

SECTION 3 SUPPLEMENTAL INFORMATION

I. INTRODUCTION AND PURPOSE

Title 24 CFR Part 75: Economic Opportunity for Low- and Very Low-Income Persons, is the statutory repository for the U.S. Housing and Urban Development's (HUD) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u). Section 3 of the Housing and Urban Development Act of 1968 recognizes that federal financial assistance can also become a tool to expand economic opportunities for low- and very low-income families and businesses of the neighborhoods and communities where HUD invests public resources.

As a recipient of federal funds, the Community Development Block Grant (CDBG) program and its sub-recipients (grantees) shall comply with Section 3 requirements set forth at 24 CFR 75 of the federal regulation which states that, to the greatest extent possible, businesses and employers working on HUD-funded projects must make a good faith effort to train and employ low-income individuals living in the local area and also to contract with businesses owned by or that employ Section 3 workers.

The CDBG program requires grantees to attend training which explains construction contracting, Section 3 requirements, Section 3 Businesses, and hiring. Section 3 requirements apply to grantees that plan to obligate or commit an aggregate amount of \$200,000 or more in CDBG assistance to projects involving housing rehabilitation, housing construction, demolition, other public buildings, facilities, or infrastructure during a given annual reporting period (calendar year). The \$200,000 funding threshold is comprised of the combined expenditure of all sources of housing and community development financial assistance set forth in §135.5.

It is the policy of NCDEQ all Sub-recipients are required to make good faith efforts to provide "to the greatest extent feasible" opportunities to Section 3 area workers and Section 3 business concerns.

Failure to comply with the requirements of Section 3 may result in a monitoring finding or sanctions that may include, debarment, suspension of funds or limited denial of participation in CID programs pursuant to 24 CFR Part 24.

Effective Date:

All new sub-recipient (grantee) grant agreements/contracts executed after November 30, 2020 must comply with the new Section 3 rule and reporting requirements found at 24 CFR Part 75.

The former Section 3 regulations (24 CFR Part 135) and its requirements still apply to agreements executed prior to November 30, 2020, and their subsequent contracts or agreements.

II. GLOSSARY OF TERMS AND DEFINITIONS [§ 75.5]

Contractor means any entity entering into a contract with:

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

Labor hours means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act.

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

Professional services mean non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance means assistance as defined in § 75.3(a)(1). Public housing project is defined in 24 CFR 905.108.

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

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

Section 3 business concern means:

- (1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
 - (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
 - (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
 - (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Section 3 project means a project defined in § 75.3(a)(2).

Section 3 worker means:

(1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- (ii) The worker is employed by a Section 3 business concern.
- (iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Section 8-assisted housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act. Service area or the neighborhood of the project means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

Small Public Housing Authority (PHA) means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

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

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

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

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

III. SECTION 3 APPLICABILITY (24 CFR 75.3)

Section 3 applies to all 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. Therefore, all CDBG projects are submitted the applicability provisions of Section 3 public housing financial assistance and Section 3 projects, as follows:

(1) Public housing financial assistance means:

- (i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);
- (ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;
- (iii) Development, modernization, and management assistance provided pursuant to section 9(d) of the 1937 Act; and
- (iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.

(2) Section 3 applies to all 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.

- (i) The Secretary must update the thresholds provided in paragraph (a)(2)(i) of this section not less than once every 5 years based on a national construction cost inflation factor through Federal Register notice not subject to public comment. When the Secretary finds it is warranted to ensure compliance with Section 3, the Secretary may adjust, regardless of the national construction cost factor, such thresholds through Federal Register notice, subject to public comment.
- (ii) The requirements in this part 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.

(3) Contracts for materials. Section 3 requirements do not apply to material supply contracts.

(4) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

IV. SECTION 3 REQUIREMENTS [24 CFR 75.19]

Employment and Training

Consistent with existing Federal, state, and local laws and regulations, PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers.

PHAs or other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (a)(1) of this section in the following order of priority:

- To residents of the public housing projects for which the public housing financial assistance is expended;
- To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;
- To participants in YouthBuild programs; and
- To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

Contracting

Consistent with existing Federal, state, and local laws and regulations, PHAs and other recipients of public housing financial assistance, and their contractors and subcontractors, must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers.

PHAs and other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (b)(1) of this section in the following order of priority:

- To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;
- To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance;
- To YouthBuild programs; and
- To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided

V. CONTRACT PROVISIONS [24 CFR 75.27]

Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.

Recipients of Section 3 funding must require subrecipients, contractors, and subcontractors to meet the requirements of §75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

VI. SECTION 3 AND TARGETED SECTION 3 WORKERS AND CERTIFICATION

Section 3 Worker and Certification

The Section 3 Final Rule defined a Section 3 worker as any worker who currently or when hired within the past five years fit at least one of the following categories, as documented:

- The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a Youth Build participant.

The Sub-recipient will utilize the Section 3 Certification Form to document the status of a Section 3 worker. The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction. Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Targeted Section 3 Worker and Certification

The Section 3 Final Rule establishes the use of Targeted Section 3 workers. A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

- Employed by a Section 3 business concern.
- Low- or very low-income workers residing within a one-mile radius of the Section 3 project. If fewer than 5,000 people live within that one-mile radius, the circle may be expanded outward until that population is reached the service area or the neighborhood of the project, as defined in; or
- A Youth Build participant.

The Sub-recipient will utilize the Targeted Section 3 Certification Form to document the status of a Targeted Section 3 worker. The status of a Targeted Section 3 worker shall not be negatively affected by a prior arrest or conviction. Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

VII. SECTION 3 BUSINESS CONCERNS

The Section 3 Final Rule redefines a business concern. A Business Concern must meet the following criteria, documented within the last six-month period:

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

The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees. Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

In accordance with the regulation, residents and businesses concerns seeking Section 3 preference shall certify, or submit evidence to the recipient, contractor, subcontractor or sub-recipient (if requested) verifying that they meet the definitions provided above.

Sub-recipients can use their discretion for determining the type of verification that is required by prospective Section 3 workers and business concerns. Some examples include proof of residency in a public housing authority; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

As provided in 2 CFR 200.318, contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract.

Qualifying as a Section 3 businesses does not mean that the business will be selected if it meets the technical requirements of the bid, regardless of bid price.

VIII. PROFESSIONAL SERVICES

In this final rule, HUD is amending the professional services definition to clarify that only non-construction services that require an advanced degree or professional licensing, rather than all non-construction services, are excluded from Section 3.

HUD wants to ensure this final rule's emphasis the statutory requirement to prioritize low- and very low-income workers and provides this category of exempted workers from reporting given the challenge to hire low- and very low-income workers in jobs that require such degrees and licensing.

IX. SUB-RECIPIENT (GRANTEE) REQUIREMENTS

Sub-recipients are required to ensure their own compliance and the compliance of their contractors/subcontractors with the Section 3 regulations, as outlined at 24 CFR part 75. These responsibilities include but are not limited to the following:

- 1. Resolutions and Certifications:** All Sub-Recipients seeking funding from CID must adopt a resolution adopting the Section 3 Plan as outlined within this policy guide. Both the resolution and the executed Section 3 plan must be submitted with all CDBG applications.
- 2. Designing and implementing procedures to comply with the requirements of Section 3:** The Sub-recipient must take an active role in ensuring Section 3 compliance. The first step is implementing procedures to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3 and maintain records verifying that compliance.
- 3. Facilitating the training and employment of Section 3 workers:** The Sub-recipient must act as a facilitator, connecting Section 3 workers to training and employment opportunities.
- 4. Facilitating the award of contracts to Section 3 business concerns:** The Sub-recipient must also work to link developers and contractors with capable Section 3 business concerns. Additionally, recipient agencies, when necessary, may direct Section 3 business concerns to organizations that provide capacity-building training.
- 5. Ensuring Contractor and Subcontractor Awareness of and Compliance with Section 3 Benchmarks and responsibilities:** The Sub-recipient is responsible for ensuring that contractors and subcontractors are aware of, and in compliance with, Section 3 requirements.
- 6. Ensuring Compliance and Meeting Numerical Benchmarks:** The Sub-recipient shall ensure compliance with Section 3 by assessing the hiring and subcontracting needs of contractors; regularly monitoring contractor compliance; assisting and actively cooperating with the Secretary of HUD and MDA in obtaining the compliance of contractors; penalizing non-compliance; providing incentives for good performance; and refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3.
- 7. Reporting Requirements:** The Sub-recipient must document all actions taken to comply with the requirements of Section 3 and report these activities as determined by the funding agency.

X. CONTRACTOR'S REQUIREMENTS

1. The Prime Contractor must submit a Section 3 plan to the Sub-Recipient outlining Section 3 hiring and employment opportunities.
2. The Prime Contractor must notify all sub-contractors of their responsibilities under Section 3.
3. The Prime Contractor must provide a permanent workforce breakdown of all current employees and identify those Section 3 workers that were hired within the last five years.
4. The Prime Contractor must provide an estimated breakdown of potential hires for the awarded project and timeline of anticipated hiring.
5. The Prime Contractor must refrain from contracting with sub-contractors as to whom they have received notice or have knowledge that the sub-contractors have been found in violation of the regulations in 24 CFR 75.
6. Maintain records that document a good faith effort to utilize Section 3 workers and Target Section 3 workers as trainees and employees. (Required of both contractor and sub-contractor.) and any other qualitative efforts to comply with Section 3.

Recordkeeping requirements for recipients are found at 24 CFR § 75.31. The contractor is required to maintain documentation to demonstrate compliance with the regulations and is responsible for requiring their subcontractors to maintain or provide any documentation that will assist recipients in demonstrating compliance, including documentation that shows hours worked by Section 3 workers and Targeted Section 3 workers.

XI. SECTION 3 REPORTING [24 CFR 75.25]

Reporting of Labor Hours.

(a) Reporting of labor hours.

(1) For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD: For Section 3 projects, Sub-recipients must report:

- The total number of labor hours worked;
- The total number of labor hours worked by Section 3 workers; and
- The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to § 75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors that the recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) Recipients reporting under this section, as well as subrecipients, contractors and subcontractors who report to recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) Recipients may report their own labor hours or that of a subrecipient, contractor, or subcontractor based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance-based payroll systems, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

Professional Services: The reporting structure in the final rule allows a Sub-recipient to count as Section 3 labor hours and as Targeted Section 3 labor hours any work performed by a Section 3 worker or a Targeted Section 3 worker (i.e., in the numerator of the calculation), even when the professional services as a whole are not counted in the baseline reporting (i.e., in the denominator of the calculation). The effect of this reporting structure is to give a recipient a bonus if they are able to report Section 3 hires in the professional services context.

Benchmark Reporting Goals [24 CFR 75.23]

All Sub-recipients are required to report all labor hours.

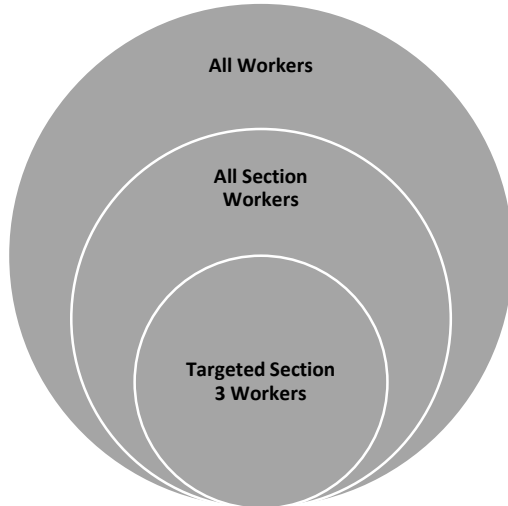
The benchmark goal for Section 3 workers is set at 25 percent or more of the total number of labor hours worked by all workers on a Section 3 project.

Section 3 Workers Labor Hours / Total Labor Hours = 25%

The benchmark goal for Targeted Section 3 workers is set at 5 percent or more of the total number of labor hours worked by all workers on a Section 3 project. This means that the 5 percent is included as part of the 25 percent threshold.

Targeted Section 3 Labor Hours / Total Labor Hours = 5%

The chart below is an example of the order of preference:



SECTION 3 WORKER TRACKING AND REPORTING

All Sub-recipients are required to comply with the reporting requirements set for at 24 CFR 75.25. Where Targeted Section 3 and Section 3 Workers are currently employed or new hires, the Sub-recipients must track those labor hours performed by those workers. In conjunction with the Davis-Bacon payroll requirement, Sub-recipients will utilize the Section 3 tracking form for this purpose and submitted with each payroll submission.

Annual Section 3 Reporting

All Sub-Recipients must comply with the Section 3 Reporting requirements per 24 CFR 75. Sub-recipients must complete the CID Section 3 Reporting Form that reflects labor hours worked by Targeted Section 3 and Section 3 Workers for the reporting period of October 1st through September 30th of each year. All Section 3 reports are due to CSD by October 31st following the ending reporting period. Where benchmark goals were not met, the sub-recipient must document their good faith effort to comply with Section 3.

Project Close-Out Requirement

All Sub-recipients are required to provide a final Section 3 labor report at Close-out. The CDBG close-out package has been revised that includes the Section 3 Reporting form. The Sub-recipient must report the total cumulative labor hours to reflect benchmark goals. Sub-recipients who fail to submit the proper close-out will be considered incomplete and may delay final request for cash processing until compliance with the Section 3 reporting has been satisfied.

XII. SECTION 3 SAFE HARBOR COMPLIANCE

NCDEQ considers all sub-recipients of covered funding in compliance with Section 3 Safe Harbor by meeting the established benchmark goals of 25 percent and 5 percent. If reporting indicates that the Sub-recipient has not met the Section 3 benchmarks, the Sub-recipient must report in a method on the qualitative nature of its activities and those its contractors and subcontractors pursued per 24 CFR § 75.15(b) and § 75.25(b). Such qualitative efforts may, for example, include but are not limited to the following:

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, 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. • Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
12. Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
13. Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

Please note that it is important to document efforts made to comply with Section 3. Files should illustrate attempts to meet Section 3 benchmarks. The mere existence of a Section 3 Action Plan is not sufficient. Affirmative attempts to reach Section 3 goals must be made.

Failure to comply with the requirements of Section 3 may result in a monitoring finding or sanctions that may include: debarment, suspension of funds, or limited denial of participation in CDBG programs pursuant to 24 CFR Part 24.

SECTION 3 BUSINESS TOOLS

All Sub-recipients are encouraged to inform residents and business concerns in their community if the available tools that will assist with jobs and training opportunities by utilizing the HUD Opportunity Portal and the HUD Business Registry.

- **HUD Opportunity Portal:** Helps match Section 3 workers to jobs and training opportunities, and Section 3 businesses to contracting opportunities.
<https://hudapps.hud.gov/OpportunityPortal/>
- **HUD Business Registry:** A listing of firms that have self-certified that they meet one of the regulatory definitions of a Section 3 business and are included in a searchable online database that can be used by agencies that receive HUD funds, developers, contactors and others to facilitate the awareness of certain HUD-funded contracts.
<https://portalapps.hud.gov/Sec3BusReg/BRegistry/BRegistryHome>.

XIII. RECORDKEEPING [24 CFR 75.31]

HUD and NCDEQ shall have access to all records, reports, and other documents or items of the Sub-recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program by which the Section 3 project is governed, or the public housing financial assistance is provided or otherwise made available to the recipient, subrecipient, contractor, or subcontractor.

Sub-recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

- (1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:
 - (i) A worker's self-certification that their income is below the income limit from the prior calendar year;
 - (ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
 - (iii) Certification from a PHA, or the owner or property manager of project-based Section 8- assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
 - (iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
 - (v) An employer's certification that the worker is employed by a Section 3 business concern.

- (2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:
- (i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:
 - (A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
 - (B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
 - (C) An employer's certification that the worker is employed by a Section 3 business concern; or
 - (D) A worker's certification that the worker is a YouthBuild participant.
 - (ii) For a worker to qualify as a Targeted Section 3 worker under subpart C of this part:
 - (A) An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;
 - (B) An employer's certification that the worker is employed by a Section 3 business concern; or
 - (C) A worker's self-certification that the worker is a YouthBuild participant.
- (c) The documentation described in paragraph (b) of this section must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR part 200.
- (d) A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.

IV. COMPLIANCE [75.33]

Records of compliance.

Each sub-recipient shall maintain adequate records demonstrating compliance with this part, consistent with other recordkeeping requirements in 2 CFR part 200.

Complaints.

Complaints alleging failure of compliance with this part may be reported to the HUD program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office.

Monitoring.

HUD will monitor compliance with the requirements of this part. The applicable HUD program office will determine appropriate methods by which to oversee Section 3 compliance. HUD may impose appropriate remedies and sanctions in accordance with the laws and regulations for the program under which the violation was found

Remedies for Non-Compliance [2 CFR 200.338]

If a Sub-recipient fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions. If the Federal awarding agency or pass-through entity determines that non-compliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- Temporarily withhold cash payments pending correction of the deficiency by the Sub-recipient entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- Wholly or partly suspend or terminate the Federal award.
- Initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- Withhold further Federal awards for the project or program and other remedies that may be legally available.

SECTION 3 ACTION PLAN RESOLUTION

(Name of local unit of government)

WHEREAS, the name of city/county recipient was awarded a CDBG-Infrastructure (CDBG-I) grant from the North Carolina Department of Environment Quality (NCDEQ), Division of Water Infrastructure, by virtue of this awarded, the name of city/county recipient is required by the North Carolina Department of Environmental Quality and Section 3 of the Housing and Urban Development Act of 1968 to adopt a Section 3 Action Plan; and

WHEREAS, the Section 3 Action Plan is intended to ensure, to the greatest extent feasible, will provide job training, employment and contracting opportunities generated by the U.S. Department of Housing and Urban Development projects be given to low-income workers of the Section 3 project area, and that contracts for work in connection with this project be awarded to qualified Section 3 Business Concerns;

WHEREAS, if awarded, it is the intention of the name of city/county recipient to implement its (name of grant program) projects in accordance with all program regulations including the said Section 3 requirements.

NOW, THEREFORE, BE IT RESOLVED that the name of city/county recipient adopts the name grant program Section 3 Action Plan, which is attached hereto as “Attachment A” and made a part hereof.

ADOPTED this the ____ day of _____, 20____

Name of City/County, North Carolina

ATTEST:

CLERK

BY: _____
MAYOR OR CHAIRMAN

“ATTACHMENT A” GRANTEE SECTION 3 ACTION PLAN

In accordance with 12 U.S.C. 1701u the *(name of Grant Recipient)* agrees to implement the following steps, which, to the greatest extent feasible, will provide job training, employment and contracting opportunities for Section 3 workers and Section 3 businesses of the area in which the project is being carried out.

- A. Pass a resolution adopting this plan as a policy to strive to attain goals for compliance to Section 3 regulations by increasing opportunities for employment and contracting for Section 3 workers and businesses.
- B. Assign duties related to implementation of this plan to a designated Section 3 Coordinator. This Coordinator is: (name, phone number, address, and email).
- C. Identify projected employment, training, and contracting opportunities as the recipient of federal funds and to facilitate the training and employment of Targeted Section 3 workers, Section 3 workers and contracting with Section 3 businesses.
- D. Notify and recruit Section 3 workers and business concerns of potential new employment and contracting opportunities as they are triggered by CDBG grant awards through the use of: public hearings and related advertisements; public notices; bidding advertisements and bid documents; notification to local business organizations such as the Chamber(s) of Commerce, NCWorks; local advertising media including public signage; project area committees and citizen advisory boards and meetings; local HUD offices; regional planning agencies; public and private institutions operating within or serving the project area; and all other appropriate referral sources.
- E. Include Section 3 information in procurement solicitations, incorporate Section 3 clauses in contractual documents, and review Section 3 information at the pre-bid meeting and preconstruction conference and then monitor contractor compliance.
- F. Maintain a list of those eligible Section 3 business concerns for utilization in CDBG funded procurements, notify those businesses of pending contractual opportunities, and make this list available for general grant recipient procurement needs.
- G. Maintain a list of those persons who have identified themselves as Section 3 workers and contact those persons when hiring/training opportunities are available through either the grant recipient or contractors.
- H. Require all bidders, and their subcontractors, to submit a written Section 3 Affirmative Action Plan with their bids. In addition, require submission of and monitor all prime contractors and subcontractors' forms and reports to document actual accomplishments and compliance.
- I. Submit reports as required by HUD or NCDEQ regarding compliance with Section 3.

- J. Maintain records, including copies of correspondence, memoranda, reports, contracts, etc., which document that the above action steps have been taken and any barriers encountered. And submit reports and qualitative information on accomplishments as required.
- K. To the extent feasible, additional affirmative steps and qualitative efforts will be taken to encourage and utilize Section 3 workers and businesses and to reach employment, training, and contracting numerical benchmarks.

As the chief local official, I have read and fully agree to this Section 3 Action Plan and agree to actively pursue full implementation of this program.

Chief Elected Official

Date

**ALL SECTION 3 COVERED CONTRACTS SHALL INCLUDE THE FOLLOWING CLAUSE
(REFERRED TO AS 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 employment and other economic opportunities generated by HUD assistance or HUD-assisted developments covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons including persons who are recipients of HUD assistance for housing, with preference for both targeted workers living in the service area or neighborhood of the Development and Youthbuild participants, as defined at 24 CFR Part 75 (“**Section 3 Regulations**”).
- B. The Parties agree to comply with HUD's regulations in Section 3 Regulations, which implement Section 3. As evidenced by their execution of this Contract, the Parties certify that they are under no contractual or other impediment that would prevent them from complying with the Section 3 Regulations.
- C. The Contractor agrees to send to each labor organization or representative or 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 the following: (i) minimum number and job titles subject to hire, (ii) availability of apprenticeship and training positions, (iii) qualifications for each, (iv) name and location of the person(s) taking applications for each of the positions, and (v) the anticipated date the work shall begin.
- D. The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in Section 3 Regulations and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in Section 3 Regulations. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in Section 3 Regulations.
- E. The Contractor will certify that any vacant employment positions, including training positions, that are filled (i) after a contractor is selected but before the contract is executed, and (ii) with persons other than those to whom the regulations of Section 3 Regulations require employment opportunities to be directed, were not filled to circumvent the Contractor’s obligations under Section 3 Regulations.
- F. Noncompliance with HUD's regulations in Section 3 Regulations may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.

Section 3 Businesses (as defined by Section 3 Regulations) are encouraged to respond to this proposal. Businesses that believe they meet the Section 3 criteria are encouraged to register as a Section 3 Business through HUD’s website: <https://portalapps.hud.gov/Sec3BusReg/BRegistry/RegisterBusiness>

SAMPLE SECTION 3 BUSINESS AND EMPLOYMENT NOTICE

[Instructions: Publish as a display advertisement in the local paper's non-legal section or post at the local government and other Section 3 area locations.]

(Insert local government name) is preparing to carry out the *(insert Name of Project)* with Community Development Block Grant (CDBG) funds. In the implementation of this project the following job types may be available:

(Insert List of Job Classifications to be used during project)

All job openings will be posted at (local government office or list other posting locations). To the greatest extent feasible, employment and training positions will be made available to qualified persons who permanently reside in *(Insert the County's or local municipality name as Section 3 area)*. Persons qualified for the jobs listed should register at the following location:

(Insert Name and Address of posting locations and/or Other Locations)

Additionally, the following contracts and procurements will/may be made and to the greatest extent feasible, businesses located in and owned by persons residing in (Insert the County's name as Section 3 area) will be utilized:

(Insert list of construction, non-construction, and service contracts to be procured during the project. Also, insert list of construction subcontracts, major, specific equipment, and general types of materials to be used during the project.)

All above-referenced procurements will be made on a competitive basis. The names of businesses who respond to this notice will be included on procurement lists for this project. Names of job seekers will be given to contractors.

Any person residing or firm located in the above-named areas may request to participate in procurement opportunities associated with this project by contacting *(Insert local government contact information)* within ten (10) days of this notice.

CONTRACTOR SECTION 3 PLAN

(Name of contractor) agrees to implement affirmative steps to comply with the Section 3 requirements set forth at 24 CFR 75 directed at increasing the utilization of lower income residents and businesses within the City or County of _____.

- A. To implement Section 3 requirements by seeking the assistance of local officials in determining the exact boundaries of the applicable project area.
- B. To attempt to recruit from within the City/County the necessary number of lower income residents through local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area.
- C. To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D. To insert this Section 3 plan in all bid documents, and to require all subcontract bidders to submit a Section 3 action plans (if subcontract is over \$200,000) including utilization goals and the specific steps planned to accomplish these goals.
- E. To ensure that all appropriate project area business concerns are notified of pending subcontractual opportunities.
- F. To maintain records, including copies of correspondence, memoranda, etc., which document that all the above affirmative action steps have been taken.
- G. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 plan.
- H. To list and provide all permanent workforce for this project by job title.
- I. To list and provide all projected workforce needs for this project by job classification and time frame for potential hire.
- J. To ensure subcontractors comply with Section 3.
- K. To provide to the City/County the necessary labor hour reports and support documentation.

As officers and representatives of _____ (Name of contractor) We, the undersigned, have read and fully agree to the above and become a party to the full implementation of this program.

Title

Date

Signature

CONTRACTOR PERMANENT WORKFORCE FORM

This form is used to determine the Section 3 Workers already employed by the bidding contractor. This form may be compared to Davis -Bacon Payrolls for cross referencing purposes.

Project Name: _____ Name of Contractor: _____

Address: _____ Date: _____

Employee Name	Job Title / Worker Classification	Certified Section 3 Worker		Monthly Salary	Salary Below 80% of Median Household Income	
		Yes	No		Yes	No

I certify the above employees are permanent employees of _____. I certify the above employees are on our regular monthly payroll and have their W-2 tax forms for our records. These records will be available to the city/county for the above referenced project for verification purposes. I understand that falsifying information is perjury and subject to legal ramifications.

Print Name

Signature

Date

HIRING CATEGORIES AS IDENTIFIED BY HUD

1. **PROFESSIONALS.** Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, airplane pilots and navigators, architects, artists, chemists, designers, dieticians, editors, engineers, lawyers, librarians, mathematicians, natural scientists, registered professional nurses, personnel and labor relations specialists, physical scientists, physicians, social scientists, teachers, surveyors and kindred workers.
2. **TECHNICIANS.** Occupations requiring a combination of basic scientific knowledge and Manual skill which can be obtained through 2 years of post---high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on the job training. Includes: computer programmers, drafters, engineering aides, Junior engineers, mathematical aides, licensed, practical or vocational nurses, photographers, radio operators, scientific assistants, technical illustrators, technicians (medical, dental, electronic, physical science), and kindred workers.
3. **OFFICE AND CLERICAL.** Includes all clerical type work regardless of level of difficulty, where the activities are predominantly non manual though some manual work not directly involved with altering or transporting the products is included. Includes: bookkeepers, Collectors (bills and accounts), messengers and office helpers, office machine operators (including computer), shipping and 3 receiving clerks, stenographers, typists and secretaries, telegraph and telephone operators, legal assistants, and kindred workers.
4. **OFFICIALS AND MANAGERS.** Occupations requiring administrative and Managerial personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases of a firm's operations. Includes: officials, executives, middle management, plant managers, department managers, and superintendents, salaried supervisors who are members of management, purchasing agents and buyers, railroad conductors and yard masters, ship captains, mates and other officers, farm operators and managers, and kindred workers.
5. **SALES.** Occupations engaging wholly or primarily in direct selling. Includes: advertising agents and sales workers, insurance agents and brokers, real estate agents and brokers, stock and bond sales workers, demonstrators, sales workers and sales clerks, grocery clerks, and cashiers/checkers, and kindred workers.
6. **CRAFT WORKERS (SKILLED).** Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: the building trades, hourly paid supervisors and lead operators who are not members of management, mechanics and repairers, skilled machining occupations, compositors and typesetters, electricians, engravers, painters (construction and maintenance), motion picture projectionists, pattern and model makers, stationary engineers, tailors and tailoresses, arts occupations, hand painters, coaters, bakers, decorating occupations, and kindred workers.
7. **OPERATIVES (SEMISKILLED).** Workers who operate machine or processing equipment or perform other factory---type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: apprentices (auto mechanics, plumbers, bricklayers, carpenters, electricians, machinists, mechanics, building trades, metalworking trades, printing trades, etc.), operatives, attendants (auto service and parking), blasters, chauffeurs, delivery workers, sewers and stitchers, dryers, furnace workers, heaters, laundry and dry cleaning operatives, milliners, mine operatives and laborers, motor operators, oilers and greasers (except auto), painters (manufactured

articles), photographic process workers, truck and tractor drivers, knitting, looping, taping and weaving machine operators, welders and flame cutters, electrical and electronic equipment assemblers, butchers and meat cutters, inspectors, testers and graders, hand packers and packagers, and kindred workers.

8. **LABORERS (UNSKILLED).** Workers in manual occupations which generally require no special training who perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: garage laborers, car washers and greasers, groundskeepers and gardeners, farmworkers, stevedores, wood choppers, laborers performing lifting, digging, mixing, loading and pulling operations, and kindred workers.
9. **SERVICE WORKERS.** Workers in both protective and non---protective service occupations. Includes: attendants (hospital and other institutions, professional and personal service, including nurses' aides, and orderlies), barbers, char workers and cleaners, cooks, counter and fountain workers, elevator keepers, stewards, janitors, police officers and detectives, porters, waiters and waitresses, amusement and recreation facilities attendants, guides, ushers, public transportation attendants

SECTION 3 CONTRACTOR ESTIMATED PROJECT WORKFORCE BREAKDOWN

**This form may be used to determine future hiring needs by the contractor.*

Project Name"				
Contractor/ Subcontractor Name:				
Address:				
Date:				
Job Category	Total Estimated Positions	No. of Persons Currently Occupied by Permanent Employees	No. of Vacant Positions	No. of Positions to be Filled with Targeted and/or Section 3 Workers and Estimate of Hire Date. (ex. 2 – 5/1/22)
Officials and Managers				
Professionals				
Technicians				
Office and Clerical				
Sales				
Craft Workers (Skilled)				
Operatives (Semi-Skilled)				
Laborers (Unskilled)				
Apprentices				
Service Workers				
Others				
Total				

SECTION 3 WORKER SELF-CERTIFICATION FORM

A Section 3 Worker seeking the preference in training and employment provided by this part shall certify or submit evidence to the recipient contractor or subcontractor that the person is a Section 3 Worker, as defined in Section 24 CFR 75.

I _____ (Print Name)

_____ My income for the previous year is below the income limit established by HUD.

_____ I am employed by a Section 3 business concern.

_____ A YouthBuild participant

The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction. Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

FY (year) - Household Income Guidelines

Place a check on the line that is applicable	Family Size	Low Income*
	1	
	2	
	3	
	4	
	5	
	6	
	7	
	8	

* Circle the appropriate column based on household size and income – income limits are attached and/or can be downloaded from the www.hud.gov website.

I hereby certify that the information provided by me to be true and correct and understand any falsification of any of the information could subject me to disqualification from participation and punishment under the law.

Signature

Date

TARGETED SECTION 3 WORKER SELF-CERTIFICATION FORM

A Targeted Section 3 Worker seeking the preference in training and employment provided by this part shall certify or submit evidence to the recipient contractor or subcontractor that the person is a Section 3 Worker, as defined in Section 24 CRF 75.

I _____ (Print Name)

_____ I am employed by a Section 3 business concern

_____ I am a section 3 worker living within the service area or neighborhood of the project: or

_____ A YouthBuild participant

The status of a Targeted Section 3 worker shall not be negatively affected by a prior arrest or conviction. Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

FY (year) - Household Income Guidelines

Place a check on the line that is applicable	Family Size	Low Income*
	1	
	2	
	3	
	4	
	5	
	6	
	7	
	8	

* Circle the appropriate column based on household size and income – income limits are attached and/or can be downloaded from the www.hud.gov website.

I hereby certify that the information provided by me to be true and correct and understand any falsification of any of the information could subject me to disqualification from participation and punishment under the law.

Signature

Date

SECTION 3 BUSINESS SELF-CERTIFICATION FORM

To self-certify as a Section 3 Business your company/firm per 24 CFR 75, must meet one of the listed categories below. You must provide that supporting documentation with this form to be properly and completely confirmed as a Section 3 business.

Section 3 Business Category	Additional Required Data	Mark an “X” on Your Election
It is at least 51% owned by low- or very low-income persons;	Proof of ownerships showing all owners and their percentages and a completed Section 3 Individual Self-Certification form for all low- and very low-income owners.	
Over 75% of the labor hours performed for the business are performed by low- or very low-income persons; or	Provide the last 90 days full payrolls for the entire company, make a list of the names from the payrolls of the Section 3 workers, and provide a completed Section 3 Individual Self-Certification for all low- and very low-income workers you list.	
It is a business at least 51% owned by current public housing residents or residents who currently live in Section 8-assisted housing.	Proof of ownership showing all owners and their percentages and a Section 3 Individual Self-Certification form for all public housing and/or Section 8 owners.	

I hereby certify to the US Department of Housing and Urban Development (HUD) that all the information on this form is true and correct. I attest under penalty of perjury that my business meets the elected definition and understand proof of this information may be requested. If found to be inaccurate, I understand that I may be disqualified as a certified Section 3 business.

Signature:	Date Signed:
Print Name:	Title:
Company Name:	
Type of Business (check one): Corporation Partnership Sole Proprietorship Other	
Address:	
Telephone:	

