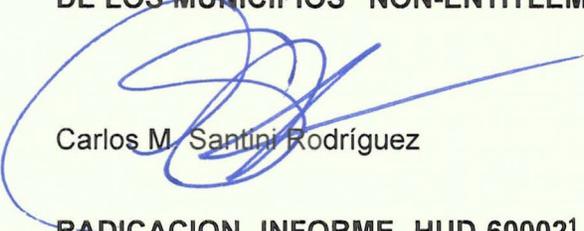




CIRCULAR INFORMATIVA 2014-38

4 de noviembre de 2014

**A TODOS LOS ALCALDES,
DIRECTORES DE PROGRAMAS FEDERALES,
ESPECIALISTA EN DERECHOS CIVILES Y
PRESIDENTES DE LA JUNTA DE SUBASTAS
DE LOS MUNICIPIOS "NON-ENTITLEMENT"**


Carlos M. Santini Rodríguez

RADICACION INFORME HUD-60002¹ – "SECTION 3 SUMMARY REPORT – ECONOMIC OPPORTUNITIES FOR LOW AND VERY LOW – INCOME PERSONS"

La Oficina de Vivienda Justa y Oportunidad Igual de la Región de New York del Departamento de Vivienda, requiere la preparación del Informe "Section 3 Summary Report – HUD 60002", para medir cuantitativamente las oportunidades de adiestramiento y empleo, a través de los fondos CDBG (AB, FC, DR, DREF, NSP1 y 3) a las personas y negocios de ingresos económicos bajos y bien bajos. ***Este informe debe ser completado anualmente cubriendo el periodo de octubre de 2013 a septiembre de 2014.***

A esos efectos, le requerimos la radicación del mencionado informe ***en o antes del 12 de diciembre de 2014.*** El mismo puede ser remitido por correo regular, correo electrónico iguerra@ocam.gobierno.pr, y/o entregado personalmente en nuestras facilidades, con atención a la Sra. Yvonne Guerra, Supervisora del Área de Programas Federales.

Adjunto el formulario HUD-60002 para ser debidamente cumplimentado. Puede acceder a la siguiente dirección para copias del documento e información adicional de la Sección 3: <http://espanol.hud.gov/offices/fheo/section3/section3.cfm>.

Para aclarar cualquier duda sobre el particular, favor comunicarse al teléfono (787) 754-1600, extensión 295. Debe referirse al número de control 11-03.

Anejos

¹ Este informe complementa el HUD-2516-"Contract and Sub-Contract Activity" (Véase Circular Informativa 2014-29) y **sólo aplica** a los proyectos contratados por **\$200,000.00** o más durante de octubre 2013 a septiembre de 2014.

Part II: Contracts Awarded

1. Construction Contracts:

A. Total dollar amount of all contracts awarded on the project	\$
B. Total dollar amount of contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving contracts	

2. Non-Construction Contracts:

A. Total dollar amount all non-construction contracts awarded on the project/activity	\$
B. Total dollar amount of non-construction contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving non-construction contracts	

Part III: Summary

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- Other; describe below.

Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that the Department ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very-low income persons, particularly those who are recipients of government assistance housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

Form HUD-60002, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons.

Instructions: This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any **public and Indian housing programs** that receive: (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to **recipients of housing and community development assistance in excess of \$200,000** expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to **contracts and subcontracts in excess of \$100,000** awarded in connection with the Section-3-covered activity.

Form HUD-60002 has three parts, which are to be completed for all programs covered by Section 3. Part I relates to **employment and training**. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E and F). Part II of the form relates to **contracting**, and Part III summarizes recipients' **efforts** to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons.* A recipient of Section 3 covered assistance shall submit one copy of this report to HUD Headquarters, Office of Fair Housing and Equal Opportunity. Where the program providing assistance requires an annual performance report, this Section 3 report is to be submitted at the same time the program performance report is submitted. Where an annual performance report is not required, this Section 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. **Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.**

HUD Field Office: Enter the Field Office name.

1. Recipient: Enter the name and address of the recipient submitting this report.
2. Federal Identification: Enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.
- 4 & 5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Section 3.
6. Reporting Period: Indicate the time period (months and year) this report covers.
7. Date Report Submitted: Enter the appropriate date.

8. Program Code: Enter the appropriate program code as listed at the bottom of the page.
9. Program Name: Enter the name of HUD Program corresponding with the "Program Code" in number 8.

Part I: Employment and Training Opportunities

Column A: Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e. supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of "Other" includes occupations such as service workers.

Column B: (Mandatory Field) Enter the number of new hires for each category of workers identified in **Column A** in connection with this award. New hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

Column C: (Mandatory Field) Enter the number of Section 3 new hires for each category of workers identified in **Column A** in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

Column D: Enter the percentage of all the staff hours of new hires (Section 3 residents) in connection with this award.

Column E: Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

Column F: (Mandatory Field) Enter the number of Section 3 residents that were trained in connection with this award.

Part II: Contract Opportunities

Block 1: Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

Block 2: Non-Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

Part III: Summary of Efforts – Self -explanatory

Submit one (1) copy of this report to the HUD Headquarters Office of Fair Housing and Equal Opportunity, at the same time the performance report is submitted to the program office. The Section 3 report is submitted by January 10. Include only contracts executed during the period specified in item 8. PHAs/IHAs are to report all contracts/subcontracts.

* The terms "low-income persons" and very low-income persons" have the same meanings given the terms in section 3 (b) (2) of the United States Housing Act of 1937. **Low-income persons** mean families (including single persons) whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that

The Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families. **Very low-income persons** mean low-income families (including single persons) whose incomes do not exceed 50 percent of the median family income area, as determined by the Secretary with adjustments or smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.



¿Cómo obliga el HUD a cumplir la ley y cómo vigila su cumplimiento?

El HUD vigila el desempeño de los receptores de la asistencia y de los contratistas. El HUD examina las constancias de empleo y de las contrataciones para saber si se han tomado medidas para capacitar y dar empleo a los residentes según la Sección 3, así como para adjudicar contratos a las empresas según la Sección 3.



¿Qué se hace si alguna empresa parece no cumplir con la Sección 3?

Existe un procedimiento de denuncia. Los residentes y las empresas según la

Sección 3 pueden presentar denuncias si consideran que ha ocurrido una infracción de los requisitos de la Sección 3 que afecta a un proyecto financiado por el HUD, planificado o en vías de realización. Estas denuncias se investigarán y se procurará resolverlas de forma voluntaria. Hay derecho de apelación ante el Secretario. Los residentes y las empresas según la Sección 3 también pueden recurrir al desagravio por vía judicial.



¿Cómo pueden quejarse las empresas o los residentes según la Sección 3 de las infracciones de la misma?

Pueden presentar una denuncia por escrito a la delegación local de HUD/FHEO o a:

The Assistant Secretary for Fair Housing and Equal Opportunity
U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 5100
Washington, DC 20410-2000
1-800-669-9777
1-800-927-9276 (TTY)
www.espanol.hud.gov

En las denuncias por escrito se incluirán los datos siguientes:

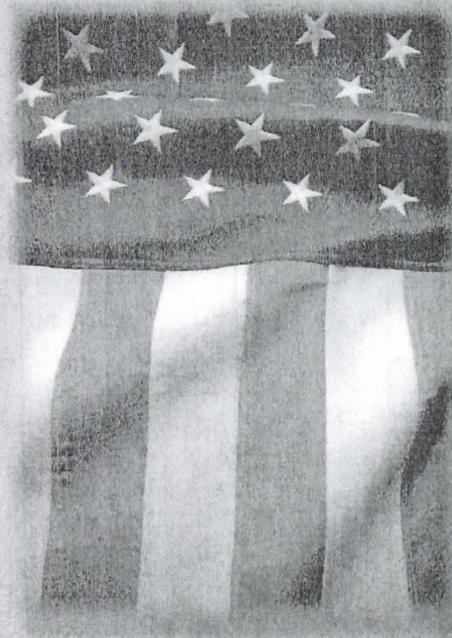
- Nombre y dirección del denunciante;
- Nombre y dirección del denunciado (beneficiario o contratista del HUD);
- Descripción de los actos u omisiones que supuestamente han infringido la Sección 3;
- Declaración de las medidas correctivas que se solicitan.

HUD-1476-FHEO Rev 2 (Spanish) (4/06)

Departamento de Vivienda y Desarrollo Urbano de los Estados Unidos de América

SECCIÓN 3 OPORTUNIDAD ECONÓMICA

Un trato desde el principio



Departamento
de Vivienda y Desarrollo Urbano de los
Estados Unidos



Equidad de Vivienda e Igualdad de
Oportunidades

April 2006
HUD-1476-FHEO Rev 2 (Spanish)
OMB Approval Number 2529-0043 (exp. 8/31/2007)
Previous Editions are Obsolete

Sección 3 de la Ley

Conforme a la Sección 3 de la Ley de Vivienda y Desarrollo Urbano de los Estados Unidos de 1968 (que figura en la Sección 1701u, enmendada, del título 12 del Código de los Estados Unidos), las oportunidades económicas que generen determinados tipos de asistencia financiera concedida por el Departamento de Vivienda y Desarrollo Urbano (HUD), incluida la destinada a la vivienda pública y la de los pueblos indígenas, se deberá proporcionar, en lo que sea factible, a las personas de ingresos bajos o muy bajos, especialmente a las que reciben asistencia pública para la vivienda, así como a las empresas que ofrecen oportunidades económicas a esas personas.

El HUD también administra otros programas conforme a la Sección 3. Para distinguir entre los programas para la vivienda pública y los destinados a los pueblos indígenas, estos otros programas proporcionan asistencia para la vivienda o para el desarrollo comunitario dirigida a la rehabilitación y construcción de viviendas o a otros proyectos de construcción pública.

¿Quiénes son los residentes según la Sección 3?

Los residentes de viviendas públicas, incluidos los discapacitados.

Las personas de ingresos bajos o muy bajos que viven donde hay bloques de viviendas que reciben asistencia del HUD.

¿Cuáles son las empresas según la Sección 3?

Por una empresa según la Sección 3 se entiende:

- La que es propiedad de residentes según la Sección 3.
- La que emplea a residentes según la Sección 3.
- La que subcontrata a empresas que proporcionan oportunidades a personas de ingresos bajos o muy bajos.

¿Qué tipos de oportunidades económicas se ofrecen según la Sección 3?

- ✓ Oportunidades de trabajo y empleo
- ✓ Oportunidades de capacitación y educación
- ✓ Contracts and Business opportunities

¿Quién proporcionará las oportunidades económicas?

Los receptores de la asistencia financiera del HUD y sus contratistas y subcontratistas están obligados a elaborar planes conforme a la Sección 3 para asegurar que, en lo que sea factible, se proporcionen oportunidades a las personas de ingresos bajos o muy bajos y a las empresas que reúnan las condiciones que estipula la Sección 3. En esos planes se especificará que todos los trabajos efectuados conforme al contrato cumplan con los requisitos de la Sección 3.

¿Quién recibe las oportunidades económicas según la Sección 3?

Con fines de capacitación y empleo:

- ✓ Los residentes en viviendas públicas o subvencionadas;
- ✓ Los residentes en el vecindario de las viviendas públicas o subvencionadas;
- ✓ Los participantes en los programas del HUD de ayuda a la juventud (Youth-build programs);
- ✓ Las personas sin hogar.

Para conseguir contratos:

- ✓ Los negocios que se ajusten a la definición de las empresas según la Sección 3.

¿Cómo pueden las personas y las empresas recibir más información acerca de la Sección 3?

Deben comunicarse con el representante de la Oficina para la Equidad de Vivienda e Igualdad de Oportunidades (Fair Housing and Equal Opportunity, FHEO), en la delegación del HUD más cercana.

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Título VI de la Ley de Derechos Civiles de 1964

Resumen:

La Sección 3 de la Ley de HUD de 1968 exige, en la medida de sus posibilidades, que los receptores de fondos de HUD (y sus contratistas y subcontratistas)

proporcionen empleo y otras oportunidades económicas a personas de ingresos bajos, en particular a residentes de viviendas públicas. La Sección 3 ayuda a crear puestos de trabajo para las personas de ingresos bajos y brinda oportunidades de contratación para negocios que son propiedad de personas de bajos ingresos o que brindan empleo a personas de bajos ingresos.

Propósito:

Todos los años, los programas del Departamento de Vivienda y Desarrollo de EE.UU. (HUD) destinan miles de millones de dólares para proyectos que generan miles de puestos de trabajo y oportunidades de contratación. La Sección 3 de la Ley de HUD de 1968 exige que los receptores de fondos de HUD (y sus contratistas y subcontratistas) proporcionen empleo y otras oportunidades económicas a personas de ingresos bajos. A través del reclutamiento en vecindarios de viviendas públicas, estos receptores de fondos pueden lograr que los residentes y negocios tomen conciencia de las oportunidades disponibles.

Tipo de ayuda:

La Sección 3 no autoriza fondos, sino que regula el uso de los fondos asignados para otros programas de HUD y proporciona puestos de trabajo y oportunidades de contratación.

Beneficiarios elegibles:

La Sección 3 se aplica en forma automática a los beneficiarios de programas de vivienda pública y desarrollo comunitario de HUD. Los estados, gobiernos locales, autoridades de vivienda pública, organizaciones sin fines de lucro y sus contratistas y subcontratistas que reciben fondos de los programas deben cumplir con los requisitos de la Sección 3.

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Clientes elegibles:

Para recibir capacitación y empleo se da prioridad a cuatro categorías de personas de ingresos bajos (llamadas residentes de la Sección 3): (1) residentes de viviendas públicas y subsidiadas, (2) personas que viven cerca de un proyecto subsidiado por HUD, (3) participantes de los **programas Youthbuild**, y (4) personas sin hogar. Para las oportunidades de contratación se da prioridad a los negocios que son propiedad de residentes de la Sección 3, negocios que emplean residentes de la Sección 3 a tiempo completo, y subcontratistas que utilizan estos negocios.

Actividades elegibles:

Con respecto a los programas de vivienda pública de HUD, la Sección 3 se aplica a los fondos destinados a tipos específicos de desarrollos, operaciones y modernizaciones. Para los otros programas de vivienda y desarrollo comunitario de HUD, la Sección 3 se aplica a: (1) rehabilitación de viviendas (incluyendo reducción de riesgos de la pintura con base de plomo), (2) construcción de viviendas y (3) otros proyectos públicos de construcción. Las oportunidades de empleo disponibles en la Sección 3 incluyen contabilidad, compras, procesamiento de textos, reparación de artefactos, instalación de alfombras, paisajismo, fabricación, carpintería y servicio de comida y bebida.

Solicitud:

No corresponde. Todos los solicitantes de los programas de vivienda y desarrollo comunitario de HUD deben certificar que cumplirán con los requisitos de la Sección 3.

Guía técnica:

Los requisitos de la Sección 3 están autorizados por la Ley de Vivienda y Desarrollo Urbano de 1968, Sección 3, 12 U.S.C. 1701u. El programa es administrado por la Oficina de Equidad de Vivienda e Igualdad de Oportunidades (*Office of Fair Housing and Equal Opportunity*).

Los reclamos deben enviarse al Centro de Aplicación de la Ley de Equidad de Vivienda de cualquiera de las Oficinas de Campo de HUD, al Centro de Operaciones y Cumplimiento de Programas (*Program Operations and Compliance Center*), o a la Oficina de Equidad de Vivienda e Igualdad de Oportunidades. Los reclamos deben ser recibidos en un plazo de 180 días de haberse producido la supuesta violación de la Sección 3. Los reclamos generalmente son aprobados o rechazados en un período de 6 meses.

Para obtener más información:

El **Sistema de Distribución Directa de HUD** ofrece información y enlaces locales y nacionales sobre recursos de equidad de vivienda dentro y fuera del gobierno. El número telefónico es 1-800-767-7468.

La página principal de **Equidad de vivienda** de HUD brinda información sobre los programas de la Oficina de Equidad de Vivienda e Igualdad de Oportunidades.

Contenido actualizado el 24 July
2008

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U.S. Department of Housing and Urban Development
451 7th Street S.W., Washington, DC 20410
Telephone: (202) 708-1112 TTY: (202) 708-1455
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ANNUAL SECTION 3 SUMMARY REPORTING REQUIREMENTS

FOR RECIPIENTS OF HUD COMMUNITY PLANNING & DEVELOPMENT FUNDING

*TECHNICAL ASSISTANCE ON FORM HUD-60002

Why HUD Enforces Section 3?

Each year the U.S. Department of Housing and Urban Development invests billions of federal dollars into distressed communities for projects designed to build and rehabilitate housing, improve roads, develop community centers, and otherwise assist families achieve the American Dream.

The Section 3 regulation recognizes that HUD funding typically results in projects/activities that generate new employment, training and contracting opportunities. These economic opportunities not only provide "bricks and mortar", but can also positively impact the lives of local residents who live in the neighborhoods being redeveloped.

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] is HUD's legislative directive for providing preference to low- and very low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded projects.

Further, as a condition of receiving HUD Community Planning and Development assistance, recipients certify that they will comply with the requirements of Section 3 annually pursuant to 24 CFR 570.607(b). Accordingly, the Department has the legal responsibility to monitor recipients for compliance and can impose penalties upon those that fail to meet these obligations.

Applicability of Section 3 to Community Planning & Development Assistance

The requirements of Section 3 apply to recipients of HUD Community Planning and Development funding exceeding \$200,000.

Section 3 covered projects are those in which a *combined* (or aggregate) amount of covered funding exceeding \$200,000, is invested into activities involving **housing construction, demolition, rehabilitation, or other public construction**—i.e., roads, sewers, community centers, etc.

[Example: Section 3 applies to the combined investment of more than \$200,000 into multiple single-family housing rehabilitation projects during a program year].

Contractors or subcontractors that receive contracts in excess of \$100,000 for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as direct recipients.

If the recipient agency receives Section 3 covered funding and invests these funds into covered projects/activities, but no individual contract exceeds \$100,000, responsibility for complying with Section 3 only applies to the recipient.

Accordingly, the recipient must attempt to reach the Section 3 minimum numerical goals found at 24 CFR Part 135.30 by: 1) Awarding 10 percent of the total dollar amount of all covered construction contracts to Section 3 businesses; and 2) Offering 30 percent of new employment opportunities to Section 3 businesses.

Section 3 Covered Community Planning and Development funding

- Community Development Block Grants (CDBG)
- Home Investment Partnership Assistance
- Housing Opportunities for Persons with Aids (HOPWA)
- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Shelter Grants
- Homeless Assistance
- University Partnership Grants
- Neighborhood Stimulus Program (NSP)
- Certain Grants Awarded Under HUD Notices of Funding Availability (NOFAs)

*NOTE: The requirements of Section 3 only apply to the portion(s) of covered funding that were used for project/activities involving housing construction, rehabilitation, demolition, or other public construction.

Section 3 applies to the entire covered project or activity regardless of whether the activity was fully or partially funded with covered assistance.

Section 3 Covered Recipient Agencies

"Recipient" refers to any entity that receives Section 3 covered financial assistance directly from HUD or from another recipient and includes, but is not limited to any of the following:

- States; Units of Local Government; Native American Tribes; or other Public Bodies
- Public or Private Nonprofit Organizations
- Private Agencies or Institutions
- Mortgagors; Developers; Limited Dividend Sponsors; Builders; Property Managers; Community Housing Development Organizations
- Successors, assignees or transferees of any such entity listed above

- Recipients do NOT include any ultimate beneficiary under the HUD program that Section 3 applies and does NOT refer to contractors.

Triggering the Requirements of Section 3

Section 3 is triggered when the normal completion of construction and rehabilitation projects creates the need for new employment, contracting, or training opportunities.

The Section 3 regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities.

If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements of Section 3 have not been triggered. However, each agency must still submit Section 3 annual reports indicating this information.

Recipient Responsibilities Pursuant to Section 3

Each recipient (and their covered contractors, subcontractors, or subrecipients) are required to comply with the requirements of Section 3 for new employment, training, or contracting opportunities resulting from the expenditure of covered funding. This responsibility includes:

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
4. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
5. Assisting and actively cooperating with the Department in making contractors and subcontractors comply;
6. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
7. Documenting actions taken to comply with Section 3; and
8. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

In addition to the responsibilities described above, **State and County agencies or consortia** that distribute covered funds to units of local government, nonprofit organizations, or other subrecipients, must attempt to reach the minimum numerical goals set forth at 24 CFR Part 135.30, regardless of the number of subrecipients that receive covered funding. State or County agencies must also do the following:

1. Inform subrecipients about the requirements of Section 3;
2. Assist subrecipients and their contractors with achieving compliance;
3. Monitor subrecipients' performance with respect to meeting the requirements of Section 3; and
4. Report to HUD on the cumulative Section 3 activities taking place within their jurisdiction on an annual basis.

Section 3 Residents and Business Concerns

Section 3 Residents Are:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local HUD income limits set forth for low- or very low-income households.

Section 3 Business Concerns Are One of the Following:

1. Businesses that are 51 percent or more owned by Section 3 residents;
2. Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

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

Recipients can use their discretion for determining the type of verification that is required by prospective Section 3 residents 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.

Section 3 Summary Reports (Form HUD-60002)

Annually, each direct recipient of Community Planning and Development funding is required to submit form HUD-60002 to HUD's Economic Opportunity Division in Washington, DC. , preferably online from the following website: www.hud.gov/section3.

Due Date: Form HUD-60002 is due at the same time as annual performance (e.g., CAPERS) reports

The Section 3 Summary Report shall follow the same program, fiscal, or calendar year as the annual performance report and should correspond to the covered projects and activities that were administered during the reporting period.

NOTE: Section 3 reports must be submitted by all agencies that receive Community Planning and Development funding in excess of \$200,000 whether the requirements were triggered or not.

Determining What Should Be Reported on Form HUD-60002

Section 3 Annual Summary Reports are intended to measure each recipient's efforts to comply with the statutory and regulatory requirements of Section 3 in its own operations **AND** those of its covered contractors, subcontractors, and subrecipients. Each submission of form HUD-60002 should indicate the following:

- The total dollar amount of HUD funding that was received by the recipient for covered projects/activities during the specified reporting period.
- The total number of new employees that were hired by the recipient and/or its covered contractors, subcontractors, and subrecipients, as a result of performing or completing covered project/activities.
- The number of new employees that were hired by the recipient (or its covered contractors, subcontractors, and subrecipients), as a result of covered projects/activities, that met the definition of a Section 3 resident.
- The total number of man hours worked on covered projects (optional).
- The aggregate number of hours worked by Section 3 residents on covered projects (optional).
- The total number of Section 3 residents that participated in training opportunities that were made available by the recipient agency, its contractors, subrecipients, or other local community resource agencies.
- The total dollar amount of construction and/or non-construction contracts (or subcontracts) that were awarded with covered funding.
- The dollar amount of the recipient's construction or non-construction contracts (or subcontracts) that were awarded to Section 3 business concerns.
- Detailed narrative descriptions of the specific actions that were taken by the recipient (or its covered contractors, subcontractors, subrecipients, or others) to comply with the requirements of Section 3 and/or meet the minimum numerical goals for employment and contracting opportunities.

Section 3 Reporting and Compliance Determinations

Absent evidence to the contrary, the Department considers recipients of covered funding to be in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30. Specifically:

- a. 30 percent of the aggregate number of new hires shall be Section 3 residents;
- b. 10 percent of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns; and
- c. 3 percent of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns.

Recipients that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable the Department to make a compliance determination.

Recipients that submit Section 3 reports containing all zeros, without a sufficient explanation to justify their submission, are in noncompliance with the requirements of Section 3.

Failure to comply with the requirements of Section 3 may result in sanctions, including: debarment, suspension, or limited denial of participation in HUD programs pursuant to 24 CFR Part 24.

Recipients that are subject to annual A-133 Audits may also receive an audit finding for failure to submit form HUD-60002 to HUD.

Important Notes for Submitting Form HUD-60002

- Recipients must submit a separate form HUD-60002 for each type of covered funding (e.g., separate reports must be submitted for CDBG and HOME funding).
- Use the online Section 3 Summary Reporting System at: www.hud.gov/section3 to ensure that form HUD- 60002 is received by the Economic Opportunity Division in HUD Headquarters in a timely manner.
- The "reporting period" option in the online Section 3 Summary Reporting System (box #7) lists quarters but the Section 3 reporting is an annual requirement. Accordingly, recipients should select **Quarter 4** to document the total amount of covered activities/projects that were completed during the entire reporting period.
- If the recipient (or its covered contractors, subcontractors and subrecipients) did not hire any new employees during the reporting period, and/or if no covered construction or non-construction contracts were awarded, the recipient must indicate this in Part III of form HUD-60002 and certify that this information is true and accurate by penalty of law.

Where Are Reports Submitted

Form HUD-60002 must be submitted to HUD's Economic Opportunity Division, in Washington, DC. Recipients are strongly encouraged to submit form HUD-60002 online at: www.hud.gov/section3.

Recipients can also download a hard copy of form-HUD 60002 from the website listed above. Hard copies shall be submitted via fax or mail to:

U.S. Department of Housing and Urban Development
Attn: Economic Opportunity Division
451 Seventh Street, SW
Room 5235
Washington, DC 20410
202-708-1286 (fax)

Additional Section 3 Guidance and Technical Assistance

The Economic Opportunity Division is committed to providing recipient's guidance and technical assistance for compliance with the requirements of Section 3.

For additional information, please visit the Section 3 website at: www.hud.gov/section3. This webpage provides the following tools and information:

- Section 3 Statute—12 U.S.C. 1701u
- Section 3 Regulation—24 CFR Part 135
- Frequently Asked Questions
- Section 3 Model Programs
- Guidance on Section 3 and Economic Stimulus Funding
- Guidance on Section 3 and the Neighborhood Stimulus Program (NSP)
- Sample Section 3 Certification Forms (residents and business concerns)
- Link to HUD's Local Income Eligibility Calculator
- Link to Section 3 Annual Reporting System(form HUD-60002)
- Downloadable Forms
- Contact Information for Economic Opportunity Division staff
- Email inquiries on Section 3 can be sent to section3@hud.gov



THE APPLICABILITY OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 TO NEIGHBORHOOD STABILIZATION PROGRAM FUNDING

Neighborhood Stabilization Program Funding¹

The Neighborhood Stabilization Program (NSP) was established for the purpose of stabilizing communities that have suffered from foreclosures and abandonment through the purchase and redevelopment of foreclosed and abandoned homes and residential properties.

NSP 1, a term that references the NSP funds authorized under Division B, Title III of the Housing and Economic Recovery Act (HERA) of 2008, provides grants to all states and selected local governments on a formula basis. **NSP 2**, refers to NSP funds authorized under the American Recovery and Reinvestment Act (the Recovery Act) of 2009, and provides grants to states, local governments, nonprofits and a consortium of nonprofit entities on a competitive basis. The Recovery Act also authorized HUD to establish **NSP-TA**, a \$50 million allocation made available to national and local technical assistance providers to support NSP grantees.

NSP is a component of the Community Development Block Grant (CDBG) program. The CDBG regulatory structure is the platform used to implement NSP and the HOME program provides a safe harbor for NSP affordability requirements. NSP funds are to be used for activities that include, but are not limited to:

- Establishing financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties;
- Purchasing and rehabilitating homes and residential properties abandoned or foreclosed;
- Establishing land banks for foreclosed homes;
- Demolishing blighted structures; and
- Redeveloping demolished or vacant properties

NSP grantees can use their discretion to develop their own programs and funding priorities. However, at least 25 percent of their NSP funds shall be appropriated for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of the area median income. In addition, all activities funded by NSP must benefit low- and moderate-income persons whose income does not exceed 120 percent of area median income.

Economic Opportunities for Low- and Very Low-Income Persons (Section 3)

Section 3 of the Housing and Urban Development Act of 1968 recognizes that the *normal expenditure* of certain HUD funds typically results in new jobs, contracts, and other economic opportunities; and when these opportunities are created, low- and very low-income persons residing in the community in which the funds are spent (**regardless of race and gender**), and the businesses that substantially employ them, shall receive priority consideration.

Section 3 is one of HUD's tools for ensuring that the expenditure of federal funds in economically distressed communities has a multiplier effect by targeting local low- and very low-income persons and qualified businesses for jobs, training, and contracting opportunities.

Section 3 Applicability to NSP Funds

A grantee's combined investment in excess of **\$200,000** of NSP funding into projects arising in connection with *housing construction, demolition, rehabilitation, or other public construction* makes the requirements of Section 3 applicable to all individual properties that receive services with these funds –regardless of the actual amount that is spent on each individual unit/property.

Accordingly, the grantee shall ensure compliance with the statutory and regulatory requirements of Section 3 in its own operations, and those of covered contractors. These responsibilities include:

- 1) Making efforts to meet the minimum numerical goals found at 24 CFR Part 135.30;
- 2) Complying with the specific responsibilities at 24 CFR Part 135.32; and
- 3) Submitting Annual Summary reports in accordance with 24 CFR Part 135.90.

If covered contractors receive awards that exceed **\$100,000** for the construction and rehabilitation activities listed above, responsibility for Section 3 compliance is shared with that firm (with the exception of the submission of the Section 3 Annual report (Form HUD 60002), which must be submitted by the direct recipient of covered funds).

If **no contractor receives an award exceeding \$100,000**, responsibility for complying with the requirements of Section 3 stays with the grantee. Specifically, the grantee shall be responsible for awarding 10 percent of the total dollar amount of all covered contracts to Section 3 business concerns. Each recipient shall fulfill the responsibilities described below to meet the requirements of Section 3.

Recipient Responsibilities Pursuant to Section 3 [24 CFR Part 135.32]

Each recipient of Section 3 covered financial assistance (and their contractors or subcontractors) are required to comply with the requirements of Section 3 for new employment, training, or contracting opportunities that are created during the expenditure of covered funding. This responsibility includes:

1. Implementing procedures to notify Section 3 residentsⁱⁱ and business concernsⁱⁱⁱ about training and employment opportunities generated by Section 3 covered assistance;
2. Implementing procedures to notify Section 3 business concerns about the availability of contracting opportunities generated by Section 3 covered assistance;
3. Notifying potential contractors completing work on Section 3 covered projects of their responsibilities;
4. Incorporating the Section 3 Clause (verbatim) into all covered solicitations and contracts [see 24 CFR Part 135.38];
5. Facilitating the training and employment of Section 3 residents and the awarding of contracts to Section 3 business concerns;
6. Assisting and actively cooperating with the Department in obtaining the compliance of contractors and subcontractors;
7. Refraining from entering into contracts with contractors that are in violation with the Section 3 regulations;
8. Documenting actions taken to comply with Section 3; and
9. Submitting Section 3 annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

Section 3 Compliance and NSP Funding

As with all other covered programs, the Department makes determinations regarding Section 3 compliance based upon the following:

1. Meeting the minimum numerical goals set forth at 24 CFR Part 135.30
 - a. 30 percent of the aggregate number of new hires shall be Section 3 residents; and
 - b. 10 percent of all covered construction contracts shall be awarded to Section 3 business concerns.
2. Recipients that fail to meet the numerical goals above **bear the burden of demonstrating why it was not possible.**
 - * Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will allow the Department to make a determination regarding compliance.

Section 3 Reporting Requirements

Each direct recipient of NSP funding is required to submit Section 3 summary data to the Economic Opportunity Division annually using form HUD-60002. This form can be submitted online at: www.hud.gov/section3.

Since NSP funding requires the submission of quarterly performance reports, grantees shall submit form HUD-60002 at the same time that the 4th quarter NSP report is submitted. The 60002 should reflect the cumulative employment, contracting, and training opportunities that were generated throughout the entire year.

Section 3 Guidance and Technical Assistance

The Economic Opportunity Division in HUD Headquarters is committed to providing guidance and technical assistance to ensure compliance with the statutory and regulatory requirements of Section 3. For additional information, please refer to the following:

- www.hud.gov/section3
- Section 3 Statute—12 U.S.C. 1701u
- Section 3 regulations—24 CFR Part 135
- www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/
- U.S. Department of Housing and Urban Development
Economic Opportunity Division
451 Seventh Street, SW Room 5235
Washington, DC 20410
202-708-3633 (this is not a toll free number)
- Email questions or comments to: section3@hud.gov

¹ Source: <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>

² Section 3 residents are defined as: 1) residents of public housing; or 2) individuals that reside in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended and meet the definition of a low- or very low-income person as defined by HUD).

³ Section 3 business concerns are defined as one of the following: 1) businesses that are 51 percent or more owned by Section 3 residents; 2) businesses whose permanent, full-time employees include persons, at least 30 percent of whom are current Section 3 residents or were Section 3 residents within 3 years of the date of first employment with the business concern; or 3) businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in the two previous categories.

Frequently Asked Questions (FAQs)

Section 3 of the Housing & Urban Development Act of 1968

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GENERAL QUESTIONS

1. What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

2. What does "To the Greatest Extent Feasible Mean?"

By to the "Greatest Extent Feasible", the Department means the every effort must be made to comply with the regulatory requirements of Section 3. By this, the Department means that recipients of Section 3 covered financial assistance should make every effort within their disposal to meet the regulatory requirements. For instance, this may mean going a step beyond normal notification procedures for employment and contracting procedures by developing strategies that will specifically target Section 3 residents and businesses for these types of economic opportunities.

3. What does the term "Section 3 resident" mean?

A "section 3 resident" is: 1) a public housing resident; or 2) a low- or very low-income person residing in the metropolitan area or non-metropolitan county where the Section 3 covered assistance is expended.

4. What does the term Section 3 Business Concern mean?

Section 3 business concerns are businesses that can provide evidence that they meet one of the following criteria:

- a) 51 percent or more owned by Section 3 residents; or
- b) At least 30 percent of its full time employees include persons that are currently Section 3 residents, or were Section 3 residents within three years of the date of first hire*; or
- c) Provides evidence, as required, of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to business concerns that meet one of the first two qualifications above.

*Example: Alysha was an unemployed Section 3 resident that was first hired by ABC Company on January 1, 2011. She received a raise of \$2,500 in March 2012, thereby boosting her household income above the local low income level. ABC Company may continue to count Alysha as one of their Section 3 employees until December 31, 2013 (i.e. within three years of the date of first hire).

5. How does Section 3 differ from the Minority Business Enterprise/Women Business Enterprise programs?

Section 3 is both race and gender neutral. The preferences provided under this regulation are based on income-level and location. Section 3 regulations were designed to encourage recipients of HUD funding to direct new employment, training, and contracting opportunities to low-income residents, and the businesses that employ these persons, within their community regardless of race and/or gender.

To learn more about the Minority Business Enterprise and Women Business Enterprise programs, please contact HUD's Office of Small and Disadvantaged Business Utilization at 202-708-1428, or visit their website, located at: http://portal.hud.gov/portal/page/portal/HUD/program_offices/sdb.

6. How are "low-income" and very low-income determined?

Low- and very-low-household income limits are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the median income for each locality by household size or the number of people residing in one house. HUD income limits may be obtained from: <http://www.huduser.org/portal/datasets/il.html>

7. What are "metropolitan areas" and "non-metropolitan counties?"

Metropolitan area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget. A non-metropolitan county means any county outside of a metropolitan area.

A current list of MSAs can be found at:

<http://www.census.gov/population/www/metroareas/metrodef.html>

8. What is a "new hire"?

A new hire means a full-time employee for a new permanent, temporary, or seasonal position that is created as a direct result of the expenditure of Section 3 covered financial assistance.

9. Can laid-off workers that are "re-hired" as a result of a HUD-funded project considered new hires?

Yes. Any employee that was not on the payroll of a recipient, developer, or contactor on the day that Section 3 covered assistance was provided can be counted towards the Section 3 minimum numerical goal for employment.

10. What is a Section 3 covered project?

A Section 3 covered project involves the construction or rehabilitation of housing (including reduction of lead-based paint hazards), or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.

11. Who is considered a recipient of Section 3 funding?

A recipient is any entity which receives Section 3 covered assistance, directly from HUD or from another recipient (i.e., a PHA; unit of State or local government; property owner; developer; etc). It does not include contractors or any intended beneficiary under the HUD program to which Section 3 applies, such as a homeowner or a Section 3 resident.

12. Which recipient agencies (or sources of HUD financial assistance) are required to comply with Section 3?

Public Housing Authorities (PHAs) regardless of size or number of units are required to comply with Section 3. One exception is PHAs that only receive or administer tenant-based Housing Choice (Section 8) Vouchers and do not utilize any of the financial assistance described above. Although they are exempt, compliance with Section 3 is encouraged.

Section 3 also applies to recipients of more than \$200,000 from housing and community development programs. The following are a list of examples of such funds:

- Community Development Block Grant (CDBG)
- HOME Investment Partnership
- Neighborhood Stabilization Program Grants (NSP 1, 2 & 3)

- Economic Development Initiative (EDI)/Brownfield Economic Development Initiative Grants
- Housing Opportunities for Persons with AIDS (HOPWA)
- Homeless Assistance Grants (ESG)
- University Partnership Grants
- Economic Stimulus Funds (including CDBG-R and CFP Supplemental)
- 202/811 Grants
- Lead Hazard Control Grants

*Note: The requirements of Section 3 typically apply to recipients of HUD funds that will be used for housing construction, rehabilitation, or other public construction. Contact the Economic Opportunity Division at section3@hud.gov to determine applicability to a particular project/activity.

13. Can a non-profit organization be considered a “business concern” for the purposes of Section 3?

Yes. A non-profit organization can be a legitimate business concern. Non-profit organizations must meet the criteria of a Section 3 business concern as defined at 24 CFR Part 135.5 in order to receive Section 3 preference.

14. What is a Service Area?

The Service area is the geographical area in which the persons benefiting from the Section 3 covered project reside. The Service Area shall not extend beyond the unit of local government in which the Section 3 covered financial assistance is expended.

APPLICABILITY

15. What is Section 3 covered assistance?

Section 3 covered assistance includes:

- Public and Indian Housing Operating Subsidy; Capital Funds; or Modernization assistance; and
- Housing and community development assistance expended for housing rehabilitation, housing construction, or other public construction.

16. What are funding thresholds and how do they apply to Section 3 covered financial assistance?

Funding thresholds are minimum dollar amounts that trigger Section 3 requirements. There are no thresholds for public and Indian housing (PIH) programs. The requirements of Section 3 apply to all PIH programs regardless of the amount of assistance received from HUD.

The Section 3 requirements apply to recipients of Housing and/or Community Development Assistance exceeding \$200,000 combined from all sources in any one year. Section 3 covers the expenditure of any portion of those funds for any activity that involves housing construction, rehabilitation, or other public construction.

For example, a city receives \$600,000 for CDBG, \$150,000 in HOME Funding, and \$75,000 in NSP funding. This represents a total of \$825,000 in housing and community development assistance. As such, any construction or rehabilitation activities funded by the city using those funds is covered by Section 3.

17. Do the requirements of Section 3 apply to grantees on a "per project" basis?

No. Any agency that receives covered assistance that exceeds \$200,000 is required to comply with the requirements of Section 3 whenever any projects involving housing construction, rehabilitation, or other public construction are administered, regardless of the actual dollar amount of covered assistance that is invested into the individual project/activity.

18. If a project is funded with non-HUD assistance, do the requirements of Section 3 still apply?

Section 3 applies to projects that are fully or partially funded with HUD financial assistance. Projects that are financed with state, local or private matching or leveraged funds used in conjunction with HUD funds are covered by Section 3.

19. What dollar threshold amounts apply to contractors/subcontractors?

All contracts (or subcontracts) funded with Public and Indian Housing assistance, regardless of dollar amount or type of contract, is subject to the requirements of Section 3.

With respect to recipients of Housing and/or Community Development funding, all contractors or subcontractors that receive covered contracts in excess of \$100,000 for housing construction, rehabilitation, or other public construction are required to comply with the requirements of Section 3.

20. What responsibilities do contractors/subcontractors have if they receive Section 3 covered contracts?

If the contractor/subcontractor has the need to hire new persons to complete the Section 3 covered contract or needs to subcontract portions of the work to another business, they are required to direct their newly created employment and/or subcontracting opportunities to Section 3 residents and business concerns. The same numerical goals apply to contractors and subcontractors (i.e., 30 percent of new hires, 10 percent of construction contracts, and 3 percent of non-construction contracts). In addition, the contractor/subcontractor must notify the recipient agency about their efforts to comply with Section 3 and submit any required documentation.

21. Do the Section 3 requirements apply to material only contracts?

No. Section 3 does not apply to material only contracts or those that do not require any labor. For example, a contract for office or janitorial supplies would not be covered by Section 3. In this example, Section 3 would be encouraged but not required. However, a contract to replace windows that includes the removal of existing windows and the installation of new windows would be covered.

22. Are maintenance projects covered by Section 3?

Yes, but only for PIH funded programs administered by Public Housing Authorities.

23. Does the reduction and abatement of lead-based paint hazards constitute housing rehabilitation?

Yes, reduction and abatement of lead-based paint hazards does constitute housing rehabilitation and is covered by Section 3.

24. Are demolition projects covered by the requirements of Section 3?

Yes. Recipients of Section 3 covered assistance should make efforts to award a minimum of ten percent of the total dollar amount of all demolition contracts to Section 3 businesses.

25. Are professional service contracts covered under Section 3?

Yes, the term "Section 3 covered contract" includes professional service contracts provided that the work to be performed is generated by the expenditure of Section 3 covered Public and Indian housing assistance, or for work arising in connection with projects involving housing rehabilitation, housing construction, or other public construction.

26. Does Section 3 apply to new hiring by a CDBG-Entitlement recipient?

Yes. If the recipient intends to use its HUD allocation to hire additional staff person(s) to perform work related to housing construction, rehabilitation, or other public construction, then the position(s) is covered by Section 3. However, if the local municipality uses a civil servant applicant process to hire new employees, compliance with the requirements of Section 3 may not be feasible.

27. Does Section 3 apply to new hiring by a Public Housing Authority?

Yes. Section 3 applies to all Public and Indian Housing capital, operating or development funds; therefore, new hiring done by the PHA (regardless of the position) is covered by Section 3.

28. For community development and other housing assistance, do the thresholds apply to the total amount of HUD assistance received or the amount of funds invested into Section 3 covered projects/activities?

The threshold applies to the total amount of HUD assistance received. Example: the City of Mountain View, receives \$210,000 through the State CDBG program. The funds will be used as follows:

- a. Housing rehabilitation- \$180,000;
- b. micro-enterprise revolving loan fund- \$20,000; and
- c. Fair housing counseling- \$10,000.

City of Mountain View is subject to Section 3 requirements because they received over \$200,000 in housing and community development funds. However, only the funds expended for Section 3 covered activities must comply with the requirements of Section 3. Therefore, the expenditure of the \$180,000 is covered by Section 3. The remaining \$30,000 that was used for fair housing counseling and a revolving loan fund is not covered by Section 3.

29. Are contracts cumulative for reaching the Section 3 threshold?

No. Contracts for Section 3 covered projects are not cumulative. The requirements of Section 3 apply to each individual contract that meets the thresholds.

For example, if a recipient agency awards 3 housing rehabilitation contracts (at \$36,000; \$50,000; and \$20,000 for a cumulative total of \$106,000) to one contractor for three different projects within a twelve month period, the contractor is not required to comply with the requirements of Section 3 because none of his contracts met the \$100,000 threshold. Accordingly, the responsibility for meeting the requirements of Section 3 would remain with the recipient agency that awarded the contracts.

CONSISTENCY WITH OTHER LAWS

30. Does Section 3 apply to other State/local laws?

Yes. Compliance with Section 3 shall be achieved, to the greatest extent feasible, consistent with local laws and regulations. Accordingly, recipients of Section 3 covered assistance are required to develop strategies for meeting both the regulatory requirements at 24 CFR Part 135 and any other applicable statutes or regulations.

31. What is the relationship between Section 3 and Davis Bacon requirements?

Compliance with Section 3 must be achieved consistent with the requirements of Davis-Bacon. Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a—276a-7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work.

32. What is the relationship between Section 3 and Minority Business Enterprises (MBEs)?

'Minority business enterprise' (MBE) means a business enterprise that is owned and controlled by one or more minority or socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or other similar causes.

Section 3 preferences are race and gender neutral. A minority and/or woman owned business enterprise must provide evidence that it meets at least one criterion of a Section 3 business outlined above in order to receive preference under Section 3. However, the Department anticipates that Section 3 will serve to support, and not impede, contract opportunities for minority business enterprises.

The MBE designation may provide preferences promoted by other statutes and regulations, such as goals for MBEs, and other socially and economically disadvantaged businesses. Additional information about the MBE program can be obtained by calling the HUD Office of Small and Disadvantaged Business Utilization at 202-708-1428.

RECIPIENT RESPONSIBILITIES

33. What are the responsibilities of recipient agencies under Section 3?

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 § 135.32. These responsibilities include but may not be necessarily limited to the following.

- Designing and implementing procedures to comply with the requirements of Section 3 in order to comply with Section 3: Recipient agencies must take an **active role** in ensuring Section 3 compliance. The first step is designing or planning and implementing procedures to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3.
- Facilitating the training and employment of Section 3 residents: The recipient agency must act as a facilitator, connecting Section 3 residents to training and employment opportunities.
- Facilitating the award of contracts to Section 3 business concerns: The recipient agency 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.
- Ensuring Contractor and Subcontractor Awareness of Section 3 Goals and Responsibilities: The recipient agency is responsible for ensuring that contractors and subcontractors are aware of, and in compliance with, Section 3 requirements.
- Ensuring Compliance and Meeting Numerical Goals: Recipient agencies 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 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.
- Reporting Requirements: Recipient agencies must document all actions taken to comply with the requirements of Section 3: Recipient agencies must submit a Section 3 Annual Summary Report (Form HUD-60002) for all covered

funding to the Office of Fair Housing and Equal Opportunity. Section 3 reports shall be submitted electronically online at: www.hud.gov/section3.

34. What are good strategies for targeting Section 3 residents and businesses?

In order to target Section 3 residents and businesses, recipients must establish and maintain an effective Section 3 program. HUD has found that hiring a Section 3 coordinator or assigning one individual the responsibility of coordinating all Section 3 related activities to be instrumental for reaching the employment and contracting goals.

It is recommended that recipient agencies establish procedures to certify Section 3 residents and Section 3 business concerns and incorporate some form of preference for employment and contracting opportunities. Thereafter, they should maintain a list of eligible residents and businesses by skill, capacity or interest and contact them on a periodic basis when employment and contracting opportunities are available. Refer to the Section 3 Regulations at 24 CFR Part 135.32 for a listing of responsibilities and the Appendix to the Section 3 regulations for additional examples of effective strategies.

35. Are funds provided to recipients so that they can comply with the requirements of Section 3?

No. Since Section 3 requirements are only triggered when the normal expenditure of covered funds results in employment, training, or contracting opportunities, there is no need for the Department to provide funds to meet the recipient responsibilities set forth in the regulation.

36. Does Section 3 require recipient agencies to create new (or unnecessary) training, employment, and contracting opportunities?

Recipient agencies are not required to create jobs or contracts for Section 3 residents and business concerns simply for the sake of creating them. Section 3 requires that *when* employment or contracting opportunities are generated because a project or activity undertaken by a recipient of covered HUD financial assistance necessitates the employment of additional personnel through individual hiring or the awarding of contracts, the recipient must give preference in hiring to low- and very low- income persons and/or businesses that are owned by these persons or that substantially employ them.

37. Are Section 3 residents or business concerns guaranteed employment or contracting opportunities under Section 3?

Section 3 is not an entitlement program, there are no guarantees. Residents and businesses must be able to demonstrate that they have the ability or capacity to perform the specific job or successfully complete the contract that they are seeking.

Section 3 requirements provide preference to Section 3 residents and business concerns, but not a guarantee.

38. Are recipients, developers, and contractors required to provide long-term employment opportunities, and not simply seasonal or temporary employment?

Recipients, developers, and contractors are required, to the extent feasible, to direct all employment opportunities to low- and very low-income persons- including seasonal and temporary employment opportunities. Employment goals are based on 'new hires,' which are defined as full-time employees for permanent, temporary or seasonal employment opportunities.

Recipients, developers, and contractors are encouraged to provide long-term employment.

39. When might a recipient agency be exempt from the requirements of Section 3?

Typically, the Department does not grant any exemptions or waivers related to Section 3.

40. Are recipients required to request developers or contractors to make payments into Section 3 training or implementation funds?

No. Recipients are not required to request noncompliant contractors make payments into a fund.

Providing employment, training, and subcontracting opportunities to Section 3 residents and businesses must be the primary goal of developers/contractors. However, such a fund can be used in very specific instances as a penalty for noncompliance.

SECTION 3 PREFERENCE

41. How can a prospective Section 3 resident or business certify that they meet the eligibility requirements?

The individual or business must contact the agency or developer that they are seeking employment or contracting opportunities from (i.e., the PHA, city, or local government). They should identify themselves as a Section 3 resident or business and provide whatever documentation that the recipient agency requires under their certification procedures.

42. Who is responsible for certifying that residents and businesses meet the regulatory definitions under Section 3?

The regulation allows recipient agencies to use their discretion for developing specific procedures to meet the requirements of Section 3. This includes establishing their own standards/processes for verifying eligibility of Section 3 residents and businesses (or not). Each recipient is also free to accept or reject the standards/process used by other recipients or pay for the services of a third party vendor to determine eligibility. While HUD does not endorse the services of private, third party vendors, recipient agencies may employ such services at their discretion.

43. What are examples of acceptable evidence to determine eligibility as a Section 3 resident?

HUD does not prescribe that any specific forms of evidence to establish Section 3 eligibility. Sample certification documents can be found on the [Section 3 website](#). Acceptable documentation includes, but is not limited to the following:

- Proof of residency in a public housing development;
- Evidence of participation in a HUD Youth build program operated in the metropolitan area (or non-metropolitan county) where the Section 3 covered assistance is spent;
- Evidence that the individual resides in the Section 3 area and is a low or very low-income person, as determined by local HUD income limits;

44. What are examples of acceptable evidence for determining eligibility as a Section 3 business?

HUD does not prescribe that any specific forms of evidence be required to establish Section 3 eligibility. Sample certification documents can be found on the [Section 3 website](#). The business seeking the preference must be able to demonstrate that they meet one of the following criteria:

- 51 percent or more owned by Section 3 residents; or
- Has permanent, full time employees at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- Has a commitment to sub-contract in excess of 25 percent of the total dollar award of all sub-contracts to be awarded to such businesses described above.

45. Are all public and Indian housing residents considered Section 3 residents regardless of their income?

Yes. Public and Indian housing residents need only show proof of residency in public housing within the metropolitan area (or non-metropolitan county). Other residents of the Section 3 area may need to show proof of residency in the metropolitan area (or non-metropolitan county) and meet the HUD income requirements.

46. Can recipient agencies allow residents or businesses to “self-certify” that they meet the Section 3 eligibility requirements?

As previously mentioned, the regulation allows recipient agencies to use their own discretion to develop specific procedures for meeting the requirements of Section 3. Many recipient agencies choose to allow prospective Section 3 residents or businesses to self-certify their eligibility. The Department recommends that any self-certification should include a statement of penalty for falsifying information.

47. Are Section 3 business concerns only certified to receive preference in the community in which they are located?

No. While certification is locality specific, recipient agencies can count a Section 3 business that is located outside of its immediate jurisdiction towards their efforts to meet the minimum numerical goals. However, recipient agencies should not provide preference to a Section 3 that is not located in their jurisdiction if a local Section 3 business has also submitted a qualified bid for a contract and can complete the work to be done. Refer to the order of priority preference for Section 3 contract opportunities at 24 CFR Part 135.36.

48. Does preference to a Section 3 business mean that the business should be selected if it meets the technical requirements of the bid, regardless of bid price?

No. As provided in 24 CFR 85.36(b) (8), contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. In order to meet the requirements of Section 3 and Federal Procurement laws, recipient agencies must develop procedures that are consistent with all applicable regulations.

49. Can contracting with MBE/WBE businesses count towards Section 3 contracting goals?

Section 3 is race and gender neutral. Only MBEs/WBEs that meet the eligibility criteria set forth in the regulation can they be counted towards the minimum goals for Section 3 contracting opportunities.

50. Does a business have to be incorporated to be considered a Section 3 eligible business?

A Section 3 business concern can be any type of business, such as a sole proprietorship, partnership or a corporation, properly licensed and meeting all legal requirements to perform the contract under consideration.

ECONOMIC OPPORTUNITIES/NUMERICAL GOALS

51. How can residents and businesses locate recipient agencies that are required to comply with Section 3 in their area?

To find local recipients agencies, Section 3 residents or businesses should contact their local HUD office. To find your closest office, visit: www.hud.gov/localoffices

52. How can I find Section 3 businesses in my area?

Contact local recipient agencies to find Section 3 business concerns in your area.

53. What types of new employment opportunities are covered by Section 3?

For public and Indian housing (PIH) programs, all employment opportunities generated by the expenditure of operating, capital, and modernization assistance, including management and administrative jobs, technical, professional, construction and maintenance jobs, at all levels.

For housing and community development programs, all employment opportunities arising in connection with housing rehabilitation (including reduction and abatement of lead-based paint hazards); housing construction; or other public construction, including management and administrative jobs, technical, professional, building trades and non-construction jobs, at all levels.

54. Are recipient agencies required to meet the Section 3 goals, or are they optional?

The Section 3 numerical goals are minimum targets that must be reached in order for the Department to consider a recipient in compliance. Recipient agencies are required to make best efforts to the greatest extent feasible, to achieve the annual numerical goals for employment and contracting. If an agency fails to fully meet the Section 3 numerical goals, they must adequately document the efforts taken to meet the numerical goals (see Question #2 for a discussion of "to the greatest extent feasible").

55. What are the Section 3 minimum numerical goals?

The minimum numerical goal for employment is thirty (30) percent of the aggregate number of new hires shall be Section 3 residents, annually- i.e., 3 out of 10 new employees needed to complete a Section 3 covered project/activity shall be Section 3 residents.

The minimum goals for contracting are:

- Ten (10) percent of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing or building trades work arising in connection with

housing rehabilitation, housing construction and other public construction, shall be awarded to Section 3 businesses; and

- Three (3) percent of the total dollar amount of all non-construction Section 3 covered contracts shall be awarded to Section 3 businesses

56. What is considered a Section 3 covered "non-construction" project?

Section 3 covered non-construction projects include maintenance contracts, including lawn care, re-painting, routine maintenance, HVAC servicing, and professional service contracts associated with construction (ex.: architectural, engineering, legal services, accounting, marketing, etc.).

57. What is considered "other" public construction?

Other public construction includes infrastructure work, such as extending water and sewage lines, sidewalk repairs, site preparation, installing conduits for utility services, etc.

58. Are the numerical goals the same as set-asides and quotas?

No. A set-aside guarantees that a specific portion of funds will be provided to a protected class. Section 3 goals are minimum numerical targets that a recipient of HUD Section 3 covered financial assistance must try to reach to attain compliance with Section 3.

59. What is the meaning of the "safe harbor" determination?

When a recipient agency or contractor meets the numerical goals, the recipient or contractor is considered to be in compliance with Section 3, absent evidence to the contrary (i.e., evidence or findings obtained from a Section 3 compliance review).

60. What should recipient agencies or contractors do if they fail to meet the minimum numerical goals set forth in the regulation?

Recipient agencies and their contractors must adequately document all efforts taken to comply with the requirements of Section 3, and explain why despite their efforts "to the greatest extent feasible"; the minimum numerical goals were not met.

The Department will take each agency's explanation into consideration when making compliance determinations.

RECORDKEEPING AND REPORTING

61. What are the recordkeeping requirements of Section 3 recipient agencies?

Documentation of actions taken to comply with the employment, training and contracting requirements of Section 3, the results of actions taken and impediments encountered. Recipient agencies should maintain records of job vacancies, solicitation for bids or proposals, selection materials, and contract documents (including scope of work and contract amount), in accordance with Federal or State procurement laws and regulations. The documentation should demonstrate efforts taken towards the achievement of the Section 3 numerical goals.

62. Who is required to submit Section 3 reports?

Each direct recipient of Section 3 covered HUD financial assistance shall submit an annual report for the purpose of determining the effectiveness of Section 3. Section 3 summary reports, form HUD 60002, are required even if the recipient agency did not undertake any activities that triggered the requirements. Subrecipients, developers, and contractors should not submit Section 3 annual reports directly to the Department.

63. Where should Section 3 summary reports (Form HUD 60002) be submitted?

The Department has developed an online reporting system to allow grantees to submit Section 3 reports (form HUD 60002) directly to FHEO. Reports should be submitted online at: www.hud.gov/section3 from the [Section 3 website](#).

64. After an agency submits its Section 3 report online, should a hard copy of the form also be submitted to HUD by fax, email, or mail?

No. Since the Department has an online reporting system, it is not necessary for agencies to submit hard copies (or paper copies) of reports to FHEO. The Department is making an effort to go "paperless" and wants to reduce paper submissions of Section 3 reports.

However, it is recommended that grantees retain a copy of their completed Section 3 reports on file and optionally submit them as an attachment to their annual performance report if applicable (CAPERS report for CDBG, HOME and ESG Programs).

65. Are contractors or developers required to submit Section 3 reports directly to HUD?

No. Contractors and/or developers should not submit Section 3 reports to HUD. Only direct recipients (agencies) are required to submit Section 3 reports to HUD. Contractors should maintain adequate documentation to demonstrate compliance

with Section 3 and forward information to the direct recipient (i.e., the agency that awarded them a covered contract) as directed or upon request.

66. Should recipient agencies establish a reporting system for their contractors and subcontractors?

Yes, reports compiled by contractors and subcontractors will assist the recipient agency in gathering the necessary data for submission to HUD.

67. When are Section 3 annual reports (Form HUD 60002) due?

Depending on the source of funding, annual reports should be submitted at one of three times:

- 1) At the time the recipient submits an annual performance report;
- 2) By January 10 of each year if no program annual performance report is required; or
- 3) Within ten (10) days of project completion, whichever is earlier.

- PHAs should submit form HUD60002 by January 10th.
- Grantees Awarded funding for Section 202/811 should submit form HUD 60002 by January 10th.
- Grantees Awarded funding for CDBG, HOME and/or ESG should submit form HUD 60002 at the same time they submit the CAPER report.
- Grantees Awarded funding for lead abatement activities should submit form HUD 60002 with their annual reports no later than September 30th.

68. Where can I find instructions for completing form HUD 60002?

Instructions for completing form HUD 60002 can be found on the Section 3 website at www.hud.gov/section3. Additional technical assistance for completing form HUD 60002 can be obtained by submitting an email request to: section3@hud.gov.

69. How can a recipient agency request a copy, make corrections, or delete its own Section 3 annual report?

The recipient agency should submit an email request to section3@hud.gov. Requests should contain the agency's name along with the year, grant number, and dollar amount of the report in question.

70. How can I obtain copies of 60002 reports for another local recipient agency?

Copies of 60002 reports for local recipient agencies for which you are not affiliated with can be obtained by completing and submitting a Freedom of Information Act (FOIA) request at: <http://www.hud.gov/offices/ogc/foia/foiarequests.cfm>.

71. Are agencies required to submit Form HUD 2516 to demonstrate compliance with Section 3?

No. Agencies are not required to submit Form HUD 2516 to demonstrate compliance with Section 3. In addition, while Form HUD 2516 does capture some Section 3 data, it is not sufficient to demonstrate overall compliance to the Department. The only form that should be submitted for Section 3 reporting requirements is form HUD 60002.

SECTION 3 COMPLAINTS

72. Who can file a complaint that alleges non-compliance with the requirements of Section 3?

Any Section 3 resident or Section 3 business (or authorized representative) seeking employment, training, or contracting opportunities generated by Section 3 covered assistance may file a complaint using form HUD 958.

73. Where should Section 3 complaints be submitted?

Effective November 2007, Section 3 complaints must be filed at the appropriate FHEO Regional Office where the violation occurred. Please visit www.hud.gov/offices/fheo to obtain the address and telephone number for FHEO regional offices.

74. Where can I find form HUD 958?

Copies of the Section 3 complaint form (HUD 958), filing instructions and mailing addresses may be obtained at: www.hud.gov/section3.

75. Is there a time limit for filing a Section 3 complaint?

Yes. Section 3 complaints must be filed no later than 180 days from the date of the action or omission upon which the complaint is based.

76. What happens during an investigation?

Once a timely complaint has been filed with the appropriate Regional Office, the Department will determine if the complainant has jurisdiction or is covered by Section 3 regulations. An investigator will be assigned the case and will notify the respondent about the complaint. The respondent has the option of resolving the complaint or

contesting it. If the respondent contests or denies the allegations of noncompliance contained in the complaint, the investigator will proceed to gather facts or evidence from both parties. Thereafter, the investigator will prepare a letter of findings and either make a determination of noncompliance or dismiss the complaint.

77. What happens if HUD determines a recipient is in noncompliance?

Pursuant to 24 CFR 135.76, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaint informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures concerning the imposition of sanctions or resolutions as set forth in the regulations governing the HUD program under which the Section 3 covered assistance is provided.

78. Can complainants appeal the initial decision made in a Section 3 complaint?

A complainant can submit a written appeal to the Assistant Secretary for Fair Housing and Equal Opportunity in Washington, DC within 15 days after the Regional Office makes its determination. Requests should be sent to:

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
451 Seventh Street, SW
Room 5100
Washington, DC 20410

79. Where else can I file complaints alleging denied employment and contracting opportunities?

If you are denied employment and/or contracting opportunities, you *may* have standing to bring a complaint at HUD under Title VI of the Civil Rights Act and/or Section 109 of the Housing and Community Development Act of 1974.

You may also be eligible to bring complaints under other federal laws. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about your rights, please contact EEOC at: www.EEOC.gov.

The Department of Labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained at: <http://www.dol.gov/ofccp/>