

Designing and Implementing Your Section 3 Program

California Department of Housing and Community Development

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Agenda

PART I: SECTION 3 PROGRAM DESIGN

1. Section 3 Final Rule
2. Overview of Section 3
3. Designing Your Section 3 Program

PART II: SECTION 3 PROGRAM IMPLEMENTATION

1. Putting Your Section 3 Plan Into Action
2. Documenting Compliance with Section 3
3. Section 3 Compliance Scenarios



Disclaimer

- This presentation consists of a series of recommendations from Capital Access, Inc. The material in this presentation and the associated tools are recommendations for your organization to consider.
- Participation in this program design will not guarantee full organizational compliance with HUD monitoring.
- Capital Access, Inc. encourages you to review all policies and program design with your HUD representative.



Please Note!

- This presentation focuses on Section 3 requirements for housing and community development projects (including CDBG-DR and MIT) which are different than the requirements for Public Housing Authorities
- The recent Section 3 “Final Rule” modified Section 3 requirements. The first section covers these changes in detail, and throughout this presentation the new requirements will be indicated by *purple italic text*
- Arrows mean recommended options or solutions to meet compliance but not articulated in the regulations or prescribed by HUD

Section 3 Final Rule





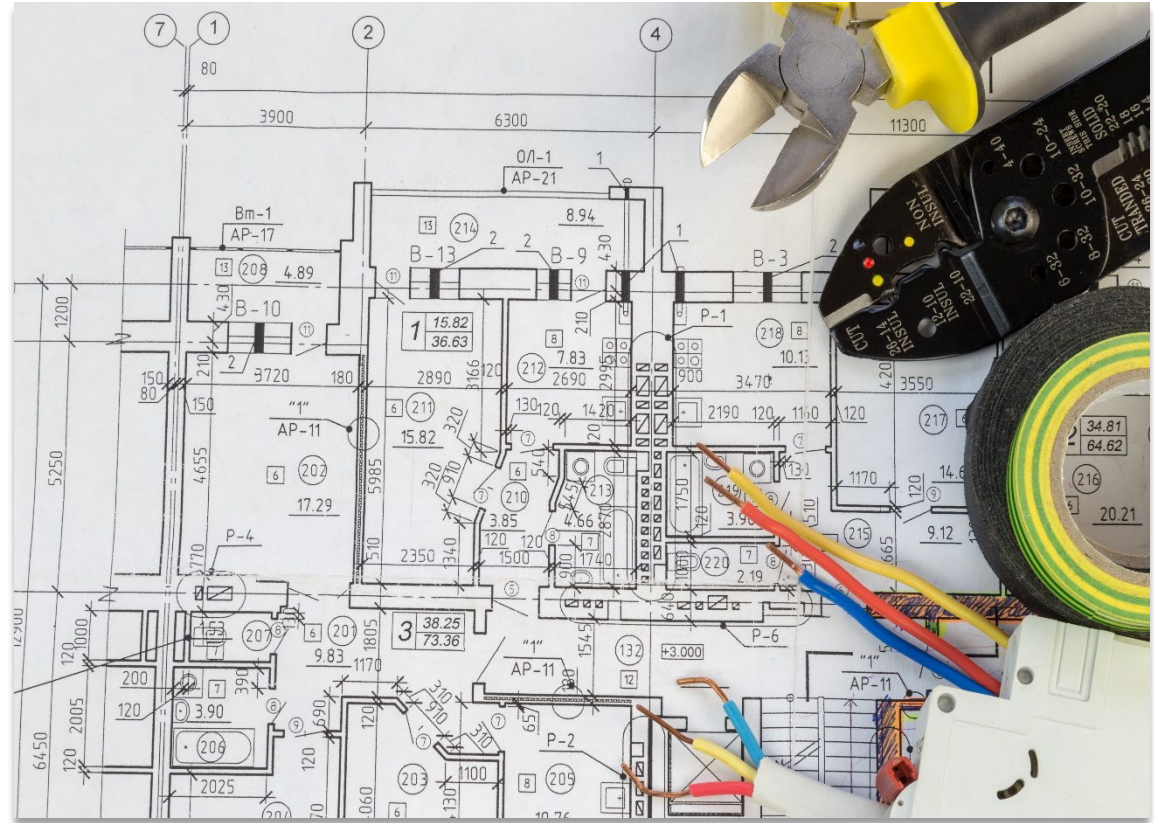
What is Section 3?

- Provision of Housing and Urban Development Act of 1968
- Helps bring economic opportunities generated by some HUD assistance to low-income and very low-income persons residing in the area where HUD funds are being expended
- Results in a dual benefit for LMI areas:
 - New or rehabilitated housing and public facilities and/or infrastructure
 - Jobs and other economic opportunities working on HUD-assisted projects



Why did Section 3 Change?

- Streamline tracking and reporting to make compliance easier
- Align regulations with standard business practices
- Increase positive Section 3 outcomes





NEW Section 3 Resources from HUD (1/2)

HUD Exchange Section 3 Landing Page:

<https://www.hudexchange.info/programs/section-3/>

HUD Section 3 Training Curriculum:

<https://www.hudexchange.info/trainings/section-3/>

HUD Section 3 FAQs: <https://www.hud.gov/sites/documents/11SECFAQS.PDF>

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

Section 3 Final Rule Notice CPD-21-09:

<https://www.hudexchange.info/resource/6443/notice-cpd2109-section-3-of-the-housing-and-urban-development-act-of-1968-as-amended-by-the-housing-and-community-development-act-of-1992/>



NEW Section 3 Resources from HUD (2/2)

Section 3 Final Rule FR Notice:

<https://www.federalregister.gov/documents/2020/09/29/2020-19185/enhancing-and-streamlining-the-implementation-of-section-3-requirements-for-creating-economic>

Section 3 Benchmarks FR Notice:

<https://www.federalregister.gov/documents/2020/09/29/2020-19183/section-3-benchmarks-for-creating-economic-opportunities-for-low--and-very-low-income-persons-and>

Section 3 New Rule Guidance for CDBG-DR and CDBG-MIT Grantees:

<https://files.hudexchange.info/resources/documents/Section-3-New-Rule-Guidance-for-CDBG-DR-and-CDBG-MIT-Grantees-Slides.pdf> and https://youtu.be/7_khTGDLauw

Section 3 Reporting in IDIS: <https://www.youtube.com/watch?v=sbNMajAqZlw>

DRGR Fact Sheet: <https://www.hudexchange.info/resource/6413/drgr-fact-sheet-drgr-guidance-on-reporting-section-3-labor-hours/>



Section 3 Policy Timeline

Date	Milestone
August 1, 1968	Congress approves the Housing and Urban Development Act of 1968, which includes the original Section 3 requirements
August 1, 1994	HUD promulgates Section 3 Interim Rule (this is the one most grantees and contractors are familiar with)
April 4, 2019	HUD issues the Section 3 Proposed Rule for public comment
November 30, 2020	The Section 3 Final Rule takes effect
July 1, 2021	Section 3 Final Rule becomes applicable to recipients of public housing financial assistance and to Section 3 projects for which CPD or CDBG-DR funds are committed
July 1, 2021	New Section 3 Final Rule Reporting Requirements go live in IDIS and DRGR



Timing of Transition to Final Rule

Section 3 requirements apply to new grants, commitments, contracts, or projects funded on or after the November 30, 2020, effective date. For Section 3 projects, this means that requirements apply if a grantee or a recipient of HUD funds executes a “legally binding written agreement” or contract on or after November 30, 2020. For example:

- An executed subrecipient agreement, including any subsequent contracts or agreements, that has project- or activity-level details with respective budgets, schedules and/or secured financing
- An executed homeowner rehabilitation loan or grant agreement, and any subsequent procured contracts
- An agreement or contract, that includes secured financing, with a developer or for-profit entity to complete a multifamily rehabilitation project



Guidance for Existing Contracts

What if I have contracts that were executed after November 30, 2020, but did not incorporate the Section 3 Final Rule?

- Recognize that it may not be possible or realistic to try to retroactively force contractors to comply with Section 3 if they were not procured with the upfront understanding of what compliance would entail.
- Make best efforts to obtain compliance on existing projects. You may want to “inventory” your existing projects and then reach out to contractors on active projects to discuss what efforts might be reasonable at this point. Document all conversations and resulting actions that are taken. If a contractor is unwilling or unable to make efforts to comply, inform them of that compliance with the Final Rule will be required on all applicable projects from now on, and document the interaction as part of best efforts.
- Focus your remaining energy on building a Section 3 program to ensure future compliance and document all efforts going forward.



Highlights of the Final Rule (1/2)

Previous Requirement	New Requirement
Used the term “Section 3 resident”	Uses the term “Section 3 worker”
No preference or definition for Targeted Section 3 worker	Added preference & definition for Targeted Section 3 worker
30% of new hires must be Section 3 residents	25% of total project hours worked by Section 3 workers; 5% by Targeted Section 3 workers
Business could be Section 3 if subcontracting 25% of work to other Section 3 firms	Business can be Section 3 if 51% owned and controlled by a PHA or low/very low-income resident or 75% of hours worked over past 3 months were by Section 3 workers
10% of construction costs contracted to Section 3 firms	No numeric benchmark but must contract with Section 3 businesses to greatest extent feasible
3% of non-construction costs contracted to Section 3 firms	Professional services that require specialized degrees or licensing not subject to Section 3



Highlights of the Final Rule (2/2)

Previous Requirement	New Requirement
Compliance was on a per-program AND per-contract basis	Section 3 compliance required on a per-project basis as defined at 24 CFR 75.3(a)(2)
Covered program threshold was fixed at \$200K annually per grantee and covered contract threshold was fixed at \$100K	Covered project thresholds (currently \$200K for CPD funding and \$100K for Lead/Healthy Homes funding) may be updated every 3 years by FR notice
Numeric benchmarks thresholds were fixed at 10% of construction costs, 3% of non-construction costs and 30% of new hires	Numeric benchmarks (currently 25% Section 3 workers and 5% Targeted Section 3 workers) may be updated every 5 years by FR notice
Reported in SPEARS	Reported in IDIS or DRGR depending on funding source
Implementing regulation 24 CFR 135	Implementing regulation 24 CFR 75
Overseen by the HUD Office of Fair Housing and Equal Opportunity	Overseen by HUD Program Offices



Additional Considerations

- Under the Section 3 Final Rule, “professional services” are not subject to Section 3
 - 24 CFR 75.5 defines professional services as “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”
 - However, other non-construction services such as job site cleanup are still subject to Section 3
- There is no longer a numeric benchmark for non-construction participation, but HUD permits grantees to include professional services in the percentage of Section 3 hours worked while not including them in the TOTAL hours worked to help achieve safe harbor

Overview of Section 3





When Does Section 3 Apply?

- Section 3 is required when the following occur:
 1. The project involves new construction, rehab or demolition of housing, infrastructure or public facilities AND
 2. The project costs exceed \$200K for CPD or \$100K for Lead and Healthy Homes funded projects and results in employment, training, or contracting opportunities during the course of the project
- Section 3 applies to the entire project, regardless of whether the activity is fully or partially funded with HUD assistance
- HCD and its UGLGs/subrecipients must ensure that contractors, subcontractors and developers comply with Section 3 on applicable projects
- *Covered project thresholds may be updated every 3 years by FRN (<https://www.federalregister.gov>)*



Other Section 3 Considerations

- For projects estimated to be near or above the dollar threshold, contractors should be procured with the upfront understanding that Section 3 numeric goals apply
- You may give award preference to Section 3 businesses in your evaluation of returned bids— HUD will consider this a qualitative effort that can help achieve safe harbor if numeric benchmarks are not achieved
- Contractors are not required to hire or subcontract solely to comply with Section 3 if they have the capacity to complete the project in-house using existing staff but they must still track and report on Section 3 numeric benchmarks if over the covered project threshold
- *Section 3 will only apply on a per-project basis rather than per contracted program activity. “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.” (24 CFR 75.3(a)(2))*
For individual projects under \$200K Section 3 is encouraged but not required.



Checkpoint

- What types of activities does Section 3 apply to?

New construction, rehab or demolition of housing, infrastructure or public facilities

- What is the dollar threshold for a project to trigger Section 3?

Exceeds \$200K in CPD funds or \$100K in Lead and Healthy Homes funds

- What was the major change to the type of data and reporting requirements for Section 3?

Section 3 now requires tracking and reporting of Section 3 labor hours for workers and Targeted workers

- Do professional services need to meet Section 3?

No, but program policies may choose to encourage or require as part of best efforts



What is a Section 3 Business Concern?

- A Section 3 Business Concern is any business that meets at least one of the following criteria, documented within the last six-month period:
 - At least 51 percent owned and controlled by low- or very low-income persons;
 - *Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; OR*
 - *A business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing*
- *The six-month period starts the date the contract is executed or at any later point while the project is underway*



Why Certify Section 3 Businesses?

There is no longer a numeric goal for contracting with Section 3 businesses. However, it is still important to certify Section 3 businesses and track contracts awarded to Section 3 businesses for the following reasons:

- Regulations require HCD and UGLGs/subrecipients to contract with businesses that direct economic opportunities to Section 3 workers
- It may be necessary to certify Section 3 businesses in order to certify workers
- *100% of hours worked by Section 3 business concerns can be counted as Section 3 hours*
- It helps HCD and UGLGs/subrecipients meet best efforts toward safe harbor when numeric goals cannot be achieved



Section 3 Certification for Businesses

- UGLGs/subrecipients may establish their own system to certify Section 3 business concerns, including when and how self-certification may be used
- If a business concern claims Section 3 status, certification should be done at the start of the project or as soon as the business becomes involved with the project (if after the project start date)
- A business retains Section 3 status for the life of the project as long as it continues to meet the definition*

* UGLGs/subrecipients must set policy as to how long a business may retain its Section 3 certification on a project before re-certification is necessary.



Types of Section 3 Worker

Two categories of Section 3 workers must be tracked in order to meet the overall numeric goals for Section 3 projects:

- Section 3 worker (*25% total hours worked on project*)
- *Targeted Section 3 worker (5%* of total hours worked on project)*

*The 5% is included within the overall 25% total numeric goal per project.



What is a Section 3 Worker?

Any part-time or full-time employee who meets one of the following categories within the **past five* years** or at time of project:

- The worker's income for the previous or annualized calendar year is below 80% of the area median income **for the area in which the worker resides**. Use the worker's annual gross income based on AMI for a single-person household; or
- The worker is employed by a Section 3 business concern; or
- The worker is a YouthBuild participant.

Qualifying a worker as a Targeted Section 3 worker will count as a Section 3 worker.

*Documentation must be dated within five years of the project start date or date of hire (whichever is later)



What is a Targeted Section 3 Worker?

A Targeted Section 3 worker is a subset of Section 3 workers.

Contractors must track hours worked by both Section 3 workers AND Targeted Section 3 workers in order to meet numeric goals.

A Targeted Section 3 worker means a Section 3 worker who:

- Is employed by a Section 3 business concern; or*
- Currently fits, or when hired fit, at least one of the following categories as documented within the past five years:*
 - Living within the service area or the neighborhood of the project**
 - A YouthBuild participant.**



Section 3 Service Area

- “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
- *Residing in the Section 3 service area is one of the criteria for a Section 3 Targeted worker*
- Section 3 service area is NOT the same as low-mod area, which pertains to meeting a national objective



Section 3 Service Area Mapping

- Recommend working with local GIS or Planning Department to determine correct radius if greater than one mile
- Use the Google Earth to determine the straight-line distance from a worker's residence to the project site
- Place printouts of map and Google Earth in project file



Section 3 Certification for Workers

UGLGs/subrecipients may establish their own system to certify Section 3 workers, including when and how self-certification can be used

For Targeted Section 3 workers, grantees must document the following:

- Employer's confirmation that a worker's residence is within the Section 3 service area, and*
 - Employer's certification that the worker is employed by a Section 3 business concern; or*
 - Worker's self-certification of YouthBuild participation.*

Current Section 3 workers who were certified under 24 CFR 135 must be re-certified under 24 CFR 75

A worker's hours may be **counted for up to five years** toward the Section 3 numeric goal. The five-year period begins at the time of hire, or when the worker is first certified as meeting the definition of a Section 3 worker.



What is YouthBuild?

- National organization with 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. Receives funding from the U.S. Department of Labor.
- Participants learn vocational skills in construction and other industries such as health care, IT and hospitality.
- Youth also serve the community through construction or rehabilitation of affordable housing for low-income or homeless families in their own neighborhoods.
- Administered by the U.S. Department of Labor.





California YouthBuild Chapters

- Department of Labor – YouthBuild Program Information
<https://www.dol.gov/agencies/eta/youth/youthbuild>
- Find YouthBuild Charter School Locations in California
<https://www.youthbuildcharter.org/apps/pages/schoolsites>
- Find YouthBuild USA Program Affiliates – Interactive Map
<https://youthbuild.org/our-programs/#map>





“Section 3” vs. “Targeted Section 3”

Section 3 Worker	Targeted Section 3 Worker
<p>Any worker who currently fits, or when hired within the past five years fit, at least one of the following categories, as documented:</p> <ol style="list-style-type: none"> 1. Employed by a Section 3 business concern 2. Youthbuild participant or 3. Income is below 80% AMI 	<p>Any Section 3 worker who:</p> <ol style="list-style-type: none"> 1. Is employed by a Section 3 business concern; or 2. Currently fits, or when hired fit, <u>at least one</u> of the following categories as documented within the past five years: <ol style="list-style-type: none"> a. Living within the service area or the neighborhood of the project b. A YouthBuild participant.
<p>25% of hours worked on a Section 3 project</p>	<p>5% of hours worked on a Section 3 project (included in 25%)</p>
<p>Self-certification permitted But UGLGs/subrecipients should perform due diligence before awarding contracts to firms that have self-certified by ensuring that they meet the definition of a Section 3 business concern as defined by the Department's regulations at 24 CFR 75.</p>	<p>UGLG/subrecipient must verify status by:</p> <ol style="list-style-type: none"> 1. Employer confirmation that worker resides within the Section 3 service area, <u>and</u> 2. Employer certification that worker is employed by a Section 3 business concern, <u>or</u> 3. Worker self-certification of YouthBuild participation



Additional Considerations

- Section 3 is triggered when an applicable project results in opportunities for employment, training and/or contracting—contractors do not have to subcontract or hire new workers just to meet Section 3 if they would otherwise have the capacity to complete the project in-house. However, if the project exceeds the covered project threshold they must still track and report Section 3 hours and make best efforts as opportunities arise.
- Per 24 CFR 75.5, Section 3 business concerns are not exempt from meeting the specifications of the contract and Section 3 workers are not exempt from meeting the qualifications of the position. This means:
 - Contractors do not have to hire a Section 3 worker who is unqualified for a position just to comply with Section 3; and
 - There is no requirement to contract or subcontract with a Section 3 business concern that does not have the capacity or qualifications to perform on a project just to comply with Section 3



Checkpoint

- What is the benefit of certifying a Section 3 business?

All the business employee work hours will count toward meeting Section 3 labor hours. (Simplifies labor hour tracking and reporting)

- What are the two types of Section 3 workers?

Section 3 workers and Targeted Section 3 workers

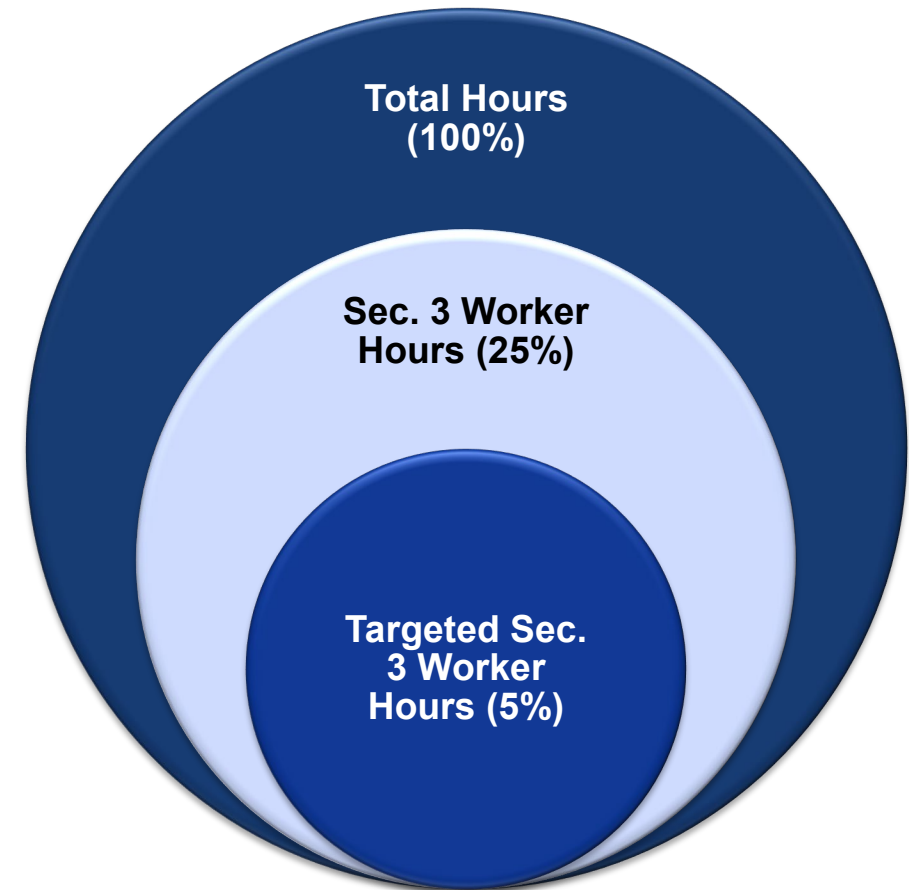
- When would you need to determine the Section 3 service area?

Residing in the Section 3 service area is one of the criteria for a Section 3 Targeted worker



Numeric Goals for Section 3 Projects

- *25% or more of the total hours worked on a project performed by Section 3 workers*
- *5% or more of the total hours on a project performed by Targeted Section 3 workers*
- *The 5% numeric goal is included within the 25% goal (i.e. the total is 25%, not 30%)*





Numeric Goals for Section 3 Projects – Cont.

- *Includes hours worked on a project by nonprofit developer subrecipients, contractors and subcontractors*
- *If numeric goals not achieved, must document “qualitative efforts”*
- *There is no longer a numeric goal that 10% of construction costs and 3% of non-construction costs must benefit Section 3 business concerns*
 - *HCD, UGLGs/subrecipients and developers must still make best efforts to contract with Section 3 businesses*
- *HUD may update benchmarks every 5 years by FRN (<https://www.federalregister.gov>)*



Section 3 Safe Harbor Provision



- If you meet the numeric goals, HUD will consider you in compliance
- You may also achieve safe harbor through **qualitative efforts** toward compliance such as outreach and training
- If you do not meet the numeric goals, HUD will evaluate your qualitative efforts to determine if safe harbor is achieved
- We will take a closer look at specific examples of qualitative efforts in the next session



Reporting Section 3 Compliance

- *HCD must report Section 3 compliance to HUD through program-specific reporting systems (IDIS for annual HUD funding, DRGR for CDBG-DR and MIT funding)*
- *UGLGs/subrecipients report Section 3 compliance to HCD through the Grants Network system—your Contract Manager will provide further guidance*
- *HUD and HCD can track HCD's progress meeting Section 3 numeric goals through a new MicroStrategy report*
- *SPEARS (the existing Section 3 reporting system) was de-commissioned in 2021*



Section 3 Responsibilities: HCD as a Passthrough Entity

HCD

- Provides Section 3 Plan template and guidance to UGLGs/subrecipients
- Monitors UGLGs/subrecipients for compliance with Section 3 requirements
- Reports Section 3 compliance to HUD

UGLG/Subrecipient

- Refines HCD's plan and implements Section 3
- Ensures contractors and developers make best efforts to comply with Section 3
- Reports Section 3 compliance to HCD

Developer/Prime Contractor/Subcontractors

- Makes best efforts to comply with Section 3 requirements
- Documents compliance efforts and submits timely reports to UGLG/Subrecipient



Section 3 Responsibilities: HCD Managing Programs Directly

HCD

- Provides Section 3 Plan template and guidance to Construction Manager
- Monitors Construction Manager for compliance with Section 3 requirements
- Reports Section 3 compliance to HUD

Construction Manager

- Refines HCD's plan and implements Section 3
- Ensures general contractors and developers and subcontractors make best efforts to comply with Section 3
- Reports Section 3 compliance to HCD

Prime Contractor & Subcontractors

- Makes best efforts to comply with Section 3 requirements
- Documents compliance efforts and submits timely reports to Construction Manager



M/WBE vs. Section 3

- M/WBE certification is different from Section 3
- Section 3 preferences are based on income and location
- Section 3 is race and gender neutral, although it may overlap with M/WBE certification
- HUD encourages recipients to align their Section 3 activities with their M/WBE and procurement policies





Additional Considerations

- Section 3 does not apply to material supply contracts or contracts that do not require any labor
- Section 3 does apply to demolition
- The Section 3 status of a worker, targeted worker or business owner cannot be negatively affected by prior arrest or conviction
- HCD and UGLGs/subrecipients are required to make best efforts to contract with businesses that employ Section 3 workers from the metropolitan area (or nonmetropolitan county) in which the project is located



Checkpoint

- What are the two new Section 3 numeric benchmarks?

Section 3 worker: 25% total hours worked on project

Targeted Section 3 worker: 5% of total hours worked on project

- What are the two ways to achieve safe harbor for Section 3?

To meet the numeric benchmarks or perform qualitative efforts

- Does Section 3 apply to demolition projects?

Yes

Designing Your Section 3 Program





Step 1: Appoint a Section 3 Coordinator

Why appoint a Section 3 Coordinator?

- Helps HCD and UGLG/subrecipient more efficiently implement Section 3 activities and manage compliance by having a designated staff member who is informed and up-to-date.
- Single point of contact for consistent communication, regular review of updates and to maintain a resource inventory.

The Section 3 Coordinator is responsible for:

- Performing research and assembling the elements of the Section 3 plan.
- Informing other staff members if there are missing elements of the plan, and where assistance is needed to meet Section 3 requirements.
- Providing guidance to contractors who are struggling to meet the Section 3 requirements.
- Leading training and policy discussions as needed.

Note that the Section 3 Plan should still be reviewed by your agency's policy team prior to its adoption.



Step 2: Learn the Requirements

It is essential to review and understand Section 3 requirements in order to develop a clear and compliant plan. At a minimum, review should include 24 CFR Part 75 (the Section 3 implementing regulations), the Federal Register Notice FR-6085-F-03 which outlines the Final Rule, and CPD Notice 21-09 which further clarifies the final rule.

<https://ecfr.io/Title-24/Part-75>

<https://www.federalregister.gov/documents/2020/09/29/2020-19185/enhancing-and-streamlining-the-implementation-of-section-3-requirements-for-creating-economic>

<https://www.hudexchange.info/resource/6443/notice-cpd2109-section-3-of-the-housing-and-urban-development-act-of-1968-as-amended-by-the-housing-and-community-development-act-of-1992/>

See the Resources slide at the end of this presentation for additional resources and links.



Step 3: Conduct a Resource Inventory

The purpose of the inventory is to identify potential partners that can work with you to meet your Section 3 goals and build on existing community resources rather than duplicate efforts. Types of resources to identify include:

- Employment and job training agencies at the local, regional and state level, including YouthBuild chapters.
- Public housing and other HUD-assisted housing, as well as managers and owners of these units.
- Local businesses, including contractors, suppliers, vendors, and other businesses involved in construction and rehabilitation and property management that meet the qualifications of Section 3 businesses.



Step 3 (cont.) Sample Resource Inventories

Inventory of Employment/Training Agencies

Job Training Agencies					
Name of Agency	Service Area	Contact Person	Email	Phone	Brief description of core services

Inventory of Public Housing/HUD-Assisted Housing Units

Public Housing Units						
Name of Complex	Location/Address	Exec. Director	Employment Coordinator	Email	Phone	Notification Procedures

Inventory of Local Businesses

Section 3 Business					
Name of Business	Type of Business	Contact	Email	Phone	Brief description of services and any past Section 3 project experience



Step 3 (cont.) Workforce Development

Workforce Development Agencies (WDAs) are a valuable partner in developing or expanding a pool of Section 3 workers. Strategies for collaboration may include:

- Giving Section 3 presentations at job fairs and other events hosted by WDAs
- Developing co-branded brochures or other handouts that WDA staff can distribute to clients
- Convening regular capacity-building refreshers for WDA staff on the basics of Section 3



Step 4: Review Procedures Related to Local Preference*

Many subrecipients and agencies have goals for hiring local workers and using local businesses when unrestricted funds are being awarded to local projects. These goals are often similar to Section 3 goals, and an UGLG can integrate and combine its Section 3 policies and procedures with the UGLG's procedures. Procedures to review include those related to:

- Workforce Development
- Procurement
- Employment

Note that local preferences do not conflict with 2 CFR 200.319(c) regarding geographic preference because the reg contains an exception for “cases where applicable Federal statutes expressly mandate or encourage geographic preference.”

*Reminder: Grantees may set policies that are more restrictive, but not less, and should continue to encourage Section 3 participation on construction projects, even when below the dollar threshold, in order to document best efforts.



Step 4 (cont.) When Developing a Section 3 Plan Review Local Procedures

- You may find it helpful to develop a table to compare local requirements in order to align Section 3 Plan goals with their other procurement, labor, contracting requirements or goals such as M/WBE.
- By comparing and aligning your procurement policies and procedures with your Section 3 Plan, you can integrate Davis Bacon, DBE, MBE, WBE, VA or small business and/or micro enterprise requirements so that all the goals and requirements are summarized in one place. Integrating all the federal requirements so they are consistent with your other requirements creates a streamlined and more manageable system.



Step 5: Prepare Your Section 3 Plan

A Section 3 plan is a blueprint to guide HCD and UGLGs/subrecipients in applying Section 3 policies and procedures. An effective Section 3 plan :

- Is written in clear, simple narrative
- Is updated on a regular schedule, such as semi-annually, and named with a versioning system to track updates
 - Keep track of when to check FRN for updates of benchmarks and project thresholds
- Includes forms, checklists, templates and other tools that make Section 3 easier for partners to understand and comply with
- Informs subrecipients, developers and general contractors on what goals and criteria will be required for achieving and documenting Section 3 compliance.



Step 5 (cont.) Required Components of a Section 3 Plan

- Policies and Procedures for Implementing and Setting Standards
- Methods for Cultivating Section 3 Participation:
 - Section 3 Business Pre-Certification
 - YouthBuild, Union and/or Workforce Development Agency Coordination
 - Contractor Training
- Log of Outreach and “Best Effort” Activities
- Section 3 Procurement Clause
- Section 3 Contract Clause
- Participant Certifications and Acknowledgement Form



Step 5 (cont.) Other Helpful Items to Include in Your Plan

- Section 3 service area map for general business certification
- Section 3 policy for establishing project area based on one mile
- Outreach flyers and sample social media graphics
- Income verification method
- Links to Section 3 databases and registries including HUD Section 3 portal
- Section 3 Business and Worker Applications
- Section 3 Project File Checklist





Step 6: Develop Project Compliance Forms

Form	Purpose
Instructions to Bidders	Tells bidders how to complete packet and which forms must be submitted with bid
Section 3 Overview	Informs bidders of Section 3 requirements including numeric targets
Prime Contractor Information Form	Captures whether contractor is a Section 3 business or how they plan to achieve safe harbor on the project and include certifications
Subcontractor Information Form	Lists all firms who will subcontract on project to determine whether they may be Section 3
Employee List	Lists all employees of the contractor, including which ones are Section 3 workers—also required for each subcontractor
Example Tracking Report	Includes tracking form for hours worked and narrative section to describe qualitative efforts
Section 3 Clause for Subcontracts	Prime Contractor must include Section 3 clause in all subcontracts subject to Section 3 compliance



Step 6 (cont.) Using Project Compliance Forms

- Include in bid package
- Completed project compliance forms become an exhibit to contract
- Require contractor to provide supporting documentation of claims such as Section 3 certification
- Recommend requiring Subcontractor Information Form and Employee List to be submitted at beginning and end of project to capture updates
- Option to also use certification (not reporting) forms to capture M/WBE data for the 2516 annual reporting form



Regulatory References

Section 3 requirements are found in several different HUD statutes and regulations, and therefore grantees and subrecipients must refer to different sections of the regulations to find all the requirements.

Code of Federal Regulations: **24 CFR 75 (new rule)**, 24 CFR 135 (old rule), 24 CFR 5, 24 CFR 91, 24 CFR 92, 24 CFR 93, 24 CFR 266, 24 CFR 570, 24 CFR 574, 24 CFR 576, 24 CFR 578, 24 CFR 905, 24 CFR 964, 24 CFR 983, 24 CFR 1000

Federal Register Notices: FR-6085-P-01, FR-6085-F-03



Section 3 Resource List

HUD Section 3 Opportunity Portal: <https://www.hud.gov/section3>

HUD Section 3 Training Curriculum: <https://www.hudexchange.info/trainings/section-3/>

HUD Section 3 FAQs: <https://www.hud.gov/sites/documents/11SECFAQS.PDF>

YouthBuild: <https://www.dol.gov/agencies/eta/youth/youthbuild>

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

Federal Register: <https://www.federalregister.gov>

Section 3 Final Rule Notice CPD-21-09: <https://www.hudexchange.info/resource/6443/notice-cpd2109-section-3-of-the-housing-and-urban-development-act-of-1968-as-amended-by-the-housing-and-community-development-act-of-1992/>

Section 3 New Rule Guidance for CDBG-DR and CDBG-MIT Grantees:

<https://files.hudexchange.info/resources/documents/Section-3-New-Rule-Guidance-for-CDBG-DR-and-CDBG-MIT-Grantees-Slides.pdf> and https://youtu.be/7_khTGDLauw

Section 3 Reporting in IDIS: <https://www.youtube.com/watch?v=sbNMajAqZlw>

DRGR Fact Sheet: <https://www.hudexchange.info/resource/6413/drgr-fact-sheet-drgr-guidance-on-reporting-section-3-labor-hours/>



Thank You!

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