

Section 3 Final Rule



What is Section 3?

Section 3 of the Housing and Urban Development Act of 1968

- Ensure employment and other economic opportunities generated by *certain* HUD assistance goes to the “**greatest extent feasible**” to low and very low-income persons and businesses.
 - Employment and training opportunities
 - Contracts with businesses
- Applies to Public Housing and HUD-provided Housing and Community Development assistance
 - Section 3 is a hiring requirement that applies to development projects

**This presentation does not cover Section 3 as it applies to Public Housing (Subpart B)*



Final Rule

- 24 CFR §75
- Published in Federal Register on September 29, 2020
- *Why Update?*
 - Modernize and Simplify Regulations
 - Provide Program-Specific Oversight
 - Reduce Administrative Burden
 - Better Alignment with Statutory Priorities
 - Increase Economic Opportunities



Important Dates

Effective Date (11/30/2020)

- Commitments that occur prior to that date, continue to follow old rule, as it was in effect when contracts were signed
- After 11/30/20, the old rule (24 Part 135) is no longer in effect, new Section 3 projects follow the final rule

Compliance Date (7/1/2021)

- Commitments that occur on or after this date will be required to fully comply with the final rule when reporting (Report on labor hours worked in IDIS upon project completion)



Important Dates

As of 11/30/2020, the final rule is in effect...

- HUD expects grantees to comply with the final rule on new Section 3 projects

However, grantees will not need to comply with the new reporting requirements until 7/1/21 compliance date

- IDIS reporting functionality has been updated to accommodate 7/1/21 and later projects
- HUD will not take action related to noncompliance that occurs during this "transition" period
- Grantees must keep written records on Section 3 projects that are committed or completed during this timeframe (may not be able to report in IDIS)



Key Changes



Key Changes

- Applicability Threshold
- Report on Labor Hours, not New Hires
- Updated Definitions
- Benchmark
- Simplified Reporting
- Established Program Office Oversight



Applicability Threshold

HUD assistance used for housing rehab/construction, public construction above **\$200,000**

- CDBG (including DR)
- HOME
- HTF
- ESG
- HOPWA
- Section 202 or 811
- Lead abatement and other HUD NOFA Grantees

**\$100,000 threshold for Lead Hazard Control and Healthy Homes Grants*



Applicability Threshold

- Key Points:
 - Exceeds \$200,000 of total **HUD** assistance
 - Provided at project level
 - *Section 3 is a project-level requirement, not grant-level*

Examples:

- HOME/CDBG Projects > \$200,000 = Section 3 Project
- Project with \$150,000 CDBG + \$50,001 HOME = Section 3 Project
- Project with \$100,000 HUD funds + \$100,001 State funds = NOT Sec 3 Project
- Grantee with \$500,000 CDBG Grant = not a project...



Reporting on Labor Hours

Final rule requires grantees track and report on labor hours, rather than new hires

- Promote employee retention/focus on outcomes
- Consistent with existing business practices
 - (i.e. Davis-Bacon and payroll systems)



Section 3 Project

Definition of a Section 3 Project

- 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.

**A program is not a project*



Section 3 Worker

Any worker who currently fits or when hired within the past five years fit at least one of the following criteria:

- Low- or very low-income, as established by HUD's income limits
- Employed by a Section 3 business concern
- A YouthBuild participant

5-year period doesn't extend before 11/30/2020



Targeted Section 3 Workers

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

- Worker employed by a Section 3 business concern
- Low and very low-income workers residing within **neighborhood or service area of the project**
 - Neighborhood service area – one-mile radius of project site, or if fewer than 5,000 people, circle centered on project containing 5,000 people.
- YouthBuild participants

Public Housing definition can be used if using PH funds in project – 24 CFR § 75.11



Section 3 Business Concern

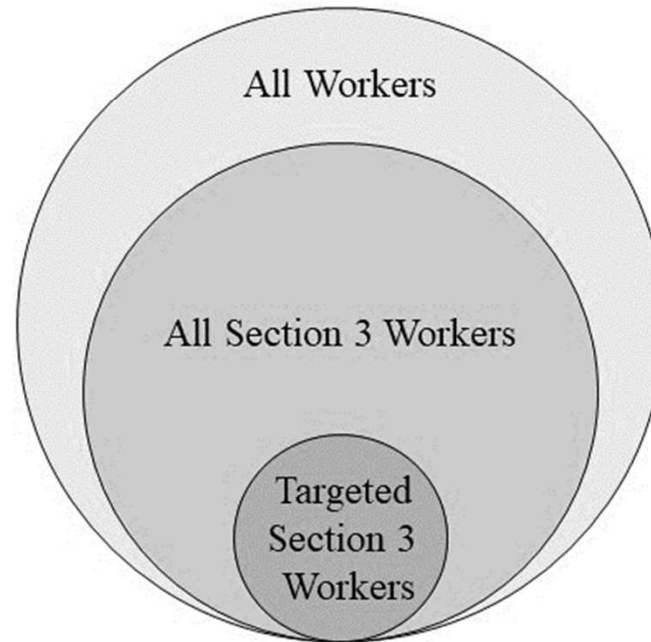
Businesses that meet one of the following criteria within the last 6 months (§75.5):

- At least 51% owned and controlled by low-income or very low-income persons
- Over 75% of labor hours performed for the business over prior 3-month period are performed by Section 3 Workers
- At least 51% owned and controlled by current residents of public housing or Section 8 assisted housing

*Businesses verify their status as a Section 3 business concern at the time the contract is awarded



Targeted Section 3 Workers



Benchmarks

Certify met or exceeded two benchmarks = considered in compliance by HUD (*in the absence of evidence to the contrary*)

- Initial Section 3 benchmarks:
 - **25%** of total labor hours worked by Section 3 workers
 - **5%** of total labor hours worked by Targeted Section 3 workers
- Benchmarks set by separate Federal Register notice:
<https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19183.pdf>



Benchmarks

Qualitative Reporting §75.25(b)

- If unable to meet goals, must describe efforts taken to meet
- Examples include:
 - Held job fairs
 - Conducted on-the job training
 - Outreach efforts to public housing residents
 - Connected residents with supportive services



Program Oversight

- Removed Delegation of Authority from FHEO
- Program offices now oversee Section 3
 - Align Section 3 with regular grant management processes
 - Compliance included in program office monitoring process
 - Complaint process managed by program offices



Reporting Systems

- Grantees will no longer be reporting in SPEARS
 - No longer required to submit HUD 60002
- IDIS updates launched in last release
- Data will roll-up into CAPER
- New Microstrategy reports



IDIS

Program	*Activity Category	Ready to Fund	Setup Detail
CDBG	♦ Is this activity to prevent, prepare for, and respond to coronavirus?* <input type="radio"/> No <input type="radio"/> Yes ♦ Will this activity use Section 108 loan? No <input type="button" value="Change answer"/> None <input type="button" value="v"/>	No	<input type="button" value="Add CDBG"/>
ESG	None <input type="button" value="v"/>	No	<input type="button" value="Add ESG"/>
HOME	None <input type="button" value="v"/>	No	<input type="button" value="Add HOME"/>
HOPWA	None <input type="button" value="v"/>	No	<input type="button" value="Add HOPWA"/>
HPRP	None <input type="button" value="v"/>	No	<input type="button" value="Add HPRP"/>
TCAP	None <input type="button" value="v"/>	No	<input type="button" value="Add TCAP"/>
HESG	None <input type="button" value="v"/>	No	<input type="button" value="Add HESG"/>
HOPWA-C	None <input type="button" value="v"/>	No	<input type="button" value="Add HOPWA-C"/>
HTF	None <input type="button" value="v"/>	No	<input type="button" value="Add HTF"/>

*Is this activity subject to Section 3? Yes No

*Environmental Review: Allow Another Organization to Access this Activity:

HEROS Environmental Review ID:

Comments

IDIS

Activity

Add HOME Completion Detail Page 1 (continued) - Section 3

Rental

- HOME Completion has been saved

* Indicates Required Field

Grantee/PJ Activity ID:
18-125455

IDIS Activity ID:
16285

HOME Multiple-address:
No

Activity Name:
PATH Villas Montclair/Gramercy Site 2

Activity Owner:
LOS ANGELES

HOME Completion Activity Type:
Acquisition and Rehabilitation

Program Year/Project ID:
2019/19

Project Title:
AFFORDABLE HOUSING MANAGED PIPELINE AND PROGRAM DELIVER

Number of HOME-Assisted Units:
16

Activity Address:
3317 W Washington Blvd
Los Angeles, CA 90018-1251

*Section 3

		Calculated Percentage	Safe Harbor Benchmark Met
Total Labor Hours	<input type="text"/>		
Section 3 Target Worker Hours	<input type="text"/>		
Section 3 Worker Hours	<input type="text"/>		

IDIS

*Section 3

		Calculated Percentage	Safe Harbor Benchmark Met
Total Labor Hours	<input type="text" value="100"/>		
Section 3 Target Worker Hours	<input type="text" value="3"/>	3	No
Section 3 Worker Hours	<input type="text" value="30"/>	30	Yes

Nature of Agency Efforts

This section is required if, based on the labor hours reporting above, the reporting agency did not meet the safe harbor benchmarks.

Check all that apply. Maintain records available for HUD review to document any efforts checked.

- Outreach efforts to generate job applicants who are Public Housing Targeted Workers
- Outreach efforts to generate job applicants who are Other Funding Targeted Workers.
- Direct, on-the job training (including apprenticeships).
- Indirect training such as arranging for, contracting for, or paying tuition for, off-site training.
- Technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Outreach efforts to identify and secure bids from Section 3 business concerns.
- Technical assistance to help Section 3 business concerns understand and bid on contracts.
- Division of contracts into smaller jobs to facilitate participation by Section 3 business concerns

IDIS

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- Technical assistance to help Section 3 business concerns understand and bid on contracts.
- Division of contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided or connected residents with assistance in seeking employment including: drafting resumes, preparing for interviews, finding job opportunities, connecting residents to job placement services.
- Held one or more job fairs.
- Provided or connected residents with supportive services that can provide direct services or referrals.
- Provided or connected residents with supportive services that provide one or more of the following: work readiness health screenings, interview clothing, uniforms, test fees, transportation.
- Assisted residents with finding child care.
- Assisted residents to apply for/or attend community college or a four year educational institution.
- Assisted residents to apply for or attend vocational/technical training.
- Assisted residents to obtain financial literacy training and/or coaching.
- Bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Provided or connected residents with training on computer use or online technologies.
- Other. Specify:

Recordkeeping

Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor maintains documentation to ensure workers meet the definitions

- Section 3 worker:
 - Worker's self-certification that their income is below the income limit from the prior calendar year
 - Worker's self-certification of participation in a means-tested program such as public housing or Section 8
 - Certification from a PHA or Section 8 program manager that the worker is a participant in such a program
 - Employer's certification that the worker's income from that employer is below the income limit
 - Employer's certification that the worker is employed by a Section 3 business concern
- Targeted Section 3 worker:
 - Worker's self-certification of participation in a means-tested program such as public housing or Section 8
 - Certification from a PHA or Section 8 program manager that the worker is a participant in such a program
 - Employer's certification that the worker is employed by a Section 3 business concern
 - Worker's certification that the worker is a YouthBuild participant



Compliance

HUD expects full compliance by July 1, 2021

- Updated policies and procedures
- Section 3 contract language reflects Part 75
- Forms and reports in place to collect labor hour data
- Marketing and communication materials
- Training materials



Resources in Development at HUD

- Toolkit
- FAQs
- Training
- Targeted worker web tool/map
- Microstrategy reports
- Templates
- Monitoring exhibits



Further Reading

- Section 3 Final Rule 24 CFR §75:
<https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19185.pdf>
- Benchmark Federal Register Notice:
<https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19183.pdf>



Questions

