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10 Section 3

10.1 Overview

HUD requires that CDBG-DR funded programs comply with Section 3 requirements. Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that promotes economic opportunities for low-income individuals and businesses residing in areas where HUD financial assistance is provided for housing and community development projects. As of November 30, 2020, CDBG-DR programs are required to adhere to the reporting and compliance requirements outlined in [CPD Notice 21-09](#) and [24 CFR Part 75](#).

10.2 Applicability

Section 3 requirements apply to all CDBG-DR funded housing rehabilitation, reconstruction, elevation or new construction and any other public construction project that has a total project cost of \$200,000 or more. The project includes the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing. Section 3 applies to the entire project even when the CDBG-DR funds are only a portion of the total funding.

In accordance with 24 CFR 75.3(b), Section 3 requirements do not apply to material supply contracts.

10.3 Benchmarks

Lee County subrecipients will make every effort to comply with HUD benchmarks when undertaking applicable projects to satisfy Section 3 requirements. Lee County subrecipients will be considered to have complied with requirements of HUD's Section 3 final rule if it certifies that it has followed the prioritization effort in 24 CFR Part 75.19 and it has met or exceeded the following Section 3 benchmarks:

- 25% of all labor hours are performed by a Section 3 worker
- 5% of all labor hours are performed by Targeted Section 3 workers

In addition to the benchmarks above to the greatest extent feasible, Lee County subrecipients, shall ensure the following:

- Contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located;
- Where feasible, priority for contracting opportunities should be given to Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and to YouthBuild programs;
- Employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located; and

- Where feasible, priority opportunities and training should be given to Section 3 workers within the service area or the neighborhood of the project and to YouthBuild programs.

10.4 Section 3 Worker

A Section 3 worker is defined as any worker who currently fits 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 limit¹ established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant.

The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction. Nothing in 24 CFR Part 75 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.

10.5 Targeted Section 3 Worker

A 'Targeted' Section 3 worker for housing and community development financial assistance is defined as a worker that is a Section 3 worker who is also:

- A worker employed by a section 3 business concern; or
- A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - Living within the service area or the neighborhood of the project, as defined in 24 CFR Part 75.5; or
 - A YouthBuild participant.

10.6 Section 3 Business Concern

A Section 3 business concern is defined as a business concern meeting at least one of the following criteria, documented within the last six-month period:

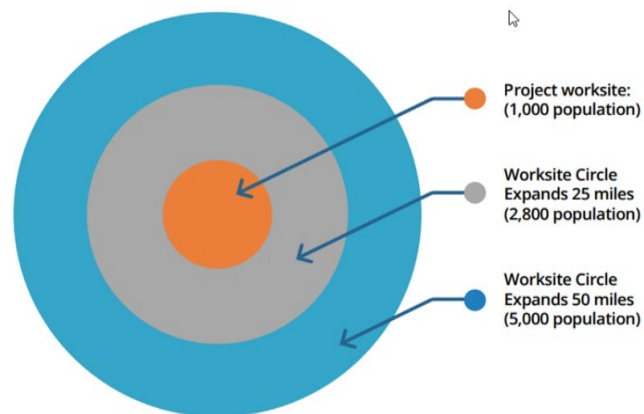
- It is at least 51 percent owned and controlled by low- or very low-income persons;
- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
- It is a business at least 51 percent owned and controlled by current public housing 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.

¹ The one-person household income limit is used to determine income eligibility. Income limits are available at <https://www.huduser.gov/portal/datasets/il.html>

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.

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.



10.7 Procurement

All procurements issued by Lee County subrecipients that include funding covered by 24 CFR 75.3 will include notice that Section 3 is applicable to the funding and may include, as appropriate for the specific procurement, points for the quality of a proposed plan to achieve Section 3 benchmarks.

10.8 Contracting

Lee County subrecipients must include language in any agreements or contracts to apply Section 3 to contractors or subrecipients.

Lee County subrecipients must require contractors to include language in any contract or agreement to apply Section 3 to subcontractors.

Lee County subrecipients must require all contractors and subcontractors to meet the requirements of 24 CFR Part 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

Sample Section 3 contract language can be provided upon request.

10.9 Reporting

Lee County subrecipients will report, monthly, in a tracking form prescribed by Lee County below, 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.

File Name	Section 3 Tracking Report
File Location/Link	https://cdbg-dr-leegis.hub.arcgis.com/

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 21 CFR 75.31.

The labor hours reported 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 Lee County subrecipient is required or elects to report. Lee County subrecipients will not include labor hours from professional services in the total labor hours worked. If a contract covers professional services and other work, Lee County subrecipients must report the labor hours under the contract that are not from professional services.

Lee County subrecipients will report on labor hours for the subrecipient and any contractors or subcontractors on the employer's good faith assessment of labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance-based payroll system, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

10.9.1 *Qualitative Efforts*

If Section 3 benchmarks are not met, Lee County subrecipients must report quarterly on the qualitative nature of its Section 3 compliance activities and those of its contractors and subcontractors. Such qualitative efforts may include, but are not limited to the following:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- 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.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.

- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided bonding assistance, guarantees, or other efforts to support viable bids from Section 3 business concerns.
- Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

10.10 Recordkeeping

Lee County subrecipients 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:

- For a worker to qualify as a Section 3 worker, one of the following must be maintained:
 - A worker's self-certification that their income is below the income limit from the prior calendar year;
 - A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
 - 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;
 - 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
 - An employer's certification that the worker is employed by a Section 3 business concern.
- For a worker to qualify as a Targeted Section 3 worker the following must be maintained:
 - 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;
 - An employer's certification that the worker is employed by a Section 3 business concern; or
 - A worker's self-certification that the worker is a YouthBuild participant.

Lee County subrecipients must maintain all Section 3 records related to CDBG-DR for a minimum of 5 years after grant closeout.

10.11 Subrecipient Procedure

Lee County subrecipients will implement the following steps to comply with HUD Section 3 requirements.

1. Develop a Section 3 Plan (**optional**) . While the final rule does not require recipients to have Section 3 plans, a Section 3 plan can serve as a guide for the community ensuring that the Section 3 requirements are properly implemented and communicated. The development of a Section 3 plan is optional.
2. Identify a Section 3 Coordinator.
3. Facilitate training of staff and stakeholders on Section 3 goals and requirements.
4. Incorporate Section 3 language in procurement activities.
5. For each project identify the service area or the neighborhood of the project as defined in 24 CFR 75.5. Service areas can be defined using the NEPAAssist tool, which can be found at <https://www.epa.gov/nepa/nepassist>, or similar GIS tools.
6. Review contracts and agreements to ensure that Section 3 contract provisions have been included in all agreements and contracts for Section 3 projects.
7. At a preconstruction conference inform the contractor of the contractor's Section 3 responsibilities, Section 3 Benchmark goals, and Section 3 reporting requirements. Provide the contractor with Section 3 certification forms, tracking templates, and report forms.
8. On a quarterly basis, review contractor Section 3 reports to determine progress toward meeting Section 3 Benchmarks. Provide additional assistance as required to assist contractors in achieving Section 3 labor hour goals.
9. If contractor reporting indicates that the contractor is not meeting the Section 3 Benchmarks, require contractors to provide documentation of the qualitative efforts listed in 24 CFR 75.25(b) they have undertaken.
10. Lee County subrecipients should obtain any Section 3 worker or Section 3 Targeted worker labor hours from professional services during the reporting period.
11. Complete and submit required Section 3 reports to Lee County on a timely basis.
12. Promptly report all Section 3 complaints or potential violations of Section 3 requirements to Lee County.
13. Maintain Section 3 reports, certification forms, and related documents in accordance with Lee County record retention requirements.

10.12Forms

10.12.1 Section 3 Employer Certification

Section 3 Housing and Community Development Employer Certification Form	U. S. Department of Housing and Urban Development Office of Field Policy and Management	HUD FORM 4736A OMB Approval Number 2501-0041 (Exp. 04/30/2025)
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(In compliance with Section 3 of the HUD Act of 1968 and 24 CFR Part 75)

Public reporting for this collection of information is estimated to average 0.5 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.

Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992 (Section 3), and 12 U.S.C. § 1701u ensure that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who receive government assistance for housing. The regulations are found at 24 CFR Part 75. This collection of information is required in order to ensure that a worker can be certified as an eligible Section 3 worker as outlined in 24 C.F.R. § 75.31. The in-formation will be used by the Department to ensure compliance with Section 3 of the HUD Act of 1968 employer certification requirements listed in 24 CFR § 75.31, 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 to ensure they are complying with their recordkeeping requirements found in the regulation, and as a self-monitoring tool.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. XXXX-XXXX. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. No assurances of confidentiality are provided for this information collection.

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 employer certification requirements listed in 24 CFR § 75.31. To qualify as a Section 3 worker, the United States legal resident's annual income must not exceed the HUD income limits for the year before the worker was hired, or the individual's current income annualized on a full-time basis for the year must be below the HUD income limit. Additionally, an individual can qualify as a Section 3 worker and Targeted Section 3 worker, if an employee of a Section 3 Business Concern. To qualify as a Targeted Section 3 worker, an employer can confirm that the employee lives within the service area or neighborhood of the project.

Please provide the following information about the business/employer:

Name of Business: _____

Street Address _____ City _____ State _____ Zip _____

Phone #: _____ Email: _____

Please Provide the following information about the worker/employee:

Printed Name of Worker: _____

Street Address (Not a PO Box) _____ Apt# _____ City _____ State _____ Zip _____

Phone #: _____ Email: _____

Please indicate which of the following is true for the worker listed above: (Select all that apply)

<p><input type="checkbox"/> Worker's income from your employment is below the income limit based on a calculation of what the worker's wage rate would translate to if annualized on a full-time basis*</p> <p><input type="checkbox"/> Worker is employed by a Section 3 Business Concern (Select if your business qualifies as a Section 3 Business Concern)</p> <p><input type="checkbox"/> Worker's residence is within the service area or neighborhood of the project</p>	<p>Income limit \$<u>XX,XXX</u></p>
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*Currently or at the time of hire if hired within the past 5 years.

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct and certifies that the worker identified above meets the definition of a Section 3 worker. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802)

Signature _____

Date _____

10.12.2 Section 3 Worker Self-Certification

Section 3 Worker Self-Certification-Housing and Community Development	U. S. Department of Housing and Urban Development Office of Field Policy and Management	HUD FORM 4736C OMB Approval Number 2501-0041 (Exp. 04/30/2025)
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(In compliance with Section 3 of the HUD Act of 1968 and 24 CFR Part 75)

Public reporting for this collection of information is estimated to average 0.5 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.

Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992 (Section 3), and 12 U.S.C. § 1701u ensure that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who receive government assistance for housing. The regulations are found at 24 CFR Part 75. This collection of information is required in order to ensure that a worker can be certified as an eligible Section 3 worker as outlined in 24 C.F.R. § 75.31. The information will be used by the Department to ensure compliance with Section 3 of the HUD Act of 1968 employer certification requirements listed in 24 CFR § 75.31, 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 to ensure they are complying with their recordkeeping requirements found in the regulation, and as a self-monitoring tool.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions to reduce this burden, to Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. XXXX-XXXX. HUD may not conduct and sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. No assurances of confidentiality are provided for this information collection.

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 employer certification requirements listed in 24 CFR § 75.31. To qualify as a Section 3 worker, any United States legal resident's annual income must not exceed the HUD income limits for the year before the worker was hired, or the individual's current income annualized on a full-time basis for the year must be below the HUD income limit. Additionally, an individual can qualify as a Section 3 worker if they are a YouthBuild participant or employee of a Section 3 Business concern.

Printed Name: _____

Street Address (Not a PO Box) Apt# City State Zip

Phone #: _____ Email: _____

To qualify as a Section 3 Worker, you must meet **one** of the following requirements **OR** have your employer certify that you are employed by a Section 3 Business concern:

<ul style="list-style-type: none"> • Income for the previous calendar year is below the income limit* • A participant in a means-tested program such as public housing or Section 8-assisted housing • A YouthBuild Participant* 	<p>Income limit</p> <p><u>\$XX,XXX</u></p>
---	--

*Currently or at the time of hire if hired within the past 5 years

I meet at least one of the requirements in the box above and therefore qualify to be counted as a Section 3 Worker under 24 CFR § 75.

If applicable, please indicate which requirement you meet to be considered a Targeted Section 3 worker in the box below. If you select "Living within the service area or neighborhood of the project," that selection will have to be confirmed by your employer. If you do not meet any of these requirements or do not know if you meet any of the requirements listed below, you may leave this section blank.

<p><input type="checkbox"/> Living within the service area or neighborhood of the project (requires employer <u>confirmation</u>)*</p> <p><input type="checkbox"/> YouthBuild participant*</p>
--

*Currently or at the time of hire if hired within the past 5 years

In addition to qualifying as a Section 3 Worker, I meet at least **one** of the requirements in the box above and therefore qualify to be counted as a Targeted Section 3 Worker under 75 CFR § 75.

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct and certifies that the worker identified above meets the definition of a Section 3 worker. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §3729, 3802)

Signature

Date

10.12.3 Section 3 Business Concern Certification

CERTIFICATION FOR A BUSINESS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business _____

Address of Business _____

Type of Business: ____ Corporation ____ Partnership ____ Sole Proprietorship
Joint Venture

Attach each of the following as applicable to your business:

- | | |
|--|--|
| <input type="checkbox"/> Copy of Articles of Incorporation | <input type="checkbox"/> Corporation Annual Report |
| <input type="checkbox"/> Certificate of Good Standing | <input type="checkbox"/> Latest Board minutes appointing officers |
| <input type="checkbox"/> Assumed Business Name Certificate | <input type="checkbox"/> Organization chart with names and titles |
| <input type="checkbox"/> Partnership Agreement | <input type="checkbox"/> Additional documentation and brief functional statement |
| <input type="checkbox"/> List of owners/stockholders and % ownership of each | |

For business claiming Section 3 status, the business must provide documentation for the last 6-month period to support the following:

- 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.
- | | |
|--|---|
| <input type="checkbox"/> Documentation in accordance with 24 CFR 75.31, indicating <u>owners</u> qualification as a Section 3 Worker or as a Targeted Section 3 worker; | and conditions of the proposed contract: |
| <input type="checkbox"/> List of all current full-time employees, list of employees claiming Section 3 status, and Section 3 workers' and Targeted Section 3 workers' labor <u>hours</u> ; | <input type="checkbox"/> Current financial statement |
| <input type="checkbox"/> Documentation of <u>owners</u> residence in Section 8 assisted housing. | <input type="checkbox"/> Statement of ability to comply with public <u>policy</u> |
| <input type="checkbox"/> Evidence of ability to perform successfully under the terms | <input type="checkbox"/> List of owned equipment |
| | <input type="checkbox"/> List of all contracts for the past two years |

10.13 Additional Forms

File Name	Section 3 Sample Plan-HUD template
File Location/Link	Section-3-Sample-Plan.docx (live.com)

10.14 Contact

Lee County's Office of Strategic Resources and Government Affairs (SRGA) is responsible for ensuring compliance with HUD CDBG-DR funding.

To connect with SRGA regarding these efforts, please contact:

Email: Recovery@leegov.com

Phone: 239-533-2315