker** is a Section 3 worker who meets any of the three criteria above, and additionally meets one of the two following criteria:

- Is employed by a Section 3 business concern
- Currently (or at the time of hire in the past 5 years) fits at least one of the following categories:

- Living within the service area or the neighborhood of the project
- A YouthBuild participant

To this end, the workers for a Section 3 project can be categorized or grouped in the following diagram:



7.2.4 Section 3 Measurement Ratios and Benchmarks

Contractors and subrecipients must attempt to reach the Section 3 benchmarks and targets as established by 24 CFR Part 75.23 (b)(3) and Federal Register Notice 2020-19183:

- Section 3 workers comprise 25% or more of the total number of labor hours worked by all workers on a Section 3 project:

$$\frac{\text{Section 3 labor hours}}{\text{Total labor hours}} = 25\% \quad \text{AND} \quad \frac{\text{Targeted Section 3 labor hours}}{\text{Total labor hours}} = 5\%$$

- Targeted Section 3 workers comprise 5% or more of the total number of labor hours worked by all workers on a Section 3 project, as defined at 24 CFR Part 75.21(a):

Without evidence to the contrary, subrecipients and contractors of covered funding will be considered compliant with Section 3 safe harbor (24 CFR Part 75.23) if the reported ratios meet the established benchmarks. Subrecipients that fail to meet the minimum numerical goals outlined above must report on the specific qualitative efforts to achieve them.

7.3 Section 3 Reporting

7.3.1 Section 3 Measurement Ratios and Benchmarks

Per 24 CFR Part 75.25(a), for Section 3 projects, the following metrics must be reported:

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

Eligibility of Labor Hours Reported: Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for 5 years from when their status as a Section 3 worker or Targeted Section 3 worker is established, per 24 CFR Part 75.25 (a)(2).

Inclusion of Hours Reported: The labor hours reported must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors, and subcontractors. The subrecipient or contractor may also elect to include any hours for professional services in the report (see below), per 24 CFR Part 75.25(a)(3).

Basis of Hours Reported: Subrecipients may report their own labor hours related to the Section 3 project based on a good faith assessment of the labor hours of a full-time or part-time employee that meets Section 3 worker qualifications based on the employer's existing salary or time- and attendance-based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting, per 24 CFR Part 75.25(a)(5).

Frequency of Reporting: Reports will be submitted to OHCS as part of project reporting. OHCS must provide these metrics to HUD through the Disaster Recovery Grants Reporting system when reporting on activity progress, at minimum annually or at the time of project completion, per 24 CFR Part 75.25(c).

Professional Services: Professional services contracts for non-construction services that require an advanced degree or professional licensing are not required to be reported as a part of total Section 3 labor hours.

However, subrecipients, contractors, and subcontractors may report labor hours from Section 3 workers and Targeted Section 3 workers¹ from professional services without

¹ Both Section 3 workers and Targeted Section 3 workers are used in the numerators of the benchmarking ratios shown in Section 7.2.4 of this chapter.

including professional services in the total labor hours² worked. This reporting structure is to give the subrecipient or contractor a bonus if they are able to report Section 3 hires in the professional services context.

It should also be noted that if a contract covers both professional services and other work and the subrecipient/contractor/subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported, per 24 CFR Part 75.25(a)(4).

7.3.2 Additional Reporting Requirements/Qualitative Effort

If the subrecipient's reporting indicates that the Section 3 benchmarks are not met, the subrecipient must report on the qualitative nature of its activities and those that its contractors and subcontractors pursued. Examples of such qualitative efforts include the following:

- **Applicant Outreach:** Engaging in outreach efforts to generate job applicants who are Targeted Section 3 workers
- **Training and Apprenticeship:** Providing training or apprenticeship opportunities
- **Employment Assistance:** Providing technical assistance to help Section 3 workers compete for jobs or connecting Section 3 workers with assistance in seeking employment. This includes drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- **Job Fairs:** Holding one or more job fair or sponsoring a job informational meeting in the service area/neighborhood of the project
- **Work Readiness and Retention:** Providing or referring Section 3 workers to services supporting work readiness and retention, such as work readiness activities, interview clothing, test fees, transportation, and childcare
- **Educational Assistance:** Providing assistance to apply for or attend community college, a 4-year educational institution, or vocational/technical training
- **Financial Literacy:** Assisting Section 3 workers to obtain financial literacy training and/or coaching
- **Business Concern Outreach:** Engaging in outreach efforts to identify and secure bids from Section 3 business concerns
- **Competition Assistance:** Providing technical assistance to help Section 3 business concerns understand and bid on contracts

² Professional services are excluded from the total labor hours worked in the denominator of the benchmarking ratios listed in Section 7.2.4 of this chapter.

- **Contract Sizing:** Sizing, splitting, or dividing contracts into smaller jobs to facilitate participation by Section 3 business concerns, particularly where economies of scale or efficiency of delivery are not factors, per 2 CFR Part 200.321(b)(3)
- **Bidder Viability Support:** Providing bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns
- **Business Registries:** Promoting the use of business registries designed to create opportunities for disadvantaged and small businesses
- **One-Stop Outreach:** Providing outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act of 2013

The above listing is not intended to be all inclusive. Subrecipients are encouraged to develop and tailor their specific qualitative efforts with the end goal of Section 3 benchmark achievement in mind. Clear, affirmative steps to achieve the established numerical goals must be taken and documented to adequately corroborate all efforts and attempts. Documented justifications should describe the efforts that were taken, such as barriers, roadblocks, or impediments encountered, and other relevant information that will enable OHCS to make the most accurate, informed compliance determination.

7.4 Section 3 Records

7.4.1 Recordkeeping Supporting Section 3 Worker Categorizations and Certifications

7.4.1.1 Workers

Subrecipients must maintain documentation or ensure that a contractor or subcontractor that employs any Section 3 worker maintains documentation to show that workers meet the definition of a Section 3 worker, or a Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

- **Section 3 Worker:** For a worker to qualify as a Section 3 worker, **one** of the following must be maintained:
 - **Self-Certification of Income:** A worker's self-certification that their income is below the income limit from the prior calendar year
 - **Self-Certification of Program Participation:** A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing

- **Program Management Certification of Program Participation:**
Certification from a public housing agency, 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
- **Employer Certification of Income:** An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis
- **Employer Certification of Section 3 Business Concern Employment:**
An employer's certification that the worker is employed by a Section 3 business concern
- **Targeted Section 3 Worker:** For a worker to qualify as a Targeted Section 3 worker, **one** of the following must be maintained:
 - **Employer Confirmation of Worker Residence:** An employer's confirmation that a worker's residence is within 1 mile of the work site or, if fewer than 5,000 people live within 1 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
 - **Employer Certification of Section 3 Business Concern Employment:**
An employer's certification that the worker is employed by a Section 3 business concern
 - **Self-Certification of YouthBuild Participation:** A worker's self-certification that the worker is a YouthBuild participant

Subrecipients and contractors may report on Section 3 workers and Targeted Section 3 workers for 5 years from when their certification as a Section 3 worker or Targeted Section 3 worker is established. The 5-year period for a worker cannot begin before Nov. 30, 2020. Therefore, Section 3 workers hired prior to Nov. 30, 2020, may be certified for a 5-year period beginning Nov. 30, 2020.

OHCS, subrecipients, contractors, and subcontractors have the express right to request any necessary evidence that would help substantiate an individual's claim to Section 3 status or certification. Examples of evidence to satisfy the above documentation requirements include evidence of receipt of federal housing assistance; evidence of receipt of other federal subsidies or participation in federal assistance programs; federal tax returns; or proof of residence in a neighborhood, ZIP code, census tract, or other area that has officially been identified by HUD.

7.4.1.2 Business Concerns

A **Section 3 business concern** is defined as a business concern that meets at least **one** of the following criteria, documented within the last 6-month period:

- It is at least 51% owned and controlled by low- or very low-income persons.
- Over 75% of the labor hours performed for the business over the prior 3-month period are performed by Section 3 workers.
- It is a business at least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-Assisted housing. Subrecipients, contractors, and subcontractors have the express right to request any necessary evidence that would help substantiate a business concern's claim to Section 3 status or certification.

Examples of evidence to satisfy the above documentation requirements may include federal tax returns for workers, owners, or businesses; payroll data; employee statements of self-certification; articles of business organization; ownership or incorporation; partnership or operating agreements; or evidence that owners or employees received housing or other federal subsidies.

Section 3 standards are both race and gender-neutral. A women's business enterprise (WBE) and/or minority business enterprise (MBE) must provide evidence that it meets at least one criterion of a Section 3 business concern as outlined above to receive preference under Section 3. More information regarding WBE or MBE programs can be found through HUD's Office of Small and Disadvantaged Business Utilization: hud.gov/program_offices/sdb.

The documentation outlined in this subsection must be maintained for the time required for records retention in accordance with applicable program regulations and 24 CFR Part 200. For further guidance regarding Section 3 recordkeeping — including additional considerations specific to public housing agencies — see 24 CFR Part 75.31.

7.5 Section 3 Contracting Requirements

7.5.1 Contract Provisions

Per 24 CFR Part 75.27, OHCS must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project. Additionally, CDBG-DR subrecipients with projects where Section 3 applies must also require contractors and subcontractors to meet the overall requirements regardless of whether Section 3 language is included in the subrecipient agreements, program regulatory agreements, or contracts.

7.5.2 Contract and Subcontracting Strategies

The following examples are provided to help subrecipients ensure that the contracting objectives of Section 3 are met and the established Section 3 benchmarks are achieved. These methods and strategies can be undertaken to assist in reaching Section 3 workers and Section 3 business concerns for contracting opportunities and when utilized effectively, can supplement some of the qualitative efforts outlined in the Additional Quality Efforts section above. This list should not be considered all inclusive. For additional information regarding contracting, see Chapter 5 Procurement.

- **Small Purchase Procurement:** The use of small purchase procedures such as soliciting quotations from a minimum of three qualified sources (contract may not exceed the simplified acquisition threshold). At the time of solicitation, inform the parties of the Section 3 covered contract to be awarded. Include enough detail, the deadline for quotes, and the information required. A valid attempt to obtain at least three quotes from qualified sources must be made and documented.
- **Section 3 Compliance History:** In determining the responsibility of potential contractors, consider their past records of Section 3 compliance and their current plans for the pending contract.
- **Contractors Associations and Community Organizations:** Utilize minority contractor associations and community organizations to assist in identifying Section 3 businesses as potential bidders.
- **Housing Development Publicity:** Advertise contracting opportunities by posting notices concerning the work to be contracted in shared areas of housing developments.
- **Formalized Notices:** Provide written notice to all known Section 3 business concerns of the contracting opportunities.
- **Maintain Contact:** Follow up with Section 3 business concerns that have expressed interest in the contracting opportunities by personal contact to provide additional information.
- **Pre-Bid Meetings:** Coordinate pre-bid meetings to inform Section 3 business concerns of the upcoming contracting opportunities.
- **Section 3 Workshops:** Provide workshops on contracting procedures and specific contract opportunities in a timely manner so that Section 3 business concerns can take advantage of upcoming contracting opportunities.
- **Assisting With Barriers to Entry:** Advise Section 3 business concerns where to find assistance with limitations such as inability to obtain bonding, lines of credit, financing, or insurance.

- **Bidding Facilitation:** Arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of Section 3 business concerns.
- **Contract Sizing:** Break out contract work items into economically feasible units to facilitate the participation of Section 3 business concerns.
- **YouthBuild Programs:** Contact agencies administering HUD YouthBuild programs and notify them of the contracting opportunities.
- **Advertisement/Publication:** Advertise contracting opportunities through trade association papers and local media such as television, newspapers, radio, and websites.
- **Business Concern Listing:** Develop and maintain a list of eligible Section 3 business concerns.
- **Advance Goal Setting:** Establish concrete numerical goals (dollar amounts and number of awards) for contracts to Section 3 business concerns.