



DESIGNING & IMPLEMENTING YOUR SECTION 3 PROGRAM

A PRACTICAL GUIDE FOR GRANTEES AND SUBRECIPIENTS

PRESENTERS

Grant Johnson

Director of Development and Operations

CDBG Disaster Recovery and Mitigation

gj@capitalaccessinc.com

C: 267.784.5493

Kathryn Mayrose

Policy and Compliance Consultant

CDBG Disaster Recovery and Mitigation

kmayrose@capitalaccessinc.com

C: 314.625.7308



CAPITAL ACCESS

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 and Reporting Compliance with Section 3
3. Section 3 Compliance Scenarios



A person wearing a denim shirt and a safety vest is holding a globe. The image is dark and serves as a background for the text.

SECTION 3 PROGRAM DESIGN

PART I



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*

SECTION 3 FINAL RULE



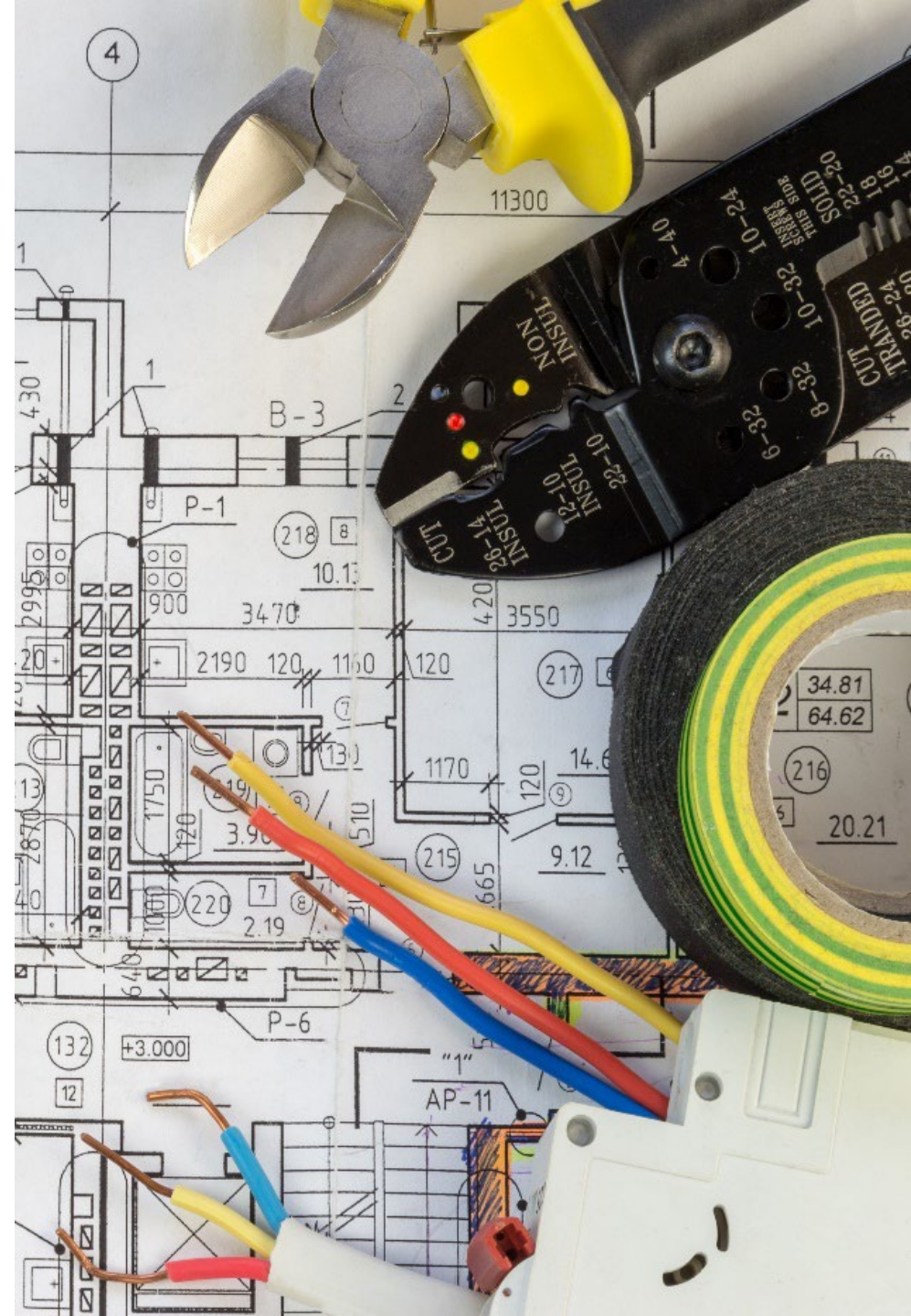


WHAT IS SECTION 3?

- 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

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>

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

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

NEW SECTION 3 RESOURCES FROM HUD (CONT.)

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 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>

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 fully applicable to recipients of public housing financial assistance
July 1, 2021	Section 3 Final Rule becomes fully applicable to Section 3 projects for which CPD or CDBG-DR funds are committed



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

SUMMARY OF TRANSITION REQUIREMENTS

Commitment Date	Before 11/30/2020	On or After 11/30/2020 but before 7/1/2021	On or After 7/1/2021
Applicable Regulation	24 CFR part 135	24 CFR part 75	24 CFR part 75
Reporting Requirement	Grantee must retain Documentation demonstrating compliance with interim rule in project file.	Grantees must retain documentation demonstrating compliance with Final Rule in project file. Grantee will report in IDIS or DRGR for open activities starting July 1, 2021. If the IDIS or DRGR activity was setup prior to the system update, grantees will need to modify the IDIS or DRGR activity to generate the appropriate Section 3 compliance screen(s).	Grantee will report compliance data in IDIS or DRGR within the applicable reporting cycles beginning on or after July 1, 2021.

HIGHLIGHTS OF THE FINAL RULE (1/2)

Previous Requirement	New Requirement
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
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
Business could be Section 3 if subcontracting 25% of work to other Section 3 firms	Business can be Section 3 if 51% owned by PHA resident or 75% of hours worked are 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
Program-wide compliance required if >\$200K in HUD funds	Section 3 compliance required on a per-project basis only
Covered project threshold was fixed	Covered project threshold may be updated every 3 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
Fixed numeric benchmarks and project thresholds	Numeric benchmarks updated every 3 years by FR notice; Project thresholds updated every 5 years by FR notice
Overseen by the Office of Fair Housing and Equal Opportunity	Overseen by Program Offices
Covered project = greater than \$100K in HUD assistance	Covered project = greater than \$200K in CPD assistance or greater than \$100K in Lead and Healthy Homes funding

ADDITIONAL CONSIDERATIONS

- Under the old Section 3 rule, grantees were required to direct 3% of non-construction project costs (such as professional services) to Section 3 business concerns.
- With the new rule 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 to help achieve safe harbor. (This can help you meet the numeric goals.)



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 in CPD funds or \$100K in Lead and Healthy Homes funds and result 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
- States and subrecipients must ensure that contractors, subcontractors and developers comply with Section 3 on applicable projects
- *Dollar 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
- *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 projects does Section 3 apply to?
- What is the dollar threshold for a project to trigger Section 3?
- What was the major change to the type of data and reporting requirements for Section 3?
- Do non-construction trades need to meet Section 3?



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 business concerns for the following reasons:

- Regulations require grantees 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 grantees and subrecipients meet best efforts toward safe harbor when numeric goals cannot be achieved



SECTION 3 CERTIFICATION FOR BUSINESSES

- Recipients 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
- A business retains Section 3 status for the life of the project as long as it continues to meet the definition*

*Grantee 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

Grantees must qualify two categories of Section 3 workers 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 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 CERTIFICATION FOR WORKERS

Recipients 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 one of the following:

- *Employer's confirmation that a worker's residence is within the Section 3 service area*
- *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.

“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, at least one 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 grantees 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 135.5.</p>	<p>Grantee or UGLG must verify status by one of three methods:</p> <ol style="list-style-type: none"> 1. Employer confirmation that worker resides within the Section 3 service area 2. Employer certification that worker is employed by a Section 3 business concern 3. Worker self-certification of YouthBuild participation

WHAT IS YOUTHBUILD?

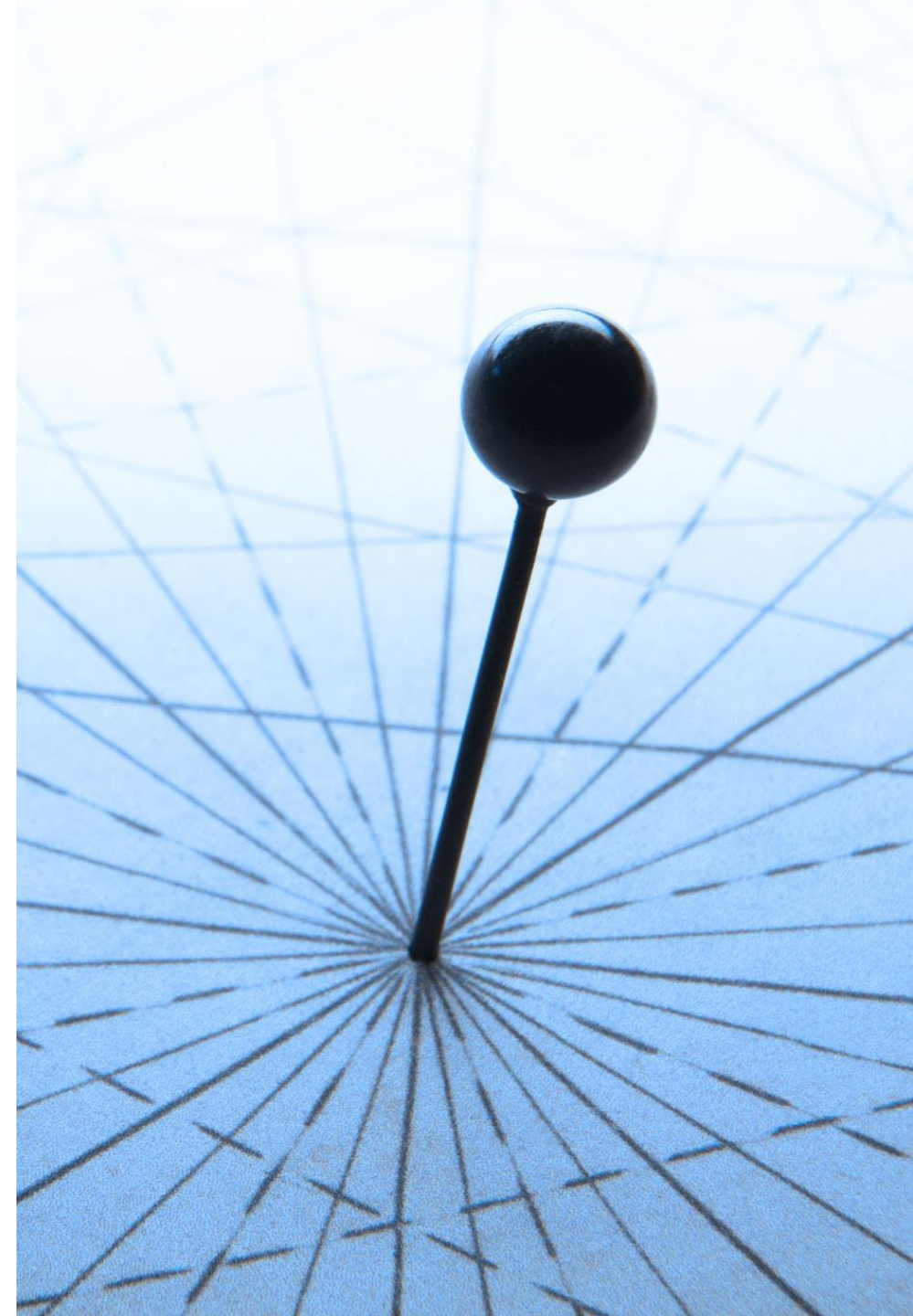
[HTTPS://WWW.DOL.GOV/AGENCIES/ETA/YOUTH/YOUTHBUILD](https://www.dol.gov/agencies/eta/youth/youthbuild)

- 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
- 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
- Your local YouthBuild chapter may be a good source for qualifying Section 3 labor when there are opportunities for new hire or re-hire positions



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

- “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
- 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



ADDITIONAL SECTION 3 HIRING 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
- 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

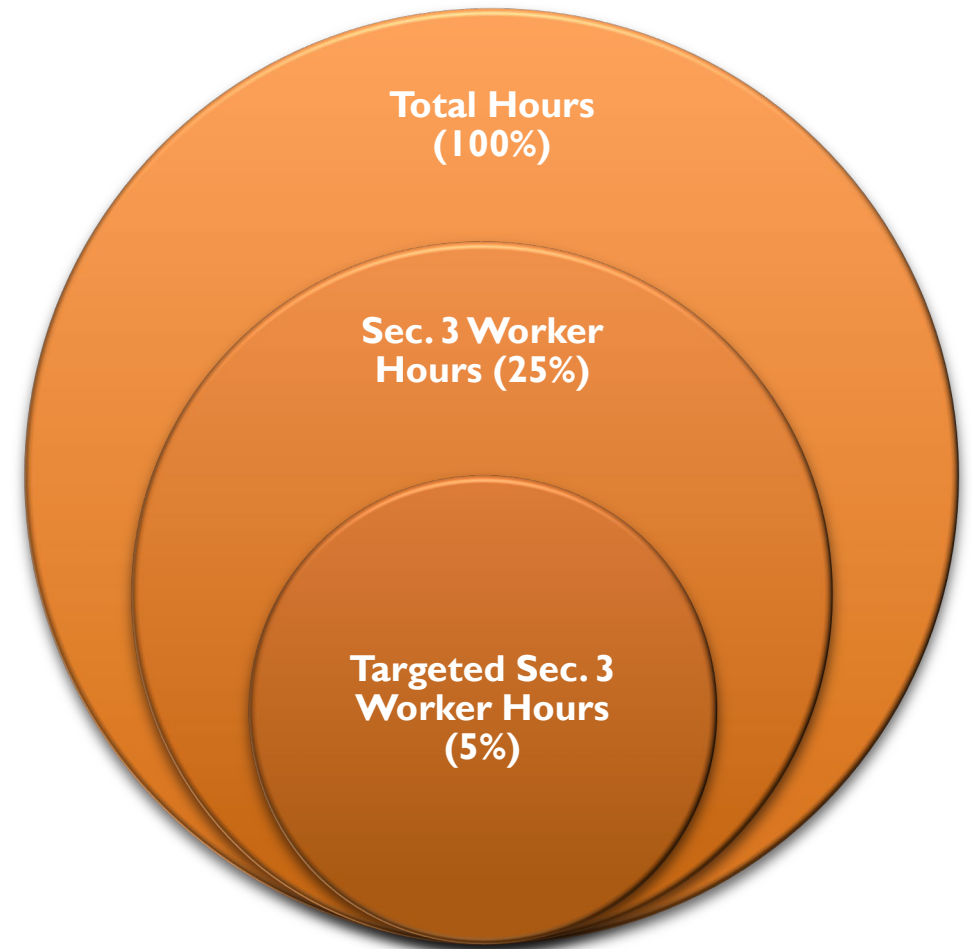
CHECKPOINT

- What is the benefit of certifying a Section 3 business?
- What are the two types of Section 3 workers?
- When would you need to determine the Section 3 service area?



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*
 - *States, subrecipients and developers must still make best efforts to contract with Section 3 businesses*
- *Benchmarks updated every 3 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, training and procurement
- If you do not meet the numeric goals, HUD will evaluate your qualitative efforts to determine if safe harbor is achieved





QUALITATIVE EFFORTS TO ACHIEVE SAFE HARBOR

Best Efforts or Greatest Extent Feasible?

- Both terms are used (but not defined) in 12 U.S. Code § 1701u
- HUD uses the terms interchangeably
- Regardless of terminology, the focus is on outcomes as measured against the numeric goals defined in the Federal Register Notice
- If grantee does not achieve safe harbor by meeting numeric goals, HUD will assess the grantee's qualitative efforts
- Qualitative efforts may include outreach, training/apprenticeship opportunities, and/or technical assistance

State

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

UGLG/Subrecipient

- Refines State plan and implements Section 3
- Ensures contractors and developers make best efforts to comply with Section 3
- Reports Section 3 compliance to the State

Contractor

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

SECTION 3 RESPONSIBILITIES

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
- Grantees 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 goals?
- What are the two ways a grantee can achieve safe harbor for Section 3?
- Does Section 3 apply to demolition projects?



5-MINUTE
BREAK



DESIGNING YOUR SECTION 3 PROGRAM



STEP 1: APPOINT A SECTION 3 COORDINATOR

Why appoint a Section 3 Coordinator?

- Helps the State and UGLG 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 UGLG staff members if there are missing elements of the plan, and where assistance is needed to meet Section 3 requirements.
- Obtaining assistance to help the UGLG and its contractors meet the Section 3 requirements.
- Leading training and policy discussions as needed.

Note that the Section 3 Plan should still be reviewed by grantee or subrecipient 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) 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) 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) REVIEW LOCAL PROCUREMENT BENCHMARKS WHEN DEVELOPING A SECTION 3 PLAN

- UGLGs 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 the UGLG's procurement policies and procedures with their Section 3 Plan, an UGLG 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 the UGLG's 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 grantees and subrecipients in applying their 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
- 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 the UGLG will require for achieving and documenting Section 3 compliance.

(STEP 5)
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 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) OTHER HELPFUL ITEMS TO INCLUDE IN YOUR PLAN

- Section 3 service area map for general business certification
- Section 3 procedure 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) 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

CHECKPOINT

- What types of potential partners should be included in your Section 3 resource inventory?
- What is a Section 3 plan used for?
- What are some required elements of a Section 3 plan?



5-MINUTE BREAK



Issue 764
Sunday, Jun 13, 2016
#Citydailynews

Imagine a revenue of the world agencies can reinvest
nobody else in the world will havethis concept on this scale.
Soon we'll be able to start attracting crazy shoot days in a
world-class library facility with around 50 models each day.
We don't need people with tons of experience, with imagine
a revenue of hundred million, we are exploring options for
loans to accelerate things.

We are creating the biggest
shoots in the huge industry.
We are planning a world class
facility with around 50 models
each day in the world will have
this concepts on the scene
with virtually all pho-
tographers work alone
hundreds of models
we



SECTION 3 PROGRAM IMPLEMENTATION

PART II

PUTTING YOUR SECTION 3 PLAN INTO ACTION



SECTION 3 AND PROCUREMENT

Small Purchase (*When Under \$250K*) and Competitive Sealed Bids (*When Over \$250K*)

- If you estimate the bids will come in *near* or *over* the Section 3 dollar threshold (*currently \$200K*), request that bidders provide a Section 3 Project Implementation Plan as exhibit in RFP and request Section 3 information from bidder

Competitive Proposals (RFP)

- *Section 3 not required for professional services but encouraged*
- Option to give scoring incentive for Section 3 status (example of qualitative efforts)

Sole Source (Noncompetitive)

- *If project is over \$200K*, ensure contractor understands that Section 3 is triggered if they hire additional workers or subcontract
- Document best efforts to collect any information that may currently qualify existing vendor as Section 3 business or with Section 3 worker

ITEMS TO INCLUDE IN SECTION 3 COVERED CONTRACTS

(All items referenced below are elements from a grantee **Section 3 Project Implementation Plan**)

Contractual language:

- FORM 5 – Section 3 standard Contract Clause

Completed forms that were submitted with bid:

- FORM 1 – Section 3 Assessment and Certifications
- FORM 2 – Subcontractor Information
- FORM 3 – List of Permanent Employees
- FORM 4 – Documentation of Qualitative Efforts

Blank forms for use in quarterly and final reporting:

- FORMS 2 through 4 (updated as needed)
- FORM 6 – Section 3 Project Compliance Report
- FORM 7 – Sample Section 3 Business Outreach Form
- FORM 8 – Sample Section 3 Worker Outreach Form



CONTRACTOR SECTION 3 CAPACITY BUILDING

Contractors and subcontractors are accountable for complying with Section 3 but may be unfamiliar with the requirements. To maximize contractor compliance, State and UGLGs should:

- Discuss Section 3 Plan requirements at pre-bid meetings
- Clearly identify the contractor's staff member who will handle Section 3 compliance
- Walk through Section 3 requirements at the pre-construction meeting and/or schedule a separate meeting to discuss Section 3 reporting form
- Consider providing a Section 3 presentation for contractors as part of a pre-qualification bid meeting and/or annually

OVERCOMING BARRIERS TO PARTICIPATION



Technology

- Accept Section 3 applications via multiple methods such as phone, online and in person
- Provide 1:1 technical assistance to applicants
- Consider hosting open-house applicant support sessions
- Post pre-recorded presentations



Childcare

- If holding job fairs, applicant support sessions or other events, consider offering childcare for applicants
- Provide food or snacks and other services during events
- Schedule during convenient times most candidates are likely to be available



Transportation

- Hold job fairs, applicant support sessions and other events at facilities that are located in LMI areas and/or easily accessible by public transportation
- Partner with workforce development organizations that help LMI workers find transportation to work



EXAMPLES OF QUALITATIVE EFFORTS

([HTTPS://WWW.HUD.GOV/SITES/DOCUMENTS/11SECFAQS.PDF](https://www.hud.gov/sites/documents/11SECFAQS.PDF))

- Engage in outreach efforts to generate job applicants who are Targeted Section 3 workers
- Provide training or apprenticeship opportunities
- Provide technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching)
- Assist or connect Section 3 workers with drafting resumes, preparing for interviews, and finding job opportunities
- Hold regular job fairs
- Provide or refer Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare)
- Provide assistance to apply for or attend community college, a four-year educational institution, or vocational/technical training

EXAMPLES OF QUALITATIVE EFFORTS CONT.

([HTTPS://WWW.HUD.GOV/SITES/DOCUMENTS/11SECFAQS.PDF](https://www.hud.gov/sites/documents/11SECFAQS.PDF))

- Help Section 3 workers to obtain financial literacy training and/or coaching
- Engage in outreach efforts to identify and secure bids from Section 3 business concerns
- Provide technical assistance to help Section 3 business concerns understand and bid on contracts
- Divide contracts into smaller jobs to facilitate participation by Section 3 business concerns
- Provide bonding assistance, guarantees, or other efforts to support viable bids from Section 3 business concerns
- Promote 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



SAMPLE OUTREACH METHODS

Document outreach to develop a list of pre-qualified Section 3 businesses and/or available workers as an example of a grantee's qualitative efforts. Efforts may include:

- Radio public service announcements (free to post)
- Ads in community newsletters, especially those that serve LMI neighborhoods
- Social media (Facebook, Twitter, LinkedIn, Next Door, etc.)
- Signage and information intake forms and logs at/near the project site
- Posting Requests for Bid on the Section 3 Opportunity Portal
- Advertising in trade publications

CHECKPOINT

- What are some recommended actions to enhance contractor Section 3 capacity?
- What are some examples of qualitative efforts?





SECTION 3 CONSIDERATIONS FOR RURAL AREAS

People who live in rural communities may face specific challenges related to lack of transportation and reliable technology. Additionally, rural grantees and subrecipients may find it difficult to cultivate Section 3 participation due to less population density. Here are some suggestions for additional qualitative efforts that focus on rural areas:

- Develop partnerships with organizations that provide transportation and other employment support to rural workers
- Host onsite application support and outreach sessions at disparate locations to help individuals facing technology barriers engage with the Section 3 program in person
- Consider expanding outreach to neighboring jurisdictions if participation is low in your jurisdiction
- Remember that the Section 3 final rule permits grantees in less populated areas to expand the service area of a project until it encompasses an area of 5,000 people—this can make it easier to qualify targeted Section 3 workers

WHAT IS THE SECTION 3 OPPORTUNITY PORTAL?

The Section 3 Opportunity Portal (<https://hudapps.hud.gov/OpportunityPortal/>) is a HUD online resource to help match Section 3 Workers to jobs and training opportunities and Section 3 Businesses to contracting opportunities. The Portal includes the following functions:

- Section 3 workers can search for jobs and training positions and post their resumes
- Section 3 business concerns can search for contracting opportunities
- Section 3 recipients (grantees, subrecipients, contractors and developers) can post jobs, contracting opportunities and training positions and search for job applicants

It is recommended that States/UGLGs post all Invitations for Bids and Requests for Proposals on the Portal as part of their procurement procedures and document the posting as a qualitative effort.

WHAT IS THE SECTION 3 BUSINESS REGISTRY?

The Section 3 Business Registry (<https://portalapps.hud.gov/Sec3BusReg/BRegistry/SearchBusiness>) is an online HUD resource that enables businesses to self-certify Section 3 status and be entered into a national database where prime contractors, grantees and subrecipients can find them.

- States/UGLGs doing direct bid solicitations can use the registry to locate Section 3 firms in their area
- Prime contractors who need to show qualitative efforts can use the registry to locate potential subcontractors
- Firms are searchable by area as well as by trade/capability
- The Section 3 Business Registry also contains several other search options such as MBE, WBE or Youthbuild participant/grantee.

NOTE: HUD maintains the database but does not verify information submitted by the businesses. Users should perform due diligence before awarding contracts to ensure the business qualifies as a Section 3 business concern.



ADDITIONAL CONSIDERATIONS

- Consider instituting a preference for awarding contracts to Section 3 business concerns, i.e. if a qualified Section 3 bid is within 10% of the lowest bid, award to the Section 3 business.
- Refrain from executing contracts with any contractor that previously failed to comply with Section 3
- Grantees/subrecipients should periodically monitor project sites and interview workers to assure a contractor is truthfully reporting Section 3 participation
- *Under the final rule, a public housing resident does not automatically qualify as a Section 3 worker. Must follow the final rule guidance to qualify Section 3 workers.*

DOCUMENTING AND REPORTING COMPLIANCE WITH SECTION 3





SECTION 3 PROJECT IMPLEMENTATION PLAN

- Sample Forms (1-8) can be completed by bidder/contractor to document how they will comply with Section 3 on the project
- **These are not HUD forms** but they are examples for how to capture information required in order to assess Section 3 compliance
- Grantees/subrecipients may use the template provided or develop their own forms or systems for documenting compliance and coordinating collection of required information
- Forms may be modified to capture additional info such as MBE/WBE status of contractor and subcontractors, verification of non-debarment and E-Verify participation



FORM 0: SECTION 3 OVERVIEW

- General Section 3 information one page form. Briefly describes intent of Section 3, threshold for a covered project, programmatic responsibilities and numeric goals.
- Includes instructions to bidders for completing the subsequent Forms (1-8)

(Review Form 0)



FORM 1: SECTION 3 ASSESSMENT AND CERTIFICATIONS

- Assesses whether a project will likely trigger Section 3 and how the bidder will achieve safe harbor
- Contains certifications that obligate bidder to make best efforts to comply with Section 3
- Subrecipients should require ALL bidders to submit this form with their bid, even if the project is not anticipated to trigger Section 3 (can count toward qualitative efforts)
- For Section 3 covered contracts, the completed form can be incorporated into the contract by attachment



FORM 2: SUBCONTRACTOR INFORMATION

- Captures relevant information about all subcontractors working on a project
- May be compared against Section 3 project interviews to assure truthful reporting of hours
- Because subcontractors may be added or removed at any time, this form should be submitted at least three times during the project: with initial bid, upon contract execution, and with the final Section 3 compliance report – verification is not “one and done” and avoids disputes or misunderstanding
- May also be modified to capture MBE/WBE status and/or assist with Davis Bacon or Prevailing Wage monitoring



FORM 3: LIST OF PERMANENT EMPLOYEES

- Captures information about all workers (not just those working on the Section 3 project) employed by contractor and all subcontractors
- May be compared against Section 3 project interviews and time records to assure truthful reporting of hours
- Because workers may be hired or terminated at any time, this form should be submitted at least twice during the project: with initial bid, and with the final Section 3 compliance report



FORM 4: DOCUMENTATION OF QUALITATIVE EFFORTS

- Narrative form to document qualitative efforts
- Should be submitted with initial bid and also with each compliance report where numeric goals were not met
- Can be modified to assess efforts to meet other targets such as MBE/WBE or other local hiring requirements

FORM 5: SECTION 3 SAMPLE CONTRACT CLAUSE

- 24 CFR § 135.38 contains a Section 3 clause that was required to be incorporated into contracts under the previous requirements
- The Section 3 clause spelled out the contractor's obligations to uphold the provisions of Section 3
- **24 CFR § 75 requires that a Section 3 clause be included in contracts does not provide an updated clause**
- For now, we **recommend updating the existing clause with the new implementing regulation** and including in all contracts and subcontracts that are subject to Section 3

**Make sure your legal or other divisions responsible for contracts understand when this clause should be used and are informed if they choose to revise, strike or edit it.*



FORM 6: SECTION 3 COMPLIANCE REPORT

- Documents total hours, Section 3 hours and Targeted Section 3 hours worked on project
- Must be accompanied by supporting documentation such as certified payrolls or time and attendance records
- Submitted quarterly and at the end of the project for entry into DRGR. *However, we recommend monthly submissions or with each invoice by contractor.*



FORMS 7 & 8: SECTION 3 SAMPLE OUTREACH FORMS

- Optional/sample forms that awarded contractors may use to try assess which of their subcontractors and workers may qualify for Section 3
- After forms are submitted, the subrecipient Section 3 coordinator follows up with any firms or workers who indicated they may qualify for Section 3 to help them complete an application
- Using forms like these can count toward qualitative efforts even if respondents indicate they do not qualify for Section 3



REQUIRED FILE DOCUMENTATION

- Outreach efforts
- Bid solicitations
- Contracts
- Subcontractor and employee lists
- *Compliance reports that show total hours worked as well as Section 3 hours and targeted Section 3 hours*
- Section 3 worker, *targeted worker* and business concern applications and supporting documentation (certification forms)
- Documentation of other qualitative efforts

REPORTING COMPLIANCE TO STATE/HUD

- *Report Section 3 compliance through program-specific reporting systems (IDIS, DRGR)*
- *CDBG-DR and MIT grantees must enter projected Section 3 hours into DRGR Action Plan and report actuals via Quarterly Performance Reports*
- *HUD and grantees will be able to track progress meeting Section 3 numeric goals through a new MicroStrategy report*
- *SPEARS (the existing Section 3 reporting system) will be de-commissioned in 2021*
- *See HUD video “Section 3 New Rule Guidance for CDBG-DR and CDBG-MIT Grantees” published 7/1/21: https://youtu.be/7_khTGDLauw –the last 12 minutes discuss DRGR*
- *For more guidance, refer to DRGR Fact Sheet: DRGR Guidance on Reporting Section 3 Labor Hours (<https://www.hudexchange.info/resource/6413/drgr-fact-sheet-drgr-guidance-on-reporting-section-3-labor-hours/>)*

TRACKING SECTION 3 HOURS

Hours tracked may be based on any of the following:

- Prevailing wage data
- Time-and-attendance system data
- Good faith assessments of hourly workers not tracked through a data system or
- Good faith assessments of salaried employees

Good faith assessments may only be used if a contractor is not required to report prevailing wage or does not have a time and attendance system in place.

Contractors are not permitted to self-certify hours in lieu of providing data (even if the data is just good faith assessments).

Recommend grantees review good faith assessments from contractors to ensure the number of hours reported is reasonable.

5-MINUTE BREAK



SECTION 3 COMPLIANCE SCENARIOS



SCENARIO I: REPAIR OF FIRE STATION

The City of Metroville is using CDBG-DR funds to repair a fire station that was damaged during a recent disaster. According to an estimate from the City engineer, the total cost is projected to be \$800K. **Does Section 3 apply?**

Yes. Keisha Johnson, the Metroville designated Section 3 Coordinator, is responsible for ensuring the City complies with Section 3 since the total amount of HUD funds invested in the project will exceed \$200K.



I. BID PACKAGE MATERIALS

First, Keisha assembles a bid package for the fire station repairs that includes the following Section 3 documents:

- A. Notice of Section 3 Applicability
- B. Section 3 **Project** Implementation Plan and reporting forms
- C. Preference for a Section 3 Business hire applies when a bid is within 10% of the lowest bidder

A. NOTICE OF SECTION 3 APPLICABILITY

The following is an example of the public notification that Keisha is including in both the “Notice of Bid” advertisements and the bid package:

This project is funded in whole or in part with HUD Community Development Block Grant Disaster Recovery funds. All applicable federal regulations shall be in full force and effect, including Section 3 of the Housing and Community Development Act of 1968 (Section 3). Section 3 requires that, to the greatest extent feasible, hiring and contracting opportunities be afforded to low- and very low-income persons.

B. SECTION 3 *PROJECT* IMPLEMENTATION PLAN

Form	Purpose
- Section 3 Overview	Informs bidders of Section 3 requirements including numeric targets.
1 Section 3 Assessment and Certifications	Captures whether contractor is a Section 3 business or how they plan to achieve safe harbor on the project and includes certifications.
2 Subcontractor Information	Lists all firms who will subcontract on project.
3 List of Permanent Employees	Lists all employees of the contractor, including which ones are Section 3 workers—also required for each subcontractor.
4 Documentation of Qualitative Efforts	Consists of narrative fields to allow contractor to describe qualitative efforts.
5 Section 3 Contract Clause	Contractual language detailing contractor’s obligations for Section 3 compliance. Must be included in any subcontracts subject to Section 3.
6 Section 3 Project Compliance Report	Quarterly and final report for tracking total hours, Section 3 hours and Targeted Section 3 hours worked on project.
7 Section 3 Business Outreach Form	Optional form contractor may provide to subcontractors to assess if they qualify for Section 3 status. Can count toward qualitative efforts.
8 Section 3 Worker Outreach Form	Optional form contractor may provide to workers to assess if they qualify for Section 3 status. Can count toward qualitative efforts.

2. NOTIFY POTENTIAL SECTION 3 BIDDERS

What are some outreach methods that could be used to inform potential Section 3 firms of this bidding opportunity?

- Use internal registry, HUD Section 3 Business Registry and/or similar directories to locate and directly solicit bids from Section 3 firms
- Post Invitation for Bid on the HUD Section 3 Opportunity Portal
- Provide Invitation for Bid to local government M/WBE and business assistance offices for listserv distribution
- Advertise in community development e-newsletters
- Other ideas?

Remember to document your outreach efforts by saving items such as screen shots, email confirmations, and publications!



3. PRE-BID WALKTHROUGH

On the appointed date, Keisha conducts a pre-bid walkthrough at the project site. All attendees are asked to sign in on a sign-in sheet.

Keisha devotes part of the meeting to discussing Section 3 requirements on the project and answering any questions posed by the attendees. Afterward she uploads and saves the sign-in sheet, Section 3 talking points, and questions and answers.

4. BID OPENING

Firm	Bid Amount	Section 3 Business?	Planning to subcontract and/or hire new workers?
ABC Contracting	\$435,000	No	Yes
Smith & Jones Construction Co.	\$495,000	No	Yes
Acme Constructors	\$560,000	Yes	Yes
The Very Good Building & Development Co.	\$785,000	No	Yes

The City of Metroville chose to use the sealed bid method of procurement, and received four responsible and responsive bids for this project:

Which firm should the City award the contract to and why?

The City awards the contract to ABC Contracting, who is the lowest responsible and responsive bidder. ABC indicated on their Section 3 compliance form that they intend to subcontract a portion of the work, so Section 3 reporting of hours is anticipated.

Note that a Section 3 business did submit a bid, but it did not qualify for the Section 3 preference because it was not within the City's Section 3 plan requirements of 10% of the lowest bid.

5. EXECUTE THE CONTRACT

What documents and/or information should be incorporated into the contract to ensure the contractor is held accountable for complying with and reporting on Section 3?

- Section 3 contract clause (See FORM 5)
- Specific numeric targets (FORM 0) and a list of examples of acceptable qualitative efforts (FORM 4)
- Project compliance (FORMs 1-4) completed and submitted by ABC Contracting with bid
- Blank reporting forms (FORMs 2, 3, 4, 6) that ABC Contracting must submit monthly and at the end of the project
- Other ideas?



6. PRE-CONSTRUCTION MEETING(S)

After the contract has been executed but prior to the start of construction, Keisha holds a pre-construction conference with the project manager for ABC Contracting. They discuss what Section 3 compliance will look like for this project and review which Section 3 compliance reporting forms must be submitted and when.

The staff member at ABC who handles Section 3 compliance is out sick the day of the meeting, so Keisha schedules a separate call with that person to cover this same information.

7. QUARTERLY SECTION 3 REPORTING

Every three months, ABC Contracting submits (FORM 6) a compliance report that includes:

- Total number of hours worked on the project to date
- Number of Section 3 hours and Targeted Section 3 hours to date
- Time records for the reporting period
- Supporting documentation of any qualitative efforts made to comply with Section 3

Keisha uses the report to monitor ABC's progress toward meeting the numeric goals. If the contractor is struggling to meet the goals, Keisha will identify ways to assist such as connecting ABC with Section 3 workers or subcontractors or suggesting additional qualitative efforts that can be undertaken. Keisha is careful to keep notes of these discussions, which can count toward the City's qualitative efforts.



7. QUARTERLY SECTION 3 REPORTING CONT.

Keisha reviews each report for completeness and accuracy. She also uses the report to monitor ABC's progress toward meeting the numeric goals.

If the contractor is struggling to meet the goals, Keisha will identify ways to assist such as connecting ABC with Section 3 workers or subcontractors or suggesting additional qualitative efforts that can be undertaken. Keisha is careful to keep notes of these discussions, which can count toward the City's qualitative efforts.

Each time a draw is processed, Section 3 information is entered in DRGR based on the most recent quarterly report.



8. ONSITE INTERVIEWS (SECTION 3 VERIFICATION)

Keisha conducts site interviews periodically throughout construction. She notes the name and employer of each worker she speaks to, as well as their duties on the project and how many hours they worked that day.

When she returns to the office after each site visit, Keisha compares her interview notes to the list of employees and subcontractors provided by ABC Contracting to ensure data collected during interviews aligns with the reporting forms submitted by the contractor.

Fortunately, Keisha does not find any issues and keeps a case note in the project file of her effort and these results.



9. FINAL SECTION 3 REPORT

Within 30 days of project completion, the contractor submits the final Section 3 report. This report contains the same information as the quarterly reports but serves as the final measure of whether the numeric goals were met and what qualitative efforts were undertaken.

(See Sample Form 8)

When the final draw is processed, the information from the final Section 3 report is entered into DRGR.



10. CLOSEOUT

When the project is completed, Keisha completes a Section 3 closeout checklist to ensure all reports, qualitative efforts narratives, supporting documents and discussion notes are uploaded and saved. Final review and supporting documentation should be saved in a file that is explicitly for Section 3 closeout. This helps to prevent audit findings.

Keisha then submits the Section 3 project file to her supervisor for quality check (QC) review and sign-off.



END OF SCENARIO I:
REPLACEMENT OF FIRE STATION

ADDITIONAL QUESTIONS
BEFORE SCENARIO II?

SCENARIO II: MULTI-FAMILY HOUSING DEVELOPMENT

The Town of Hawkins has competitively awarded \$10 million in CDBG-DR funds to a developer for the construction of a new multifamily apartment building.

The developer has selected Hopper Construction, a Section 3 firm, to be the prime general contractor. As part of its company mission, Hopper seeks to only subcontract with Section 3 firms.

Many of the steps for ensuring Section 3 compliance on this project will be the same as the previous scenario, but there are some important differences, which are discussed on the following slides.



I. RESPONSIBILITY FOR ENSURING COMPLIANCE

The developer is responsible (through the Section 3 clause in the developer agreement) for ensuring Section 3 compliance with Hopper Construction as well as any subcontractors who may be required to comply with Section 3.

This means that all Section 3 compliance reporting forms are submitted to the developer, who tracks progress toward meeting numeric goals. Hopper Construction must also provide the developer with time records and all other documentation that supports Section 3 compliance. After reviewing the documents, the developer forwards them to the Town of Hawkins.

The Section 3 coordinator for Hawkins reviews the reporting forms, enters or assists with Section 3 information into IDIS, and maintains the Section 3 file for the project.

It is the responsibility of Hawkins (as the Grantee or Subrecipient) to verify and monitor the Section 3 compliance information for accuracy and to report it to State and/or HUD as specified in the Subrecipient Agreement.



2. SECTION 3 BUSINESS VERIFICATION

Because all the firms working on the multifamily project are verified Section 3 firms, 100% of their hours worked on the project can be counted as Section 3 hours.

However, the developer must still work with the Hawkins Section 3 coordinator to support Hawkins's verification and documentation file for how each of the Section 3 firms meets one of the Section 3 qualifying criteria.

3. DOCUMENTATION REQUIREMENTS

What documentation is still required of Hawkins if the Contractor is a Section 3 business?

- Info for all subcontractors working on project
- Monthly and final Section 3 compliance reports
- Documentation of Section 3 site interviews
- Discussion notes

What may not be required if the Contractor is a Section 3 business? (confirm with State and local HUD field office)

- Employee List
- Time records
- Documentation of qualitative efforts for the project (however, documenting the effort to meet it for this project is still encouraged)



DISCUSSION ON HOW TO RESOLVE
POTENTIAL SECTION 3 ISSUES:
“WHAT IF?” SCENARIOS

DISCUSS HOW SAFE HARBOR CAN BE ACHIEVED FOR THESE SAMPLE SCENARIOS:

- All bids are over \$200K. No Section 3 firms bid on the project. The low bidder is planning to subcontract part of the work and is willing to make “best efforts” to meet numeric targets. Shortly before the project is to start, the contractor informs the UGLG that they have not been able to locate any Section 3 subcontractors.
- All bids are over \$200K. No Section 3 firms bid on the project. The contract is awarded to a non-Section 3 firm who indicated they do not plan to hire new subcontractors or hire additional workers to complete the project. However, during a site visit, UGLG staff discovers an un-reported subcontractor who is not Section 3 working on site.
- Original contract amount is for \$180K, so Section 3 compliance is encouraged but not required. However, a series of change orders result in a budget increase so the final project cost is \$215K.

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 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 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/>

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

THANK YOU!

Grant Johnson

Director of Development and Operations

CDBG Disaster Recovery and Mitigation

gj@capitalaccessinc.com

C: 267.784.5493

Kathryn Mayrose

Policy and Compliance Consultant

CDBG Disaster Recovery and Mitigation

kmayrose@capitalaccessinc.com

C: 314.625.7308



CAPITAL ACCESS