



SECTION 3

LABOR COMPLIANCE PLAN

&

GUIDELINES

24 CFR PART 75

COMMUNITY DEVELOPMENT DEPARTMENT
December 2021

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I. Overview of Section 3 Requirements

A. What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) that is regulated by the provisions of 24 CFR 75. Section 3 regulations 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.

B. Purpose of the Section 3 Plan

This plan outlines how the City of Huntington Beach (City) and its subrecipients, contractors and subcontractors will comply with HUD's Section 3 requirements in implementing Huntington Beach's CDBG and HOME programs. The City of Huntington Beach will, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low- and very low-income persons (Section 3 Workers and Targeted Section 3 Workers) and to eligible businesses (Section 3 Businesses) and requires the same of its contractors.

The City of Huntington Beach Community Development Director may approve an amendment to the Section 3 Labor Compliance Plan and Guidelines ("Section 3 Plan") document as necessary when amending the plan is simply to ensure continued compliance with HUD's requirements and/or to reflect updated Section 3 guidance and outreach strategies.

C. Applicability

For public housing financial assistance, all funding is covered, regardless of the amount of expenditure or size of a contract. This plan applies to development assistance, operating funds, capital funds, and all mixed-finance development.

For housing and community development financial assistance, this plan applies to housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more HUD programs. Applicability is determined at the project level.

For projects funded with Lead and Hazard Control and Healthy Homes Programs, this plan applies to projects that exceed \$100,000.

This plan also applies to projects that include multiple funding sources. Multiple funding source projects include projects funded with public housing financial assistance, housing and community development financial assistance for single or multiple recipients, and the Lead Hazard Control and Healthy Homes Program.

Section 3 requirements **do not** apply to: 1) Material Supply Contracts - § 75.3(b), 2) Indian and Tribal Preferences - § 75.3(c), or 3) Other HUD assistance and other Federal assistance not subject to Section 3 §75.3 (d). However, for financial assistance that is not subject to Section 3, recipients are encouraged to consider ways to support the purpose of Section 3.

II. Section 3 Coordinator

The City of Huntington Beach's Section 3 Coordinator serves as the central point of contact for Section 3 compliance for the City and its subrecipients, contractors, and subcontractors supporting the program. Subrecipients, contractors, subcontractors and others are encouraged to reach out to Huntington Beach's Section 3 Coordinator, with questions regarding Section 3 compliance:

Charles Kovac
Housing Manager/Section 3 Coordinator
Community Development Department
City of Huntington Beach
(714) 374-1519
Charles.Kovac@surfcity-hb.org

III. Employment, Training, and Contracting Goals

A. Safe Harbor Compliance

The City of Huntington Beach will be considered to have complied with the Section 3 requirements and met safe harbor, if they certify that they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary.

Prior to the beginning of work, contractors, and subcontractors will be required to certify that they will follow the required prioritization of effort for Section 3 Workers, Targeted Section 3 Workers, and Section 3 business concerns as outlined below in [section C](#). After completion of the project, on the Section 3 Cumulative Compliance Report, contractors and subcontractors will be required to certify that they followed the prioritization of effort requirements.

If the contractor and subcontractor does not meet the safe harbor requirements, they must provide evidence that they have made qualitative efforts to assist low and very low-income persons with employment and training opportunities.

B. Safe Harbor Benchmarks

The City of Huntington Beach has established employment and training goals that subrecipients, contractors, and subcontractors should meet in order to comply with Section 3 requirements

outlined in 24 CFR Part 75.19 for housing and community development financial assistance. The safe harbor benchmark goals are as follows:

1. Twenty-five percent (25%) or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 Workers.

$$\frac{\text{Section 3 Labor Hours}}{\text{Total Labor Hours}} = 25\%$$

- And -

2. Five percent (5%) or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 Workers, as defined at 24 CFR Part 75.21.

$$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} = 5\%$$

HUD establishes and updates Section 3 benchmarks for Section 3 Workers and/or Targeted Section 3 Workers through a document published in the Federal Register, not less frequently than once every 3 years. Given that the Section 3 benchmarks are subject to change every three years or sooner, the City will review and update the Section 3 Plan every 3 years, as needed.

It is the responsibility of contractors to implement efforts to achieve Section 3 compliance. Any contractor that does not meet the Section 3 benchmarks must demonstrate why meeting the benchmarks were not feasible. All contractors submitting bids or proposals to the City of Huntington Beach are required to certify that they will comply with the requirements of Section 3.

C. Certification of Prioritization of Effort for Employment, Training, and Contracting

Employment and Training

Under the City's Section 3 Program, contractors and subcontractors should make best efforts to provide employment and training opportunities to [Section 3 Workers](#) in the priority order listed below:

1. Section 3 workers residing within the service area or the neighborhood of the project, and
2. Participants in YouthBuild programs.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning of work and after work is completed.

Contracting

Under the City's Section 3 Program, contractors, and subcontractors must make their best efforts to award contracts and subcontracts to [Section 3 Business Concerns](#) that provide economic opportunities to Section 3 Workers residing within the metropolitan area (or non-metropolitan county) in which assistance is located in the following order of priority (*where feasible*):

1. Section 3 Business Concerns that provide economic opportunities to Section 3 Workers residing within the service area or the neighborhood of the project; and
2. YouthBuild programs.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning of work and after work is completed.

IV. Section 3 Eligibility and Certifications

Individuals and businesses that meet Section 3 criteria may seek Section 3 preference from the City of Huntington Beach or its contractors/subcontractors for training, employment, or contracting opportunities generated by CDBG and/or HOME financial assistance. To qualify as a Section 3 Worker, Targeted Section 3 Worker, or a Section 3 Business Concern, each must self-certify that they meet the applicable criteria.

Businesses who misrepresent themselves as Section 3 Business Concerns and report false information to the City of Huntington Beach may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities.

A. Section 3 Worker and Targeted Section 3 Worker Certification

A Section 3 Worker seeking certification shall submit self-certification documentation, see [Appendix C](#), to the recipient contractor or subcontractor, that the person is a Section 3 Worker or Targeted Section 3 Worker as defined in 24 CFR Part 75. For the purposes of Section 3 Worker eligibility, the City will use individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published at

<https://www.hudexchange.info/resource/5334/cdbg-income-limits/> .

Persons seeking the **Section 3 Worker preference** shall demonstrate that it meets one or more of the following criteria currently or when hired within the past five years, as documented:

1. A low or very low-income resident (the worker's income for the previous or annualized calendaryear is below the income limit established by HUD); or
2. Employed by a Section 3 business concern; or
3. A YouthBuild participant.

Persons seeking the **Targeted Section 3 Worker preference** shall demonstrate that it meets one or moreof the following criteria:

1. Employed by a Section 3 Business Concern or
2. Currently meets or when hired met at least one of the following categories as documented withinthe past five years:
 - a. Living within the service area or the neighborhood of the project, as defined in 24 CFRPart 75.5; or
 - b. A YouthBuild participant.

Section 3 Workers and Targeted Section 3 Workers who are seeking preference in training and employment may also submit the *Section 3 Worker and Targeted Section 3 Worker Certification Form*, ([Appendix C](#)), to the Huntington Beach Section 3 Coordinator. The Certification form can be found online at www.surfcity-hb.org. Completed Certification forms will be retained by the Section 3 Coordinator in a Section 3 Worker/Targeted Section 3 Worker database and provide the contractor with a list of interested and qualified Section 3 Workers and Targeted Section 3 Workers and contact information.

B. Projects Involving Multiple Sources of Funding

In cases where Section 3 covered projects include multiple sources of funds, including public housing financial assistance and housing and community development assistance, the applicable PHA will follow the definition of Targeted Section 3 Worker and priorities as outlined in subpart B of Part 75. For housing andcommunity development financial assistance, the City of Huntington Beach will also follow subpart B of Part 75.

In cases where Section 3 covered projects include multiple housing and development funding sources (financial assistance) from single or multiple recipients, the City of Huntington Beach will follow subpart C of Part 75. Refer to chart in [Appendix B](#).

C. Section 3 Business Concern Certification

The City of Huntington Beach should encourage contractors and subcontractors to make best efforts to award contracts and subcontracts to Section 3 Business Concerns.

Businesses that believe they meet the Section 3 Business requirements may self-register in the HUD Business registry, here: <http://www.hud.gov/Sec3Biz>. Businesses may seek Section 3 Business Concern preference by demonstrating that it meets one or more of the following criteria:

1. At least 51 percent of the business is owned and controlled by low- or very low-income persons; or
2. At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
3. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 Workers.

Businesses that seek Section 3 preference shall certify, or demonstrate to the City of Huntington Beach, contractors, or subcontractors, that they meet the definitions provided in the above. Businesses may demonstrate eligibility by submitting the *Section 3 Business Concern Certification Form*, located in [Appendix D](#) at the time of bid/proposal, along with a *HUD Section 3 Affidavit*, found in [Appendix E](#). If the City of Huntington Beach previously approved the Business Concern to be Section 3 certified, then the certification can be submitted along with the bid, as long as the form is submitted within the prescribed expiration date. The Section 3 Business Concern Certification Form will expire after 6 (six) months. Establishing a 6-month certification of eligibility period allows the City the ability to assess contractor performance to ensure the business is striving to meet the required goals.

V. Assisting Contractors with Achieving Section 3 Goals

In an effort to assist contractors with meeting or exceeding the Section 3 goals, the City of Huntington Beach will do the following:

1. Share Section 3 Labor Compliance Plan and Guidelines with contractors and subcontractors and explain policies and procedures.
2. Require contractors wishing to submit a bid/offer/proposal to attend pre-bid meeting.
3. Require contractor to sign the *Section 3 Plan Affidavit* at the pre-construction conference. The Affidavit, found in [Appendix E](#), must be completed by the prime Contractor and submitted with the bid documents. Additional Affidavits must also be completed and submitted by all subcontractors prior to issuance of the Notice to Proceed.

4. Review Section 3 benchmarks and prioritization of effort with contractors and subcontractors to ensure that the goals are understood. It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to meet Section 3 benchmark goals by utilizing existing qualified workforce and by considering qualified eligible Section 3 Workers and Targeted Section 3 Workers (per the prioritization of effort outlined in Section III) before any other person, when hiring additional employees is needed to complete proposed work to be performed with HOME of CDBG funds.
5. At the time of bid, require the contractor to present a list of the number of total labor hours, Section 3 Worker labor hours, and Targeted Section 3 Worker labor hours expected to be generated from the initial contract and a list of projected number of available positions, to include job descriptions and wage rates.
6. Maintain a local Section 3 Worker/Targeted Section 3 Worker database and provide the contractor with a list of interested and qualified Section 3 Workers and Targeted Section 3 Workers and contact information.
7. Inform contractors about the HUD Section 3 Opportunity Portal <https://hudapps.hud.gov/OpportunityPortal/>
8. Require contractors to notify Section 3 Coordinator of their interests regarding employment of Section 3 workers prior to hiring.
9. Encourage local businesses to register on the HUD Business Registry and direct Contractors to the HUD Section 3 Business Registry <https://www.hud.gov/section3businessregistry>
10. Leverage Huntington Beach's communication outlets (social media, website, etc.) to effectively communicate employment and contracting opportunities that arise.
11. Require contractors to submit a list of core employees (including administrative, clerical, planning and other positions pertinent to the construction trades) at the time of contract award.

VI. Section 3 Outreach

A. Outreach Efforts for Employment and Training

In order to educate and inform workers and contractors, Huntington Beach's Section 3 Coordinator will be prepared to provide training and technical assistance on a regular basis per program guidelines. When training opportunities are available, contractors and subcontractors should, to the greatest extent feasible:

1. Notify the Section 3 Coordinator when training opportunities are available.

2. Provide information/handouts about Section 3 training opportunities to potential Section 3 Workers and Targeted Section 3 Workers.
3. Conduct an annual training for Section 3 Workers and Section 3 Business Concerns.

Contractors and subcontractors should employ several active strategies to notify Section 3 Workers and Targeted Section 3 Workers of Section 3 job opportunities, including:

1. Clearly indicating Section 3 eligibility on all job postings with the following statement: “This job is a Section 3 eligible job opportunity. We encourage applications from individuals that are low income and/or live in Public Housing and/or receive a Section 8 voucher.”
2. Attaching the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings.
3. Working with the Section 3 Coordinator to connect Section 3 Worker and Targeted Section 3 Workers in the Huntington Beach database with opportunities and/or utilize the Section 3 Opportunity Portal to find qualified candidates.
4. Establishing a current list of Section 3 eligible applicants.
5. Contacting local community organizations and provide them with job postings for Section 3 eligible applicants.
6. Coordinating a programmatic ad campaign, which results in widespread job posting across diverse ad networks including:
 - a. Advertising job opportunities via social media, including LinkedIn and Facebook.
 - b. Advertising job opportunities via flyer distributions and mass mailings and posting ads in common areas of housing developments and all public housing management offices.
 - c. Contacting resident councils, resident management corporations, and neighborhood community organizations to request their assistance in notifying residents of available training and employment opportunities
7. All efforts to notify and employ Section 3 workers and Targeted Section 3 workers of job opportunities should be documented on the *Section 3 Worker and Targeted Section 3 Worker Outreach Log* in [Appendix F](#).

B. Outreach Efforts for Contracting

When contracting opportunities arise in connection with the HOME or CDBG program, the City of Huntington Beach will employ the following strategies to notify Section 3 Business Concerns of Section 3 contracting opportunities, including but not limited to:

1. Adding Section 3 language to all RFPs, procurement documents, bid offerings and contracts.
2. Coordinating mandatory pre-bid meetings to inform Section 3 Business Concerns of upcoming contracting opportunities. The Section 3 Coordinator will participate in these meetings to explain and answer questions related to Section 3 policy.
3. Advertising contracting opportunities in local community papers and notices that provide general information about the work to be contracted and where to obtain additional information.
4. Providing written notice of contracting opportunities to all known Section 3 Business Concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to bid invitations.
5. Coordinating with the prime contractor to publicize contracting opportunities for small businesses.
6. Coordinating with the City of Huntington Beach Community Enhancement Division (Housing) and all other business assistance agencies and contractor associations to inform them of contracting opportunities and request their assistance in identifying Section 3 business concerns. Could include local community development organizations, business development agencies (Chamber of Commerce), and minority contracting associations.
7. Connecting Section 3 business concerns with resources to support business development to assist in obtaining contracting opportunities (e.g., bonding and insurance assistance, etc.). Contractors will also be encouraged to collaborate with the City of Huntington Beach as subcontract opportunities arise in an effort to notify eligible Section 3 business concerns about the contracting opportunities.

VII. Section 3 Contracting Policy and Procedure

The City of Huntington Beach will incorporate Section 3 in its existing Procurement Policy and may adopt a Section 3 Contracting Policy and Procedure to be included in all procurements generated for use with HUD funding. This policy and procedure will contain requirements for making efforts to award contracts to Section 3 Business Concerns.

All contractors/businesses seeking Section 3 preference must, before submitting bids/proposals to the City of Huntington Beach, be required to complete certifications, as appropriate. Such certifications shall be adequately supported with appropriate documentation as referenced in the

VIII. Section 3 Provisions/Contract Language

The City of Huntington Beach will include standard Section 3 language in all of its contracts to ensure compliance with regulations in 24 CFR Part 75. The City will take appropriate actions upon finding that a contractor is in violation of 24 CFR Part 75 and does not knowingly contract with any contractor that has been found in violation of the Section 3 regulations. On a periodic basis the Section 3 Coordinator will audit Huntington Beach's contractors for compliance with the minimum Section 3 requirements outlined in the Section 3 Labor Compliance Plan & Guidelines.

In addition, contractors and subrecipients are required to include language in all Section 3 covered contracts or agreements for subcontractors to meet the requirements of 24 CFR Part 75.19 for housing and community development financial assistance (HOME or CDBG).

The prime contractor and all subcontractors will also be required to sign the *HUD Section 3 Compliance Certification* in [Appendix H](#), which certifies that all Section 3 covered contracts will include the HUD Section 3 clause. The *HUD Section 3 Compliance Certification* must be signed prior to the notice to proceed.

For businesses, noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions including suspension or withholding of contractor payments, termination of the contract for default, and debarment or suspension from future HUD assisted contracts.

IX. Reporting Requirements

A. Contractor Compliance Requirements

During construction, the contractor shall do the following:

1. The contractor shall, to the greatest extent possible, employ Section 3 Workers for a minimum of twenty-five percent (25%) of the total number of labor hours worked by all workers on a Section 3 project. Contractor shall also employ Targeted Section 3 Workers for a minimum of five percent (5%) of the total labor hours worked by all workers. The five percent (5%) is included as part of the twenty-five percent (25%) threshold.

If the contractor fails to meet these work hour requirements, the contractor will be subject to sanctions including suspension or withholding of contractor payments (see section [X. Effects of Noncompliance](#) below), termination of the contract for default, and debarment or suspension from future HUD assisted contracts. To avoid imposition of such sanctions, the contractor must demonstrate that it utilized its best efforts to achieve the Section 3 employment and contracting goals. The contractor may demonstrate best efforts by

detailing all efforts made to hire Section 3 Workers and Targeted Section 3 Workers on the *Section 3 and Targeted Section 3 Worker Outreach Log* in [Appendix F](#) or to contract with Section 3 Business Concerns on the *Section 3 Business Outreach Log* in [Appendix G](#).

2. The contractor shall submit the following documentation to the Huntington Beach Section 3 Coordinator at a date and time to be specified.
 - An executed *HUD Section 3 Compliance Certificate* ([Appendix H](#)). This document is to be submitted prior to issuance of Notice to Proceed and becomes a part of the contractor's contract with the City and required for each subcontractor. Must be completed by all contractors prior to the issuance of Notice to Proceed.
 - A *Section 3 Worker and Targeted Section 3 Worker Self-Certification Form* ([Appendix C](#)) for each employee working onsite for the prime contractor and each listed subcontractor. The form shall include the employee's name, address and individual income limit. This form will be used to determine if the employee is or qualifies as a Section 3 Worker or Targeted Section 3 Worker, or in situations of subcontractors, whether they qualify as a Section 3 Business Concern.
3. Post public notices announcing HUD Section 3 Job and Contracting/Business Opportunities. The contractor shall post these notices at the jobsite.
4. With each monthly invoice for payment, the contractor shall provide to the Section 3 Coordinator or designee, by the fifteenth (15th) calendar day of the following month, contractor and subcontractor documentation to confirm compliance with Section 3 Worker and Targeted Worker requirements. These documents shall include, but not be limited to the *Section 3 Cumulative Compliance Report* ([Appendix I](#)) more fully described below, and certified payrolls for each person working on the Section 3 contract.
5. Submit other such documentation that the City may require to demonstrate the contractor's/subcontractor's compliance with Section 3 requirements, such as contact logs for Section 3 inquiries.

B. Section 3 Cumulative Compliance Report

For Section 3 covered contracts, contractors must submit the *Section 3 Cumulative Compliance Report* ([Appendix I](#)) to the City of Huntington Beach's Section 3 Coordinator on a monthly basis, and at project completion. Reports are due on the 15th day of each month for the previous month and should be submitted electronically to the Section 3 Coordinator, Charles Kovac, Housing Manager at Charles.Kovac@surfcity-hb.org .

Once a project is completed, contractors must submit a final Section 3 Cumulative Compliance Report for the program year. Upon the completion of a project, Huntington Beach's Section 3 Coordinator will conduct a final review of the project's overall performance and compliance and will submit the Section 3 data into the Federal Integrated Disbursement and Information System

(IDIS) to HUD in order to complete the project in IDIS.

C. Reporting on Projects with Multiple Funding Sources

For Section 3 projects that include public housing financial assistance and housing and community development financial assistance, the City of Huntington Beach will report on the project as a whole and will identify the multiple associated recipients.

For projects assisted with funding from multiple sources of housing and community development assistance that exceed the thresholds of \$200,000 and \$100,000 for Lead Hazard Control and Healthy Homes Programs (LHCHH), the City will follow subpart C of Part 75 and will report to the applicable HUD program office, as prescribed by HUD. Note: LHCHH assistance is not included in calculating whether the assistance exceeds the \$200,000 threshold. HUD public housing financial assistance and HUD housing and community development financial assistance is not included in calculating whether the assistance exceeds the LHCHH \$100,000 threshold. Refer to chart in [Appendix B](#).

X. Effects of Noncompliance

The City of Huntington Beach is committed to working with the contractor to meet the employment and contracting requirements. In this regard, the contractor shall include the Section 3 Coordinator in all meetings related to complying with the employment goals. Failure to meet these goals or to assist in the documentation of the contractor's best efforts to meet these goals, shall result in a penalty equal to ten percent (10%) of each subsequent invoice beyond any normal retention until the deficiency is corrected. Upon remediation of the deficiency, the penalty amount will be released to the contractor. In the event that the contractor fails to provide required documentation regarding both the twenty-five percent (25%) Section 3 Worker employment and five percent (5%) Targeted Section 3 Worker employment, the maximum penalty that may be assessed is ten percent (10%) of each subsequent progress payment invoice.

Note: In the event a subcontractor fails to furnish the required documentation to the contractor, the contractor at its discretion shall withhold a penalty equal to ten percent (10%) of each invoice from that subcontractor. Upon remediation of the deficiency, the contractor shall release the penalty amount to the subcontractor. The maximum penalty that may be assessed against a subcontractor is ten percent (10%) of each subsequent invoice.

XI. Internal Section 3 Complaint Procedure

In an effort to resolve complaints generated due to non-compliance through an internal process, the City of Huntington Beach encourages submittal of such complaints to its Section 3 Coordinator as follows:

1. Complaints of non-compliance should be filed in writing and must contain the name of the

complainant and brief description of the alleged violation of 24 CFR Part 75.

2. Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.
3. An investigation will be conducted if complaint is found to be valid. The City of Huntington Beach will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
4. The City of Huntington Beach will provide written documentation detailing the findings of the investigation. The City will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than thirty (30) days after the filing of complaint. If complainants wish to have their concerns considered outside of the City of Huntington Beach, a complaint may be filed with the Los Angeles Area Field Office at:

U.S. Department of Housing and Urban Development
C/O Robert DiGruccio, HUD Representative
300 North Los Angeles Street
Suite 4054
Los Angeles, CA 90012

Complainants may 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 complainant 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/>.

Appendix A: Definitions

The terms *HUD*, *Public housing*, and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

The following definitions also apply to 24 CFR Part 75 HUD's Economic Opportunities for Low- and Very Low-Income Persons:

1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq. activities related to Public Housing

Contractor means any entity entering into a contract with:

1. A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
2. A subrecipient for work in connection with a Section 3 project.

Labor hours means the number of 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 means a person as defined in Section 3(b)(2) of the 1937 Act, at or below 80% AMI. Note that Section 3 worker eligibility uses individual income rather than family/household income.

Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional services means 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 means assistance as defined in 24 CFR Part 75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

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

Section 3 business concern means:

1. A business concern meeting at least one of the following criteria, documented within the last six-month period:
 - a. It is at least 51 percent owned and controlled by low- or very low-income persons;
 - b. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
 - c. It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
2. The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
3. Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Section 3 Coordinator is person tasked with overseeing all Section 3 responsibilities for the PHA/CD office.

Section 3 project means a project defined in 24 CFR Part 75.3(a)(2).

Section 3 worker means:

1. Any worker who currently fits, or when hired within the past five years fit, at least one of the following categories, as documented:
 - a. The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
 - b. The worker is employed by a Section 3 business concern.
 - c. The worker is a YouthBuild participant.
2. The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.
3. Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Section 8-assisted housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

Service area or the neighborhood of the project means 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, 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.

Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the

contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Subrecipient has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

Targeted Section 3 worker has the meanings provided in 24 CFR Part 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act (at or below 50% AMI).

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

Appendix B: Multiple Funding Sources Chart

Type of Financial Assistance	Definitions *Targeted Section 3 Workers	Thresholds	Prioritization	Reporting
Public Housing and Housing and Community Development Assistance	<p>PHA – must follow subpart B of Part 75</p> <p>HCD – may follow subpart B or C of Part 75</p>	<p>None</p> <p>* Any amount of PH assistance triggers Section 3</p>	<p>PHA – must follow subpart B of Part 75</p> <p>HCD – may follow subpart B or C of Part 75</p>	<p>PHA – must follow subpart B of Part 75</p> <p>HCD – may follow subpart B or C of Part 75 Both - Must report on project as a whole and identify the multiple associated recipients</p>
Multiple Sources of Housing and Community Development (single or multiple recipients)	Must follow subpart C of Part 75	<p>Exceeds \$200,000 for Section 3 projects</p> <p>*LHCHHP exceeds \$100,000</p>	Must follow subpart C of Part 75	<p>Must follow subpart C of Part 75</p> <p>Must report on project as a whole and identify the multiple associated recipients</p> <p>Must report to the applicable HUD program office, as prescribed by HUD</p>

Appendix C: City of Huntington Beach Section 3 Worker and Targeted Section 3 Worker Self-Certification Form

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Section 3 Worker and Targeted Section 3 Worker Self-Certification Form FY 2021/22 (Confidential)

Employee Name: _____

Employee Address: _____

Employee Phone Number: _____

The purpose of HUD's Section 3 program is to provide employment, training, and contracting opportunities to low-income individuals, particularly those who are recipients of government assistance for housing or other public assistance programs. **Your response is voluntary, confidential, and has no effect on your employment.**

Eligibility for Section 3 Worker or Targeted Section 3 Worker Status

A Section 3 worker seeking certification shall self-certify and submit this form to the recipient contractor or subcontractor, that the person is a Section 3 Worker or Targeted Section 3 Worker as defined in 24 CFR Part 75. A Section 3 worker may also provide a form to the Huntington Beach Section 3 Coordinator at Charles.Kovac@surfcity-hb.org or by mail to Charles Kovac, 2000 Main Street, 5th Floor, Huntington Beach, CA 92648 to be included in the Section 3 Worker database.

INSTRUCTIONS: Enter/select the appropriate information to confirm your Section 3 Worker or Targeted Section 3 Worker status.

1. Are you a resident of public housing or a Housing Choice Voucher Holder (Section 8)?
Yes ☐ No ☐
2. Are you a resident of the City of Huntington Beach?
Yes ☐ No ☐
3. In the field below, select the amount of individual income you believe you earn on an annual basis.
Less than \$75,300 ☐ More than \$75,301 ☐

4. In the fields below, select services you are able to provide:

- | | | | |
|--------------------------------------|---|--|--|
| <input type="checkbox"/> Accounting | <input type="checkbox"/> Architecture | <input type="checkbox"/> Asphalt/Paving | <input type="checkbox"/> Brick Masonry |
| <input type="checkbox"/> Carpentry | <input type="checkbox"/> Consulting | <input type="checkbox"/> Demolition | <input type="checkbox"/> Electrical |
| <input type="checkbox"/> Engineering | <input type="checkbox"/> General Contractor | <input type="checkbox"/> HVAC | <input type="checkbox"/> IT |
| <input type="checkbox"/> Insulation | <input type="checkbox"/> Janitorial | <input type="checkbox"/> Landscaping | <input type="checkbox"/> Lead Hazard Control |
| <input type="checkbox"/> Maintenance | <input type="checkbox"/> Painting/Dry Wall | <input type="checkbox"/> Plumbing | <input type="checkbox"/> Roofing |
| <input type="checkbox"/> Security | <input type="checkbox"/> Signage/Graphics | <input type="checkbox"/> Steel Fabrication | <input type="checkbox"/> Other: _____ |



**Section 3 Worker and Targeted Section 3 Worker
Self-Certification Form
FY 2021/22
(Confidential)**

5. I qualify as a:

- ☐ Section 3 Worker as defined under the Eligibility Guidelines on page 3 of this Certification.
- ☐ Targeted Section 3 Worker as defined under the Eligibility Guidelines on page 3 of this Certification.

Employee Affirmation

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Print Name: _____

Date Hired: _____

Signature: _____

Date: _____

FOR ADMINISTRATIVE USE ONLY

Is the employee a Section 3 Worker based on their self-certification? ☐ Yes ☐ No

Is the employee a Targeted Section 3 Worker based on their self-certification? ☐ Yes ☐ No

Was this an applicant who was hired as a result of the Section 3 project? ☐ Yes ☐ No

If Yes, what is the name of the company? _____

What was the date of hire? _____

EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR 5 YEARS



**Section 3 Worker and Targeted Section 3 Worker
Self-Certification Form
FY 2021/22
(Confidential)**

Section 3 Income Limits & Eligibility Guidelines

The worker's income must be at or below the amount provided below for an individual (household of 1) regardless of actual household size.

FY 2021 Income Limit Area	Income Limit Category	FY 2021 Income Limit
Santa Ana – Anaheim – Irvine, CA HUD Metro FMR Area	Extremely Low (0-30% AMI)	\$0 - \$28,250
	Very Low Income (31-50% AMI)	\$28,251 - \$47,100
	Low Income (51-80% AMI)	\$47,101 - \$75,300
	Moderate and Above (>81% AMI)	> \$75,301

Section 3 Worker Definition:

- A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD);
- Employed by a Section 3 business concern; or
- A YouthBuild participant.

Targeted Section 3 Worker Definition (for public housing):

- Employed by a Section 3 business concern; or
- Currently meets, or when hired met, at least one of the following categories as documented within the past five years:
 - A resident of public housing; or
 - A resident of other public housing projects or Section 8-assisted housing; or
 - A YouthBuild Participant.

Targeted Section 3 Worker Definition (for housing and community development):

- Employed by a Section 3 business concern; or
- Currently meets or when hired met, 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 24 CFR Part 75.5
 - A YouthBuild Participant.

Appendix D: City of Huntington Beach Section 3 Business Concern Certification for Contracting Form

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Section 3 Business Concern Certification for Contracting Form FY 2021/22 (Confidential)

Instructions

Enter the following information and select the criteria that applies to certify your business' Section 3 Business Concern status.

Business Information

Name of Business: _____

Address of Business: _____

Name of Business Owner: _____

Phone Number of Business Owner: _____

Email Address of Business Owner: _____

Preferred Contact Information

☐ Same as above.

Name of Preferred Contact: _____

Phone Number of Preferred Contact: _____

Type of Business (select from the following options)

☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Joint Venture

Provided Services

<input type="checkbox"/> Accounting	<input type="checkbox"/> Architecture	<input type="checkbox"/> Asphalt/Paving	<input type="checkbox"/> Brick Masonry
<input type="checkbox"/> Carpentry	<input type="checkbox"/> Consulting	<input type="checkbox"/> Demolition	<input type="checkbox"/> Electrical
<input type="checkbox"/> Engineering	<input type="checkbox"/> General Contractor	<input type="checkbox"/> HVAC	<input type="checkbox"/> IT
<input type="checkbox"/> Insulation	<input type="checkbox"/> Janitorial	<input type="checkbox"/> Landscaping	<input type="checkbox"/> Lead Hazard Control
<input type="checkbox"/> Maintenance	<input type="checkbox"/> Painting/Dry Wall	<input type="checkbox"/> Plumbing	<input type="checkbox"/> Roofing
<input type="checkbox"/> Security	<input type="checkbox"/> Signage/Graphics	<input type="checkbox"/> Steel Fabrication	<input type="checkbox"/> Other: _____

Select from ONE of the following three options below that applies:

- ☐ At least 51% of the business is owned and controlled by low- or very low-income persons (refer to income guidelines on page 3 of this Certification).
- ☐ At least 51% of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- ☐ Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers (refer to definitions on page 3 of this Certification).



**Section 3 Business Concern Certification
for Contracting Form
FY 2021/22
(Confidential)**

Business Concern Affirmation

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to City of Huntington Beach may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Print Name: _____

Signature: _____ **Date:** _____

* Certification expires within 6 months of the date of signature.

** Information regarding Section 3 Business Concerns can be found at 24 CFR Part 75.5.

FOR ADMINISTRATIVE USE ONLY

Is the business a Section 3 Business Concern based on their certification? ☐ Yes ☐ No

**EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR
5 YEARS**



Section 3 Business Concern Certification for Contracting Form FY 2021/22 (Confidential)

Section 3 Income Limits & Eligibility Guidelines

The worker's income must be at or below the amount provided below for an individual (household of 1) regardless of actual household size.

FY 2021 Income Limit Area	Income Limit Category	FY 2021 Income Limit
Santa Ana – Anaheim – Irvine, CA HUD Metro FMR Area	Extremely Low (0-30% AMI)	\$0 - \$28,250
	Very Low Income (31-50% AMI)	\$28,251 - \$47,100
	Low Income (51-80% AMI)	\$47,101 - \$75,300
	Moderate and Above (>81% AMI)	> \$75,301

Section 3 Worker Definition:

- A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD);
- Employed by a Section 3 business concern; or
- A YouthBuild participant.

Targeted Section 3 Worker Definition (for public housing):

- Employed by a Section 3 business concern; or
- Currently meets, or when hired met, at least one of the following categories as documented within the past five years:
 - A resident of public housing; or
 - A resident of other public housing projects or Section 8-assisted housing; or
 - A YouthBuild Participant.

Targeted Section 3 Worker Definition (for housing and community development):

- Employed by a Section 3 business concern; or
- Currently meets, or when hired met, 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 24 CFR Part 75.5
 - A YouthBuild Participant.

Appendix E: HUD Section 3 Affidavit

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HUD Section 3 Affidavit

Must be completed by the prime contractor and submitted with bid documents. Must be completed and submitted by all subcontractors prior to issuance of Notice to Proceed.

Your signature below indicates that you have received a copy of the City of Huntington Beach's Section 3 Labor Compliance Plan and Guidelines.

I, the undersigned

Name of Officer or Authorized
Agent of Company (Print Name)

Title

Signature

Date

Project Name:

Company Name:

Address:

Street

City

State

Zip Code

Telephone Number:

E-Mail Address:

Appendix F: Section 3 Worker and Targeted Section 3 Worker Outreach Log

[This page left intentionally blank.]



Company Name: _____

[illegible]

Appendix G: Section 3 Business Outreach Log

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Section 3 Business Concern Outreach Log

This form is provided as a tool to Contractors to record good faith efforts in contacting and outreaching to Section 3 Business Concerns.

Project Name: _____

Company Name: _____

[illegible]

Appendix H: HUD Section 3 Compliance Certification

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HUD Section 3 Compliance Certification

Instructions: The HUD Section 3 Compliance Certification must be signed by prime contractor and all subcontractors prior to issuance of Notice to Proceed.

The contract for this work will include the following clause (referred to as the HUD Section 3 clause):

- A. 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) as amended in the section 3 Final Rule on September 29, 2020. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment and training, generated by HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low-income persons, particularly persons who are recipients of HUD assistance for housing or are residents of the project area/community in which the federal assistance is spent. Consistent with 24 CFR Part 75, the City of Huntington Beach shall refrain from entering into a contract with any contractor after notification is received from HUD that the contractor has been found in violation of the Section 3 regulations. The City will also review past performance of contractors on Section 3 projects in determining contract awards.
- B. 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.
- C. 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 provide the name and location of the person(s) taking applications for employment.
- D. 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 a 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. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) 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.
- F. The contractor understands that non-compliance and willful violation of HUD's regulations in 24 CFR Part 75 with respect to Section 3 and related regulations by itself, its sub-contractors and or lower tier contractors will result in corrective measures taken by the City of Huntington Beach to achieve compliance, including suspension or withholding of contractor payments.

I, the undersigned on behalf of the company hereby certify that I have received, read, and understand, the contents of the above stated "Section 3" clause.

Signature

Print Name

Date

Title (Officer or Authorized Agent)

Company Name

Address City State Zip Code

Appendix I: Section 3 Cumulative Compliance Report

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Section 3 Cumulative Compliance Report

Indicate reporting period.

☐ Monthly:

Invoice #

Insert Month and Year

☐ Project Completion:

Date of Project Completion

Business Contact Information.

Contractor Business Name

Contact Name

Phone Number

Street

City

Zip

Email

Project Information.

Project Name and Description

Work/Project Start Date

Work/Project End Date

This form should be completed by all vendors, contractors and service providers who have a contract with the City of Huntington Beach that is subject to Section 3 requirements per 24 CFR Part 75. **Complete this form in its entirety, and attach the following supporting documentation:** Section 3 Worker and Targeted Section 3 Worker Certification forms, payroll information supporting labor hour benchmark data, certification that you followed order of hiring priority, evidence of qualitative efforts made to comply with Section 3 and other supporting documents as applicable.

You may attach a letter to this report if needed to further state your efforts, achievements or obstacles encountered.

Submit this form on the 15th of each month for the previous month and at completion of your work. Questions and assistance with requirements and reporting can be sent to the City of Huntington Beach's Section 3 Coordinator, **Charles Kovac, City of Huntington Beach, 2000 Main Street, 5th Floor, Huntington Beach, CA 92648** or by email at Charles.Kovac@surfcity-hb.org

GENERAL GUIDANCE AND DEFINITIONS

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,



Section 3 Cumulative Compliance Report

particularly those who are recipients of government assistance for housing, or residents of the community in which the Federal assistance is spent.

Section 3 Worker means:

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. (Note: Income is considered for the worker only and not based on household)
2. The worker is employed by a Section 3 business concern.
3. The worker is a YouthBuild participant.

A Targeted Section 3 Worker for housing and community development financial assistance means:

A Section 3 Worker as defined in 24 CFR Part 75.21, as may be amended from time to time, and means a worker documented through self-certification or other means acceptable to HUD, 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:
 - a. Living within the service area or the neighborhood of the project*, as defined in §75.5; or
 - b. A YouthBuild participant.

**Section 3 Coordinator will provide further guidance on the service area or the neighborhood of the project for the specific project.*

BENCHMARK GOALS

1. **25 percent** or more of the total number of labor hours worked by all workers on the project are **Section 3 Workers**; and
2. **5 percent** or more of the total number of labor hours worked by all workers on the project are **Targeted Section 3 Workers**.

HUD INCOME LIMITS

Low- and very low-income limits are defined in Section 3(b)(2) of the Housing Act of 1937 and are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the area median individual income. Most recent HUD income limits may be obtained from: [CDBG Income Limits - HUD Exchange](#) .

FY 2021 Sana Ana-Anaheim-Irvine, CA HUD Metro FMR Area

Very Low (50%) Income Limit for 1 Person	No more than \$47,100
Low (80%) Income Limit for 1 Person	No more than \$75,300

HIRING PRIORITIES

Employment and training opportunities created by **housing and community development programs** shall be given to Section 3 Workers in the following order of priority:

1. Section 3 Workers residing within the service area or the neighborhood of the project; and
2. Participants in YouthBuild programs.



Section 3 Cumulative Compliance Report

COMPLIANCE REPORT

Part I. Workforce Composition

Total number of <u>ALL Workers</u> who worked on the Project	Total number of <u>Section 3 Workers</u> who worked on the Project	Total number of <u>Targeted Section 3 Workers</u> who worked on the Project

Part II. Labor Hour Benchmarks (25% and 5% goals)

Report labor hours worked on this Project broken down by ALL Workers, Section 3 Workers, and Targeted Section 3 Workers.

Labor Hours on the Project for ALL Workers (includes existing and new hires who worked on the Project)	Labor Hours on the Project for Section 3 Workers (includes existing and new hires who worked on the Project)	Labor Hours on the Project for Targeted Section 3 Workers (includes existing and new hires who worked on the Project)

** Attach Certified Payrolls to support the data provided in this section.*

Part III. New Hire Data

Did you hire Section 3 Workers and/or Targeted Section 3 Workers in relation to this contract?

☐ Yes ☐ No

Did you follow the order of hiring priority when hiring new workers?

☐ Yes ☐ No

List all new hires in relation to this contract. If reporting more new hires than able to list here, create an excel spreadsheet with the same columns and use that instead.



Section 3 Cumulative Compliance Report

New Hire Name	Position Title	Pay Rate	Total Hours Worked	Hire Date	End Date	Gender	S3 Worker or Targeted S3 Worker	Hiring Priority

Attach documents supporting the data provided in the table above and check the boxed below as applicable:

- ☐ Section 3 Worker Certification Forms for all New Hires (categorized by Section 3 Worker and Targeted Section 3 Worker)
- ☐ Supporting documents of efforts made to hire in the order of hiring priority, i.e., list of candidates who applied, City of Huntington Beach referral list, etc.
- ☐ Other documents, specify: _____

Part IV. Subcontractors

Did you have any subcontractors who performed work on this contract? ☐ Yes ☐ No

If yes, complete the table below and attach this same report form for each of the subcontractors to identify their hiring and labor hours.

Subcontractor Name	Trade	Subcontract Amount	Start Date	End Date	Business Certification (MBE, WBE, SBE, Section 3)



Section 3 Cumulative Compliance Report

Part V. Qualitative Efforts (24 CFR Part 75.15)

Check the boxes that apply to demonstrate your good faith efforts to satisfy your section 3 obligations.

- ☐ Engaged in outreach efforts to generate job applicants who are Targeted Section 3 Workers, including notifying Huntington Beach's Section 3 Coordinator, posting job openings at the job site, HUD Opportunity Portal, social media pages, contacting Resident Advisory Councils, and other platforms.
- ☐ Contacted agencies administering Orange County YouthBuild Programs, and requesting their assistance in recruiting Orange County YouthBuild Program participants for training opportunities and employment positions.
- ☐ Consulted with state and local agencies administering training programs, such as those funded through Workforce Investment Act, unemployment compensation programs, community organizations and other officials or organizations to assist with training and recruiting Section 3 Workers and Targeted Section 3 Workers.
- ☐ Held job fairs.
- ☐ Provided or connected Section 3 Workers and Targeted Section 3 Workers with assistance in seeking employment, including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- ☐ Provided or referred Section 3 Workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- ☐ Assisted Section 3 Workers to obtain financial literacy training and/or coaching.
- ☐ Engaged in outreach efforts to identify and secure bids from Section 3 Business Concerns.
- ☐ Provided technical assistance to help Section 3 Business Concerns understand and bid on contracts.
- ☐ 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 Section 3 Business Registries designed to create opportunities for Section 3, disadvantaged and small businesses.

Part VI. Notes and Comments (If needed, attach additional sheets)

By signing below, I hereby certify and declare under penalty of perjury under the laws of the United States and the State of California that the information provided on this form, as well as all documentation provided in support thereof, are true and correct, and that I am authorized on behalf of the Company to make this certification. Furthermore, I certify that I will maintain this documentation for the time period required for record retention in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR part 200. I will make these records available to the City of Huntington Beach and/or HUD upon request.

Signature

Name & Title

Date

Appendix J: Frequently Asked Questions for Section 3

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FREQUENTLY ASKED QUESTIONS

for

SECTION 3

Published: March 25, 2021

The following is a guidance document published by the Department of Housing and Urban Development Office of Field Policy and Management for the purpose of providing answers to frequently asked questions about Section 3 of the HUD Act of 1968 (12 U.S.C § 1701u) and its associated regulations (24 C.F.R. Part 75). This document is intended to provide guidance for Section 3 funding recipients, subrecipients, contractors, subcontractors, workers, and other stakeholders.

This guidance document covers questions in several topic areas and is divided into parts that contain questions on that part's topic.

I. GENERAL QUESTIONS REGARDING SECTION 3:

1. What is Section 3?
2. What Do “Best Efforts” and “to the Greatest Extent Feasible” Mean?
3. What Does “Section 3 Worker” Mean?
4. What Does “Targeted Section 3 Worker” Mean?
5. What Does “Section 3 Business Concern” mean?
6. How are low-income and very low-income determined?
7. What is YouthBuild?
8. As a funding recipient, what are my Section 3 reporting goals?
9. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?
10. What is a Section 3 project?
11. Who is considered a recipient of Section 3 funding?
12. What are funding thresholds and how do they apply to Section 3 covered financial assistance?
13. Which recipient agencies (or sources of HUD financial assistance) are required to comply with Section 3?
14. Can a non-profit organization be considered a business concern for the purposes of Section 3?
15. What is a “Service Area” or “Neighborhood of the project”?
16. What if my agency does not meet all benchmark goals for employment or contracting?
17. My agency has met all benchmark goals for employment and contracting, does this mean that we are considered in compliance with Section 3?

II. APPLICABILITY:

1. What HUD assistance does Section 3 apply to?
2. Do the requirements of Section 3 apply to grantees on a per project basis?
3. If a project is funded with non-HUD assistance, do the requirements of Section 3 still apply?
4. What recordkeeping responsibilities do contractors/subcontractors have if they receive Section 3 covered contracts?
5. Do the Section 3 requirements apply to material only contracts?
6. Do the Section 3 requirements apply to Section 8 project-based rental assistance contracts?
7. Are maintenance projects covered by Section 3?

Section 3 Frequently Asked Questions

8. Does the reduction and abatement of lead-based paint hazards constitute housing rehabilitation?
9. Are demolition projects covered by the requirements of Section 3?
10. Are professional service contracts required to be reported under Section 3?
11. Does Section 3 apply to labor hours by a CDBG-Entitlement recipient?
12. Does Section 3 apply to labor hours by a Public Housing Authority?

III. CONSISTENCY WITH OTHER LAWS:

1. Are recipients required to comply with Federal/state/local laws in addition to Section 3
2. What is the relationship between Section 3 and Davis Bacon requirements?
3. What does the new rule mean for Tribes and Tribally Designated Housing Entities?

IV. RECIPIENT RESPONSIBILITIES:

1. What are the responsibilities of recipient agencies under Section 3?
2. What are the reporting requirements for legacy contracts entered into under the old Part 135 rule?
3. What are the reporting requirements for Section 3 projects for which assistance or funds are committed during the transition period?
4. What is the reporting timeline for Public Housing Authorities and other recipients of public housing financial assistance?
5. What are the reporting requirements for Public Housing Authorities and other recipients of public housing financial assistance during the transition period?
6. What are good strategies for targeting Section 3 workers and businesses?
7. Are funds provided to recipients so that they can comply with the requirements of Section 3?
8. Are Section 3 workers or business concerns guaranteed employment or contracting opportunities under Section 3?
9. Are recipients, developers, and contractors required to provide long- term employment opportunities, and not simply seasonal or temporary employment?
10. When might a recipient agency be exempt from the quantitative reporting requirements of Section 3?
11. Are recipients required to request developers or contractors to make payments into Section 3 training or implementation funds?

V. SECTION 3 CERTIFICATION:

1. How can a prospective Section 3 worker or business concern certify that they meet the eligibility requirements?
2. What documentation must be maintained by HUD recipients, contractors and subcontractors certifying that low- and very-low individuals and business concerns meet the regulatory definitions under Section 3?
3. What are examples of acceptable evidence to determine eligibility as a Section 3 worker?
4. What are examples of acceptable evidence for determining eligibility as a Section 3 business concern?
5. Are all public housing residents considered Section 3 workers regardless of their income?
6. Does qualifying as a Section 3 businesses mean that the business will be selected if it meets the technical requirements of the bid, regardless of bid price?
7. Can contracting with MBE/WBE businesses count towards Section 3 benchmarks?
8. Does a business have to be incorporated to be considered a Section 3 eligible business?

VI. ECONOMIC OPPORTUNITIES NUMERICAL BENCHMARKS:

1. How can low- and very low-income persons and businesses locate recipient agencies that are required to comply with Section 3 in their area?
2. How can I find Section 3 business concerns in my area?
3. Do the benchmark requirements only count toward new hires?
4. Should PHA's report on staff hours?
5. What category of PHA Staff should be included?
6. Are recipient agencies required to meet the Section 3 benchmarks, or are they optional?
7. Will there be changes to the benchmark requirements?
8. What is considered "other" public construction?
9. What is the meaning of the safe harbor determination?

VII. SECTION 3 COMPLAINTS:

1. How should complaints be made?
2. Where else can I file complaints alleging denied employment and contracting opportunities?

I. GENERAL QUESTIONS REGARDING SECTION 3:

1. What is Section 3?

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.

2. What Do "Best Efforts" and "to the Greatest Extent Feasible" Mean?

"Best efforts" and "greatest extent feasible" are statutory terms, used in the statute in different contexts. As such, HUD uses both terms to track compliance, and there are many ways to interpret the language. Traditionally, HUD has used the terms interchangeably, as referenced in the statute, and will continue to be consistent with the statutory language. *See* 12 U.S.C. 1701u(b)-(d). These terms are integral to the statutory intent and provide flexibility, rather than administrative burden, to grantees or recipients of HUD funding.

HUD acknowledges that some perceive "best efforts" to be the more rigorous standard, while others perceive "greatest extent feasible" to be the more rigorous standard. HUD has determined not to define the difference between these two terms but rather to increase the emphasis on outcomes as a result of these efforts. A recipient's reported results will be compared to the outcome metrics defined in the benchmark notice. HUD program staff will evaluate the level of effort expended by those recipients that fail to meet the benchmark safe harbor, and thus will ensure that the statutory terms are being properly enforced. HUD included a list of examples in the regulation at 24 CFR §§ 75.15 and 75.25, including engagement in outreach efforts to generate job applicants who are Targeted Section 3

workers, providing training or apprenticeship opportunities, and providing technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).

3. What Does “Section 3 Worker” Mean?

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 (see Question 6 of this part I of these FAQs, below);
2. The worker is employed by a Section 3 business concern (see Question 5 of part I, below); or
3. The worker is a YouthBuild participant.

4. What Does “Targeted Section 3 Worker” Mean?

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 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 YouthBuild participant.

A Section 3 targeted worker for Housing and Community Development 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 fit at least one of the following categories, as documented within the past five years:
 - (i) Living within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5; or
 - (ii) A YouthBuild participant.

5. What Does “Section 3 Business Concern” mean?

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

1. At least 51 percent owned and controlled by low- or very low-income persons;
2. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

3. A business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

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

Low- and very low-income limits are defined in Section 3(b)(2) of the Housing Act of 1937 and are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the area median individual income. HUD income limits may be obtained from:

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

7. What is YouthBuild?

YouthBuild is a community-based pre-apprenticeship program that provides job training and educational opportunities for at-risk youth ages 16-24 who have previously dropped out of high school.

YouthBuild participants learn vocational skills in construction, as well as in other in-demand industries that include health care, information technology, and hospitality. Youth also provide community service through the required construction or rehabilitation of affordable housing for low-income or homeless families in their own neighborhoods.

The Division of Youth Services within the Employment and Training Administration's Office of Workforce Investment at the U.S. Department of Labor administers the YouthBuild program. Each year, more than 6,000 youth participate in approximately 210 YouthBuild programs in more than 40 states. More information can be found here: <https://www.dol.gov/agencies/eta/youth/youthbuild>.

8. As a funding recipient, what are my Section 3 reporting goals?

Your Section 3 reporting goals depend on the type of assistance you are receiving, whether public housing financial assistance or housing and community development financial assistance.

For public housing financial assistance, the benchmark for Section 3 workers is set at *25 percent* or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's fiscal year. The benchmark for Targeted Section 3 workers is set at *5 percent* or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's fiscal year. This means that the *5 percent* is included as part of the *25 percent* threshold.

For housing and community development financial assistance projects, the benchmark for Section 3 workers is set at *25 percent* or more of the total number of labor hours worked by all workers on a Section 3 project. The benchmark for Targeted Section 3 workers is set at *5 percent* or more of the total number of labor hours worked by all workers on a Section 3 project. This means that the *5 percent* is included as part of the *25 percent* threshold.

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

Section 3 is both race and gender neutral. The standards provided under this regulation are based on income-level and location. Section 3 regulations were designed to encourage recipients of HUD

funding to direct employment, training, and contracting opportunities to low-income individuals, and the businesses that employ these persons within their community regardless of race and/or gender.

Minority Business Enterprise (MBE) means a business enterprise that is at least 51% 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.

Women's Business Enterprise (WBE) is an independent business concern that is at least 51% owned and controlled by one or more women who are U.S. citizens or Legal Resident Aliens; whose business formation and principal place of business are in the U.S. or its territories; and whose management and daily operation is controlled by a woman with industry expertise.

Section 3 standards 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 concern 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.

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: https://www.hud.gov/program_offices/sdb.

10. What is a Section 3 project?

Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance 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 the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 *et seq.*); and/or the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*). (See Question 12 of this part I of these FAQs for more detail regarding Lead Hazard Control and Healthy Homes programs.)

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. The requirements of Part 75 apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

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

A recipient is any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization. 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 worker.

12. 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 housing programs. The requirements of Section 3 apply to all programs receiving public housing financial assistance regardless of the amount of assistance received from HUD. Section 3 also applies to the entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance.

Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000 (Lead Hazard Control and Healthy Homes (LHCHH) assistance is not included in calculating whether the assistance exceeds the \$200,000 threshold).

The threshold is \$100,000 when the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970, the Lead-Based Paint Poisoning Prevention Act, and the Residential Lead-Based Paint Hazard Reduction Act of 1992. LHCHH programs require Section 3 compliance if there is over \$100,000 of LHCHH funding for the project (neither HUD public housing financial assistance nor HUD housing and community development financial assistance is included in calculating whether the assistance exceeds the \$100,000 threshold). Recipients of LHCHH funding will also be required to comply with Section 3 regulations and report on the entirety of the project when the total amount of HUD housing and community development financial assistance to the project exceeds \$200,000 (LHCHH funding is not included in calculating whether the total assistance exceeds the \$200,000 threshold), or if any public housing financial assistance is provided.

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

For public housing financial assistance, Public Housing Authorities (PHAs), regardless of size or number of public housing units, are required to comply with Section 3 and its reporting requirements. However, small PHAs (fewer than 250 units) are permitted to report qualitatively as permitted under 24 CFR § 75.15(d). Some examples of those qualitative efforts are listed in the answer to Question 15.

As previously stated, Section 3 also applies to projects with more than \$200,000 in funding from housing and community development financial assistance programs. The following is a list of examples of such funds:

- Community Development Block Grant (CDBG)
- HOME Investment Partnership
- Housing Trust Fund (HTF)
- Neighborhood Stabilization Program Grants (NSP 1, 2 & 3)
- Housing Opportunities for Persons with AIDS (HOPWA)
- Emergency Solutions Grants (ESG)
- University Partnership Grants

- Economic Stimulus Funds
- 202/811 Grants
- Lead Hazard Control Grants (\$100,000 threshold; see Question 12, above, in this part I of these FAQs)
- Healthy Homes Production Grants (\$100,000 threshold; see Question 12, above, in this part I)
- Rental Assistance Demonstration (RAD) (see most recent RAD Notice, found through HUD's RAD website, www.hud.gov/rad/)

*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 Section3@hud.gov to determine applicability to a particular project/activity.

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

Yes. A non-profit organization can be a business concern. Non-profit organizations must meet the criteria of a Section 3 business concern as defined at 24 CFR § 75.5 in order to receive Section 3 preference. See response to Question 5 above.

15. What is a “Service Area” or “Neighborhood of the project”?

“Service area” or the “neighborhood of the project” means 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, 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.

16. What if my agency does not meet all benchmark goals for employment or contracting?

If reporting indicates that the agency has not met the Section 3 benchmarks, the agency must report in a method prescribed by HUD program offices on the qualitative nature of its activities and those its contractors and subcontractors pursued per 24 CFR § 75.15(b) and § 75.25(b).

Such qualitative efforts may, for example, include but are not limited to the following:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.

- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- 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.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act

17. My agency has met all benchmark goals for employment and contracting, does this mean that we are considered in compliance with Section 3?

Yes. Recipients will be considered to have complied with Section 3 requirements, in the absence of evidence to the contrary, if they meet all benchmark goals and certify compliance with prioritization requirements found in 24 CFR § 75.9 or §75.19. However, if subsequent HUD enforcement activities reveal that the recipient has failed to comply with the recipient responsibilities set forth at 24 CFR §75.13 or §75.23, this compliance determination may be rescinded.

II. APPLICABILITY:

1. What HUD assistance does Section 3 apply to?

Section 3 applies to both:

a) Public Housing Financial Assistance –

- (i) Development assistance provided pursuant to Section 5 of the United States Housing Act of 1937 (the 1937 Act);
- (ii) Operations and management assistance provided pursuant to Section 9(e) of the 1937 Act;
- (iii) Development, modernization, and management assistance provided pursuant to Section 9(d) of the 1937 Act; and
- (iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in subsections (i) through (iii).

b) Housing and Community Development Financial Assistance expended for housing rehabilitation, housing construction, or other public construction. See Question #2 below for applicability thresholds.

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

Yes, for housing and community development financial assistance projects. Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance 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 the Lead Hazard Control and Healthy Homes programs. See Question 12 of part I of these FAQs.

Section 3 applies to all public housing financial assistance funds, regardless of the amount of assistance from HUD.

3. 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 if the amount of HUD funding for the project exceeds the regulatory thresholds (listed in Section I, Question #11).

For RAD projects, Section 3 applies regardless of what money is used to pay for repairs. Per the RAD Notice, “While most RAD conversions do not utilize funding covered by Section 3, HUD has established the alternative requirement that any Work required by the conversion after the RAD Closing that involves housing rehabilitation or housing construction is subject to the Section 3 requirements applicable to housing and community development activities as set forth in 12 U.S.C. 1701u(c)(2) and (d)(2) and the regulations derived from such provisions except that, with the exception of transactions receiving HUD housing and community development assistance, such as CDBG (24 CFR part 570) or HOME (24 CFR part 92), first priority for employment and other economic

opportunities shall be given to residents of public housing or Section 8 assisted housing. Otherwise, the receipt of Section 8 rental assistance does not, in itself, trigger the applicability of Section 3.”

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

Recordkeeping requirements for recipients are found at 24 CFR § 75.31. Recipients are required to maintain documentation to demonstrate compliance with the regulations and are responsible for requiring their contractors/subcontractors to maintain or provide any documentation that will assist recipients in demonstrating compliance, including documentation that shows hours worked by Section 3 workers, Targeted Section 3 workers, and any qualitative efforts to comply with Section 3. Examples of documentation can be found in 24 CFR §75.31.

5. 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 due to the involvement of labor.

6. Do the Section 3 requirements apply to Section 8 project-based rental assistance contracts?

No. Section 8 project-based voucher or project-based rental assistance housing assistance payment contracts, are not covered by the statute, including properties converted through the Rental Assistance Demonstration (RAD).

7. Are maintenance projects covered by Section 3?

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

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

No, reduction and abatement of lead-based paint hazards focuses on mitigating lead paint hazards only, not conducting general rehabilitation activities.

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

Yes. Recipients of assistance covered by Section 3 should, where feasible, comply with Section 3 benchmarks.

10. Are professional service contracts required to be reported under Section 3?

No, professional service 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, this exclusion does not cover all non-construction services.

However, professional services staff labor hours are permitted to be reported and PHAs will be given credit for reporting opportunities created for professional services by including professional services labor hours in the numerator, and not in the denominator, of the reported outcome ratios. The reporting structure in the rule allows a recipient to count any work performed by a professional services Section 3 worker or Targeted Section 3 worker as Section 3 labor hours and as Targeted Section 3 labor hours (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 hires in the professional services context.

11. Does Section 3 apply to labor hours by a CDBG-Entitlement recipient?

Yes. If the recipient intends to use its HUD grant to perform housing construction, rehabilitation, or other public construction and the total HUD assistance to the project exceeds \$200,000, then Section 3 applies to the project.

12. Does Section 3 apply to labor hours by a Public Housing Authority?

Yes. Section 3 applies to all Public Housing capital, operating, or development funds.

III. CONSISTENCY WITH OTHER LAWS:

1. Are recipients required to comply with Federal/state/local laws in addition to Section 3?

Yes. Compliance with Section 3 shall be achieved, to the greatest extent feasible, consistent with existing Federal, state and 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 75 and any other applicable statutes or regulations.

2. 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 the Davis-Bacon Act (40 U.S.C. 3141 et seq.) and implementing U.S. Department of Labor regulations in 29 CFR Part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public housing projects 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. (24 CFR § 965.101).

3. What does the new rule mean for Tribes and Tribally Designated Housing Entities?

After the Section 3 new rule went into effect on November 30, 2020, Tribes and Tribally Designated Housing Entities under the Indian Housing Block Grant and Indian Community Development Block Grant programs are no longer required comply with Section 3 requirements.

The new rule at 24 CFR part 75 provides that contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of 24 CFR Part 75.

IV. RECIPIENT RESPONSIBILITIES:

1. 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 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. The first step is implementing procedures to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3 and maintain records verifying that compliance.

Facilitating the training and employment of Section 3 workers: The recipient agency must act as a facilitator, connecting Section 3 workers 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 and Compliance with Section 3 Benchmarks 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 Benchmarks: 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 and report these activities either through the Section 3 Performance Evaluation and Registration System (SPEARS), for Public Housing financial assistance, or any reporting system designated by program areas overseeing other funding.

2. What are the reporting requirements for legacy contracts entered into under the old Part 135 rule?

On and after November 30, 2020, Section 3 regulations codified at 24 CFR Part 135 (the old rule) have not applied and will not apply to new grants, commitments, contracts, or projects. Contracts executed or projects for which assistance or funds were committed prior to November 30, 2020 are still required to adhere to the requirements of the old rule. Recipients of such assistance or funds will still be expected to maintain records of Section 3 statutory, regulatory, and contractual compliance but will no longer be required to report Section 3 compliance to HUD in SPEARS.

HUD does not require funding recipients to change or alter contracts that were in place prior to the new Section 3 requirements becoming effective on November 30, 2020.

3. What are the reporting requirements for Section 3 projects for which assistance or funds are committed during the transition period?

Projects for which assistance or funds are committed between November 30, 2020 and July 1, 2021 are subject to the new Section 3 regulations found in 24 CFR part 75, and HUD expects that funding recipients will begin following this final rule's requirements for new grants, commitments, and contracts. Recipients will be expected to maintain records of statutory, regulatory, and contractual compliance with Section 3 for these projects but will not be required to report to HUD on the requirements found in 24 CFR part 75.

During the transition period between November 30, 2020 and July 1, 2021, recipients are expected to plan and revise processes, systems, and documents to comply with the new rule's requirements. During this time, funding recipients are still required to comply with Section 3's statutory requirements by ensuring that, to the greatest extent feasible, recipients continue to direct economic opportunities generated by certain HUD financial assistance to low- and very low-income persons and businesses that provide economic opportunities to low- and very low-income persons.

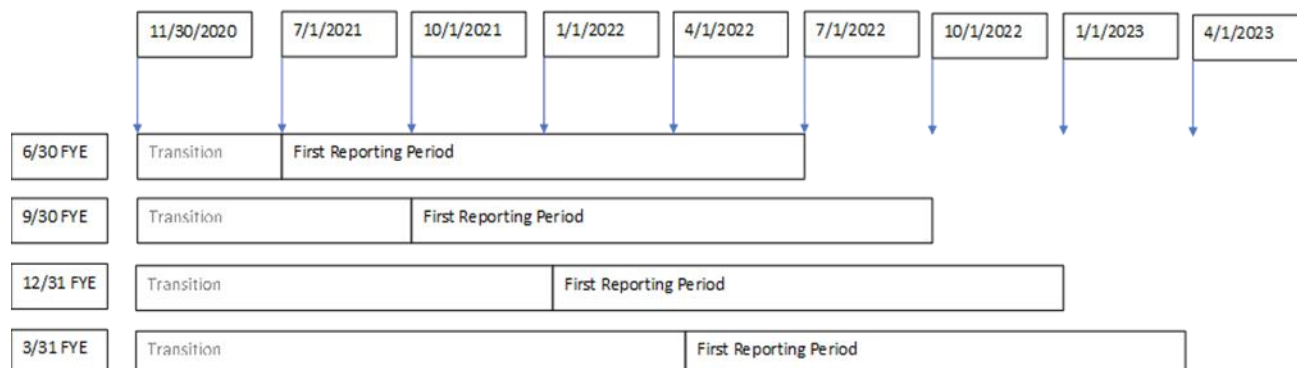
Recipients and employers should use this time to update policies and procedures for tracking labor hours and other requirements to ensure compliance with the new rules for projects for which funds are committed on or after July 1, 2021.

4. What is the reporting timeline for Public Housing Authorities and other recipients of public housing financial assistance?

As of November 30, 2020, PHAs' requirement to report their Section 3 activities and efforts starts 60 days after the end of their first fiscal year that begins after July 1, 2021. Please see the charts below for examples of PHA reporting schedules:

Fiscal Year End	New Reporting Period Begins	New Reporting Period Ends
6/30/21	7/1/21	6/30/22
9/30/21	10/1/21	9/30/22
12/31/21	1/1/22	12/13/22
3/31/22	4/1/22	3/31/23

Section 3 Transition



5. What are the reporting requirements for Public Housing Authorities and other recipients of public housing financial assistance during the transition period?

All recipients of public housing financial assistance are required to follow the new Section 3 regulations found in 24 CFR part 75 beginning on November 30, 2020, and HUD expects that funding recipients and employers will begin following this final rule's requirements for new grants, commitments, and contracts on and after this date. Recipients will be expected to maintain records of statutory, regulatory, and contractual compliance with Section 3 but will not be required to report in SPEARS on the requirements found in 24 CFR part 75 until the recipient's first full fiscal year after July 1, 2021, as indicated in Question #4 above.

During the transition period between November 30, 2020 and a PHA or other recipient's required reporting start date, employers and grantees are expected to plan and revise processes, systems, and documents to comply with the new rule's requirements. During this time, PHAs and other recipients are still required to comply with Section 3's statutory requirements by ensuring that, to the greatest extent feasible, PHA's continue to direct economic opportunities generated by certain HUD financial assistance to low- and very low-income persons, tenants of public and assisted housing, and businesses that provide economic opportunities to low- and very low-income persons.

6. What are good strategies for targeting Section 3 workers and businesses?

In order to successfully target Section 3 workers and businesses for employment and contracting opportunities, 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 is instrumental in reaching Section 3's employment and contracting goals.

It is recommended that recipient agencies establish procedures to certify Section 3 workers and Section 3 business concerns for employment and contracting opportunities. Thereafter, they should maintain a list of eligible workers 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 § 75.15(b) and § 75.25(b) for a listing of qualitative efforts.

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

No. Funding has not been appropriated for Section 3 compliance. Section 3 requirements are only triggered when the normal expenditure of covered funds results in employment, training, or contracting opportunities.

8. Are Section 3 workers or business concerns guaranteed employment or contracting opportunities under Section 3?

Section 3 is not an entitlement program; therefore, employment and contracts are not guaranteed. Low- and very low-income individuals 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.

9. 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 greatest extent feasible, to direct employment opportunities to low- and very low-income persons, including seasonal and temporary employment opportunities. Benchmark goals include the calculation of all Section 3 worker and Targeted Section 3 Worker labor hours as a percentage of all labor hours worked on a project.

Recipients, developers, and contractors are encouraged to provide long-term employment to ensure that they meet the benchmark goals.

10. When might a recipient agency be exempt from the quantitative reporting requirements of Section 3?

A Small Public Housing Agency (less than 250 units) may elect to not report on labor hours. If the agency does elect not to report on labor hours, it is required to report solely on qualitative efforts as permitted in 24 CFR § 75.15(d).

11. 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 contractors to make payments into a fund.

V. SECTION 3 CERTIFICATION:

1. How can a prospective Section 3 worker or business concern certify that they meet the eligibility requirements?

The individual or business must contact the agency or developer from which they are seeking employment or contracting opportunities (e.g., the PHA, city, or local government). They should identify themselves as a Section 3 worker, Targeted Section 3 worker, or Section 3 business concern and provide whatever documentation that the recipient agency requires under their certification procedures. Prospective Section 3 workers and business concerns may self-certify that they meet the requirements as defined in the regulations. HUD recipients, contractors and subcontractors may also establish their own system to certify Section 3 workers and business concerns.

2. What documentation must be maintained by HUD recipients, subrecipients, contractors, and/or subcontractors certifying that low- and very-low individuals and business concerns meet the regulatory definitions under Section 3?

There are many ways that a worker can be certified as either a Section 3 Worker or Targeted Section 3 Worker under 24 CFR part 75:

For a worker to qualify as a *Section 3 worker*, one of the following must be maintained:

- (i) A worker's self-certification that their income is below the income limit from the prior calendar year;
- (ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
- (iii) 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;
- (iv) 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; or
- (v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a *Targeted Section 3 worker*, one of the following must be maintained:

For Public Housing Financial Assistance projects:

- (i) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
- (ii) 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;
- (iii) An employer's certification that the worker is employed by a Section 3 business concern; or
- (iv) A worker's certification that the worker is a YouthBuild participant.

For Housing and Community Development Financial Assistance projects:

- (i) 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;
- (ii) An employer's certification that the worker is employed by a Section 3 business concern; or
- (iii) A worker's self-certification that the worker is a YouthBuild participant.

The documentation must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR § 200.334, Retention Requirements for Records (www.ecfr.gov/cgi-bin/retrieveECFR?n=se2.1.200_1334), which provides for retaining records for at least three years, as described in detail in that regulation..

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

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

HUD does not prescribe that any specific forms of evidence to establish Section 3 eligibility. Acceptable documentation includes, but is not limited to the following:

- Proof of residency in a public housing project; or
- Evidence of participation in the YouthBuild program.

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

HUD does not prescribe that any specific forms of evidence be required to establish Section 3 eligibility. The business seeking the preference must be able to demonstrate that they meet one of the following criteria:

1. At least 51 percent owned and controlled by low- or very low-income persons;
2. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
3. A business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

5. Are all public housing residents considered Section 3 workers regardless of their income?

No. To qualify as a Section 3 Worker, an individual must meet one of the following criteria:

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; or
3. The worker is a YouthBuild participant.

6. Does qualifying as a Section 3 businesses mean that the business will be selected if it meets the technical requirements of the bid, regardless of bid price?

No. As provided in 2 CFR 200.318, 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 and state procurement laws, recipient agencies must develop procedures that are consistent with all applicable regulations.

7. Can contracting with MBE/WBE businesses count towards Section 3 benchmarks?

It depends. Section 3 is race and gender neutral. Only MBEs/WBEs that meet the eligibility criteria as a Section 3 business concern set forth in the regulation can be counted towards the Section 3 labor hour calculation.

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

No. 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.

VI. ECONOMIC OPPORTUNITIES NUMERICAL BENCHMARKS:

1. How can low- and very low-income persons 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.

2. How can I find Section 3 business concerns in my area?

Contact local recipient agencies to find Section 3 business concerns in your area. Section 3 business concerns that have registered in the Section 3 Business Registry are also available at: <https://portalapps.hud.gov/Sec3BusReg/BRegistry/BRegistryHome>.

3. Do the benchmark requirements only count toward new hires?

No, the rule does not apply to only new hires, but if someone is currently on staff and qualifies as a Section 3 resident under 24 CFR part 135, they will need to re-certify as either a Section 3 worker or Targeted Section 3 worker under 24 CFR part 75.

4. Should PHA's report on staff hours?

Yes, but not all PHA staff qualify as Section 3 workers. Only PHA staff that meet the definition of a Section 3 worker or Targeted Section 3 worker would qualify to be counted toward total Section 3 or Targeted Section 3 labor hours. Once a PHA determines that a Section 3 worker or Targeted Section 3 worker is hired or currently employed, the PHA would just report those hours as the numerator over the total labor hours funded with public housing financial assistance as the denominator.

5. What category of PHA Staff should be included?

Both salaried and hourly workers need to be reported. There is a limited good faith assessment exception for PHAs and other recipient employers of hourly and salaried workers that are not subject to requirements specifying time and attendance reporting and do not have systems already in place to track labor hours. This exception is to address employers that do not already track labor hours without making changes in time and attendance or payroll.

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

The Section 3 benchmarks 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, or to the greatest extent feasible, to achieve the benchmarks required for the number of labor hours performed by both Section 3 workers and Targeted Section 3 workers. If an agency fails to fully meet the Section 3 benchmarks, they must adequately document the efforts taken to meet the numerical goals (see Question #9 for a discussion of safe harbor.)

7. Will there be changes to the benchmark requirements?

The Secretary of Housing and Urban Development is required in the Benchmark Notice published in the Federal Register to review and update the Benchmarks by Federal Register notice no less frequently than once every three years.

8. What is considered "other" public construction?

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

9. What is the meaning of the safe harbor determination?

Recipients will be considered to have complied with the Section 3 requirements and met the safe harbor, in the absence of evidence to the contrary, if they certify that they have followed the required prioritization of effort and met or exceeded the applicable Section 3 benchmarks.

If a recipient agency or contractor does not meet the benchmark requirements but can provide evidence that they have made a number of qualitative efforts to assist low- and very low-income persons with employment and training opportunities, 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).

VII. SECTION 3 COMPLAINTS:

1. How should complaints be made?

Complaints alleging failure of compliance with this part may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office. These offices can be found through the HUD website, www.hud.gov/.

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

You may 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/>.