



## **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.

(Full text of Section 3 Final Rule here: <https://www.ecfr.gov/current/title-24/subtitle-A/part-75>)

## **Definitions:**

### **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.

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 **24 CFR 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.

### **What is a “Section 3 Worker”?**

A Section 3 worker is any worker who currently fits, or when hired within the past five years fit, at least one of the following categories, as documented:

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

### **What is a “Targeted Section 3 Worker”?**

A Section 3 targeted worker for Public Housing Financial Assistance projects is a Section 3 worker who:

1. Is employed by a Section 3 business concern; or

2. Currently fits or when hired 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 24 CPF Part 75.5; or
- b. A YouthBuild participant.

### **What is a “Section 3 Business Concern”?**

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.

### **What is a 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.

### **Contract Requirements:**

1. In all contracts and subcontracts for the project, the “*Section 3 Clause*” must be included. (see attached)
2. Contractors and subcontractors must make their best efforts to provide employment and training opportunities to Section 3 workers and award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers, following the “*Prioritization of Effort Requirements*” shown below.

### **Prioritization Requirements | 24 CFR § 75.19**

To the greatest extent feasible, recipients of housing and community development financial assistance shall ensure that employment and training opportunities in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area where the project is located.

### **The order of priority is:**

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

To the greatest extent feasible, recipients of housing and community development financial assistance shall ensure contracts for work awarded in connection with Section 3 projects are provided to business

concerns that provide economic opportunities to the Section 3 workers residing within the metropolitan area in which the project is located.

The order of priority is:


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

### Safe Harbor Benchmarks | 24 CFR § 75.13

The benchmarks for Section 3 projects (housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance where the amount of assistance to the project exceeds *a threshold of \$200,000*) are:

- **25%** or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and
- **5%** or more of the total labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.
- If the safe harbor requirements are not met, evidence must be provided that shows that qualitative efforts have been made to assist low and very low-income person with employment and training opportunities.

To calculate these percentages, the equations are:


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

### Reporting Requirements:

Section 3 efforts are due on a quarterly basis to the City Of Richmond along with the Safe Harbor Benchmarks and Qualitative Efforts to comply with Section 3.

- To track your labor hours for Section 3 Workers and Targeted Section 3 Workers you will need to use the Section 3 Worker Self-Certification Form to determine which workers are classified as Section 3 Workers or Targeted Section 3 Workers.
- The form should be distributed to all contractors and subcontractors on the project before the work begins so that the workers can self-certify and the hours can be tracked accordingly.
- The Section 3 Business Concern Certification Form needs to be filled out by each contractor/subcontractor that meet the Section 3 Business Concern criteria.

## Qualitative Reporting | 24 CFR § 75.15 and 24 CFR § 75.25

Examples of qualitative efforts:

1. Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
2. Provided training or apprenticeship opportunities.
3. Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
4. 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.
5. Held one or more job fairs.
6. Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation and childcare).
7. Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
8. Assisted Section 3 workers to obtain financial literacy training and/or coaching.
9. Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
10. Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
11. Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
12. Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
13. Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

### Section 3 Worker and Targeted Section 3 Worker Certification:

A Section 3 worker seeking certification shall submit self-certification documentation 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, [recipient/grantee] 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.huduser.org/portal/datasets/il.html>.

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 calendar year 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 more of the following criteria:

***(for public housing financial assistance)***

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 within the past five years:
  - a) A resident of public housing; or
  - b) A resident of other public housing projects or Section 8-assisted housing; or
  - c) A YouthBuild participant.

**Section 3 Business Concern Certification:**

The [recipient/grantee], 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 can 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 [recipient/grantee], 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. (Form attached)

**SECTION 3 CLAUSE** All Section 3 covered contracts shall include the following clause (the “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”). The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

B. The contractor agrees to comply with Section 3 and with HUD’s regulations in 24 CFR Part 75, which implement Section 3. As evidenced by its execution of this contract, the contractor certifies that it is under no contractual or other impediment that would prevent it from complying with Section 3 and with HUD’s regulations in 24 CFR Part 75.

C. The contractor expressly agrees to meet the requirements of 24 CFR § 75.9 and 24 CFR § 75.19, as applicable.

D. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the contractor’s commitments under this Section 3 Clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

E. The contractor agrees to include this Section 3 Clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 to apply Section 3 and 24 CFR Part 75 to subcontractors and to expressly require subcontractors to meet the requirements of 24 CFR § 75.9 and 24 CFR § 75.19, as applicable. The contractor 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 Section 3 or 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 Section 3 or the regulations in 24 CFR Part 75.

F. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected by 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.

G. Noncompliance with Section 3 or HUD’s regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and/or debarment or suspension from future HUD assisted contracts.